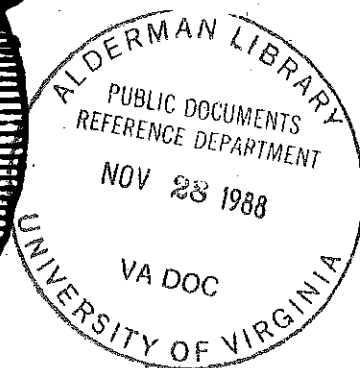
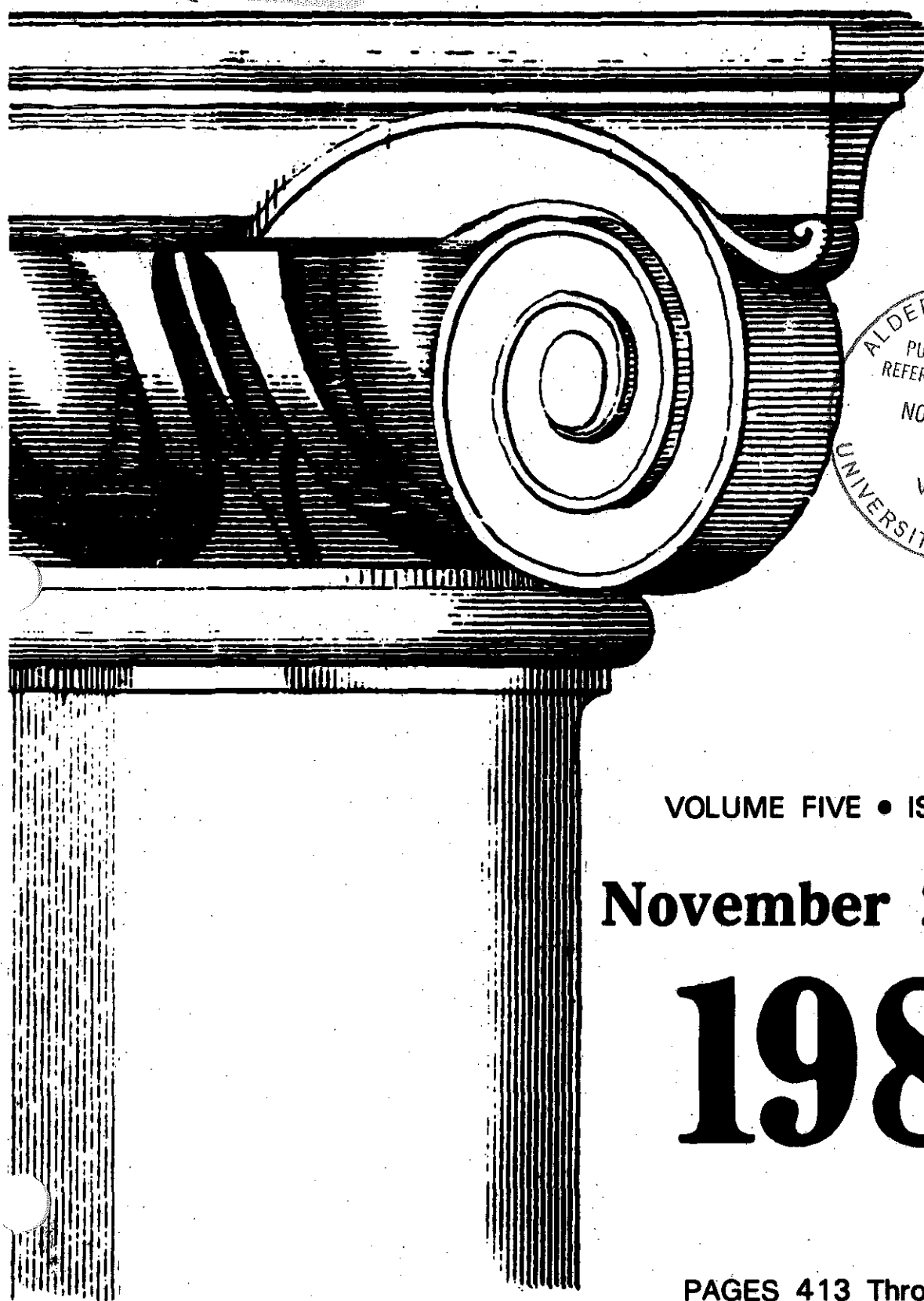


# THE VIRGINIA REGISTER

OF REGULATIONS

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November 21, 1988

# 1988

PAGES 413 Through 650

# 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 periodically by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

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

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

## EMERGENCY REGULATIONS

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

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

## STATEMENT

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

## CITATION TO THE VIRGINIA REGISTER

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

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# PROPOSED REGULATIONS

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## Symbol Key

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

## DEPARTMENT OF COMMERCE

### Title of Regulation: VR 190-05-01. Asbestos Licensing Regulations.

Statutory Authority: § 54-145.5 of the Code of Virginia.

#### Public Hearing Dates:

December 13, 1988 - 11 a.m.

December 14, 1988 - 10 a.m.

December 15, 1988 - 11 a.m.

(See Calendar of Events section for additional information)

#### Summary:

Pursuant to §§ 54-145.4 through 54-145.10:11 of the Code of Virginia, the Department of Commerce proposes to adopt regulations governing asbestos inspection, removal and encapsulation. The regulations require those individuals or entities engaging in work as an asbestos contractor, supervisor, worker, inspector, management planner, or project designer to fulfill the necessary requirements and obtain a license. The regulations also provide for approval by the Department of Commerce of training courses intended to prepare the candidates to meet the licensing requirements.

VR 190-05-01. Asbestos Licensing Regulations.

## PART I DEFINITIONS.

### § 1.1. Definitions.

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

"ACM" means asbestos containing material.

"Asbestos" means any material containing more than 1.0% asbestos by weight, which is friable or which has a reasonable probability of becoming friable in the course of ordinary or anticipated building use.

"Asbestos abatement" means any activity involving job set-up, removal, encapsulation, enclosure, renovation, repair, demolition, construction, alteration, or maintenance of asbestos-containing material.

"Asbestos contractor's license" means an authorization issued by the Department of Commerce permitting a

person to enter into contracts for a project to remove or encapsulate asbestos.

"Asbestos containing material (ACM)" means any material or product which contains more than 1.0% asbestos.

"Asbestos inspector" means any person performing on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential, all friable and nonfriable asbestos containing materials located within a structure.

"Asbestos management planner's license" means an authorization issued by the department permitting a person to develop and implement an asbestos management plan.

"Asbestos project" means an activity involving the inspection for removal or encapsulation of asbestos.

"Asbestos project designer's license" means an authorization issued by the department permitting a person to design an asbestos abatement project.

"Asbestos worker" means any person who engages in an asbestos abatement activity.

"Asbestos worker's license" means an authorization issued by the Department of Commerce permitting an individual to work on an asbestos project.

"Department" means the Department of Commerce.

"Director" means the Director of the Department of Commerce.

"Encapsulation" means the treatment of ACM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Enclosure" means the construction or installation over or around the ACM of any solid or flexible coverings, which will not deteriorate or decompose for an extended period of time, so as to conceal the ACM, contain ACM fibers, and render the ACM inaccessible.

"EPA" means Environmental Protection Agency.

"OSHA" means the U.S. Department of Labor Occupational Safety and Health Administration.

"Removal" means the physical removal of ACM from a building and disposal thereof in accordance with all applicable regulations.

"Renovation" means altering in any way, one or more facility components.

"Repair" means returning damaged ACM to an undamaged condition or to an intact state so as to contain fiber release.

"Supervisor" means any asbestos abatement worker who has been licensed by the Department of Commerce under these regulations as a supervisor. A licensed supervisor must be present at each jobsite.

## PART II.

### ASBESTOS WORKERS LICENSING REQUIREMENTS.

#### § 2.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos workers training course approved by the Department of Commerce.

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant the following information shall be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure a license will be mailed to the address indicated on the application.

#### § 2.2. Qualifications for licensure.

Each individual applying to the Department of Commerce for licensing as an asbestos worker shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

#### § 2.3. Fees.

A. ~~The fee for an asbestos workers license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.~~

~~A. B. A completed application (as defined in Part II, § 2.1 of these regulations) shall be accompanied by the appropriate required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate required fee.~~

~~B. The fee for an asbestos workers license will be established by the director pursuant to § 54-1.28-1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.~~

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

#### § 2.4. Expiration.

Asbestos workers licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

#### § 2.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and the



# Proposed Regulations

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renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and ~~appropriate the \$35 renewal fee.~~ Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee.

B. Applicant shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license, a late renewal fee ~~equal to the regular renewal fee,~~ shall be required in addition to the regular renewal fee of \$35 shall be required in addition to the renewal fee .

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current educational and examination requirements as specified in Part II, § 2.1 of this regulation.

## § 2.6. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## § 2.7. Interim licensure.

Individuals who have successfully completed an EPA approved three-day (24 hours) asbestos worker's training course and have passed an EPA approved asbestos worker's examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos worker's refresher training course must be successfully completed and the individual must apply for a Virginia asbestos worker's license as required in these regulations.

"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989." After July 1, 1989, all applicants for an asbestos worker's license must have successfully completed a Virginia approved asbestos worker's training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230

1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information shall be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos worker's license, an interim license will be mailed to the address indicated on the application.

## F. Fees.

1. *The fee for an interim asbestos workers license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.*

~~1.~~ 2. A completed application (as required in Part II, § 2.7 of these regulations) shall be accompanied by the appropriate required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate required fee.

~~2.~~ The fee for an asbestos worker's interim license will be established by the director pursuant to § ~~54-1.28:1~~ of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

3. All fees will be nonrefundable.

4. Receipt and deposit of fees submitted with

applications do not in any way indicate approval for licensure.

## PART III. ASBESTOS CONTRACTORS AND SUPERVISORS CONTRACTOR LICENSING REQUIREMENTS .

### § 3.1. Contractor responsibilities.

Licensed asbestos contractors are required to comply fully with all requirements, procedures, standards and regulations established by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Virginia Department of Labor and Industry, the Virginia Air Pollution Control Board, and the Virginia Department of Waste Management, covering any part of an asbestos project.

A licensed asbestos contractor shall notify the Department of Labor and Industry at least 20 days prior to the commencement of each asbestos project performed.

### § 3.2. Maintenance of licensing records at asbestos job site.

It shall be the responsibility of the contractor to maintain at each job site, a list of the licensed asbestos workers and supervisors that includes the current license numbers and the license expiration dates of those workers. Records maintained at the job site shall be available for review by the Department of Labor and Industry, the Department of Commerce, and all other agencies having authorization to inspect an asbestos job site.

### § ~~3.1.~~ § 3.3. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos contractor/supervisor training course approved by the Department of Commerce.

C. B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. The director may refuse to issue a license to any

asbestos contractor who is shown to have a substantial identity of interest with an asbestos contractor whose license has been revoked or not renewed. A substantial identity of interest is defined to include but is not limited to (i) a controlling financial interest by the individual or corporate principals of the asbestos contractor whose license has been revoked or not renewed or (ii) substantially identical principals or officers.

D. The transfer of an asbestos contractor license is prohibited. Whenever there is any change in the ownership of the legal entity licensed, whether in a proprietorship or change of partner in partnership or the creation of a corporation, a new license is required.

E. In the event enforcement action has been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant, by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

F. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

G. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

### § ~~3.2.~~ § 3.4. Qualifications for licensure.

Each individual or business applying to the Department of Commerce for licensing as an asbestos contractor/supervisor shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall have all licenses necessary and required by state statute or local ordinance to transact the business of an asbestos contractor/supervisor in addition to those requirements as set forth in these regulations.

3. Applicant shall provide evidence of having met the educational requirements as set forth in these

# Proposed Regulations

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regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

## ~~§ 3.3.~~ § 3.5. Fees.

A. The fee for an asbestos contractor license shall be \$500. The fee amounts are based on the administrative costs of the asbestos licensing program.

~~A. B.~~ A completed application (as required in Part III, § 3.1 § 3.5 of these regulations) shall be accompanied by the appropriate required fee. All checks or money orders shall be payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate required fee.

~~B.~~ The fee for an asbestos contractor/supervisor license will be established by the director pursuant to § 54-1.28.1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## ~~§ 3.4.~~ § 3.6. Expiration.

Asbestos contractors/supervisors contractor licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

## ~~§ 3.5.~~ § 3.7. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and appropriate the \$500 renewal fee. Should the licensee fail to receive a renewal notice, a copy of the license may be submitted with the required fee.

B. Applicant shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

~~C. B.~~ If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license, a late renewal fee equal to the regular renewal fee, of \$500 shall be required in addition to the renewal fee.

~~D. C.~~ Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements as specified in Part III, § 3.1 § 3.4 of these regulations.

## ~~§ 3.6.~~ § 3.8. License certificate.

A copy of a current asbestos contractors and supervisors license certificate shall be available at all times for review by the Department of Labor and Industry, and the Department of Commerce, at each asbestos jobsite.

## ~~§ 3.7.~~ § 3.9. Maintenance of licensing records at asbestos jobsite.

It shall be the responsibility of the contractor/supervisor to maintain at each jobsite, a list of the licensed asbestos workers, the current license number, and the license expiration date of those workers. Records maintained at the jobsite shall be available for review by the Department of Labor and Industry, and the Department of Commerce, and all other agencies having jurisdiction to inspect an asbestos jobsite.

## ~~§ 3.8.~~ § 3.10. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## ~~§ 3.9.~~ Interim licensure.

Individuals who have successfully completed an EPA approved asbestos contractor/supervisor training course and have passed an EPA approved asbestos contractor/supervisor examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos contractor/supervisor refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos contractor/supervisor license as required in these regulations.

"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989." After July 1, 1989, all applicants for an asbestos contractor/supervisor license must have successfully completed a Virginia approved asbestos contractor/supervisor training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

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B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare:

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by jurisdiction or any state or federal court.
2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos contractor/supervisor licensure, an interim license will be mailed to the address indicated on the application.

## § 3.10. Fees.

A. A completed application (as required in Part III, § 3.9 of these regulations) shall be accompanied by the appropriate fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

B. The fee for an asbestos contractor/supervisor's interim license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## PART IV. ASBESTOS SUPERVISOR LICENSING REQUIREMENTS.

## § 4.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos supervisor training course approved by the Department of Commerce.

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant, by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

## § 4.2. Qualifications for licensure.

A. Each individual applying to the Department of Commerce for licensing as an asbestos supervisor shall have the following qualifications:

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1. Applicants shall be at least 18 years of age.

2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

## § 4.3. Fees.

A. The fee for an asbestos supervisor license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part IV, § 4.1 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## § 4.4. Expiration.

Asbestos supervisors licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

## § 4.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$35 renewal fee. Should the licensee fail to receive a renewal notice, a copy of the license may be submitted with the required fee.

B. Applicant shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany the renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license a late renewal fee of \$35 shall be required in addition to the renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall

not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements as specified in Part IV, § 4.1 of these regulations.

## § 4.6. License certificate.

A copy of a current asbestos supervisor license certificate shall be available at all times for review by the Department of Labor and Industry, and the Department of Commerce at each asbestos job site.

## § 4.7. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## § 4.8. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos supervisor training course and have passed an EPA approved asbestos supervisor examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12-month interim license period, a Virginia approved asbestos supervisor refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos supervisor license as required in these regulations.

**"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989."** After July 1, 1989, all applicants for an asbestos supervisor license must have successfully completed a Virginia approved asbestos supervisor training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

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1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos supervisor licensure, an interim license will be mailed to the address indicated on the application.

## § 4.9. Fees.

A. The fee for an interim asbestos supervisors license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part IV, § 4.8 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## PART IV V.

### ASBESTOS INSPECTOR LICENSING REQUIREMENTS.

#### § 4.1: § 5.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos inspector training course approved by the Department of Commerce.

C. Each application shall be signed by the applicant and

shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos inspection activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

#### § 4.2: § 5.2. Qualifications for licensure.

A. Each individual or business applying to the Department of Commerce for licensing as an asbestos inspector shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

#### § 4.3: § 5.3. Fees.

A. The fee for an asbestos inspector shall be \$35. The amounts are based on the administrative costs of the asbestos licensing program.

~~A.~~ B. A completed application (as required in Part IV, § 4.1 V, § 5.1 of these regulations) shall be accompanied by the ~~appropriate~~ required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by

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the appropriate required fee.

B. The fee for an asbestos inspector's license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## § 4.4. § 5.4. Expiration.

Asbestos inspector licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

## § 4.5. § 5.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and ~~appropriate the \$35 renewal fee~~. Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee.

B. Applicants shall forward proof that the annual retraining requirement of four hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license, a late renewal fee ~~equal to the regular renewal fee~~, of \$35 shall be required in addition to the regular renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part ~~IV~~ V of these regulations.

## § 4.6. § 5.6. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## § 4.7. § 5.7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos inspector training and have passed an

EPA approved asbestos inspector examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos inspector refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos inspector license as required in these regulations.

"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989." After July 1, 1989, all applicants for an asbestos inspector's license must have successfully completed a Virginia approved asbestos inspector's training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform building inspections for asbestos containing materials has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos inspection might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos inspection activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos inspector's license, an interim license will be mailed to th

address indicated on the application.

~~§ 4.8.~~ § 5.8. Fees.

A. ~~The fee for an interim asbestos inspectors license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.~~

~~A. B. A completed application (as required in Part IV, § 4.7 § 5.7 of these regulations) shall be accompanied by the appropriate required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate required fee.~~

~~B. The fee for an asbestos inspector's interim license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.~~

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## PART V. VI. ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.

~~§ 5.1.~~ § 6.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos project designer training course approved by the Department of Commerce.

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to design asbestos abatement projects has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos project designer's plans might

not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

~~2.~~ 3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

~~§ 5.2.~~ § 6.2. Qualifications for licensure.

A. Each individual applying to the Department of Commerce for licensing as an asbestos project designer shall have the following qualifications:

1. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

~~§ 5.3.~~ § 6.3. Fees.

A. ~~The fee for an asbestos project designer license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.~~

~~A. B. A completed application (as required in Part V, § 5.1 VI, § 6.1 of these regulations) shall be accompanied by the appropriate required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate required fee.~~

~~B. The fee for an asbestos project designer's license will be established by the director pursuant to § 54-1.28:1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.~~

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

~~§ 5.4.~~ § 6.4. Expiration.



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Asbestos project designer licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

## § 5-5. § 6.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and appropriate the \$35 renewal fee. Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee.

B. Applicants shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license a late renewal fee ; equal to the regular renewal fee, of \$35 shall be required in addition to the regular renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part V VIII of these regulations.

## § 5-6. § 6.6. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

## § 5-7. § 6.7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos project designer training course and have passed an EPA approved asbestos project designer examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos project designer refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos project designer license as required in these regulations.

NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989. After July 1, 1989, all applicants for an asbestos project designer license must have successfully completed a Virginia approved asbestos project designer training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to design asbestos abatement projects has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny any applicant's request for a license based on prior enforcement actions which indicate that the asbestos project designer's plans might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for an interim asbestos project designer license, an interim license will be mailed to the address indicated on the application.

## F. § 6.8. Fees.

A. *The fee for an interim asbestos project designer license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.*

1. B. A completed application (as required in Part V, § 5-7 VI, § 6.7 of these regulations) shall be accompanied by the appropriate required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate required fee.

2. The fee for an asbestos project designer interim license will be established by the director pursuant to § 54-1-28.1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

~~3.~~ C. All fees shall be nonrefundable.

4. D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

PART ~~VI~~, VII.  
ASBESTOS MANAGEMENT PLANNER LICENSING  
REQUIREMENTS.

~~§ 6-1.~~ § 7.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos management planner training course approved by the Department of Commerce.

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to develop and implement an asbestos management plan has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos management plan might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos management planner activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

~~§ 6-2.~~ § 7.2. Qualifications for licensure.

A. Each individual applying to the Department of Commerce for licensing as an asbestos management planner shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

~~§ 6-3.~~ § 7.3. Fees.

A. *The fee for an asbestos management planner license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.*

~~A- B.~~ A completed application (as required in Part VI, ~~§ 6-1~~ VII, § 7.1 of these regulations) shall be accompanied by the appropriate required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate required fee.

~~B.~~ The fee for an asbestos management planner's license will be established by the director pursuant to § 54-1-28-1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

~~§ 6-4.~~ § 7.4. Expiration.

Asbestos management planner licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

~~§ 6-5.~~ § 7.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and appropriate the \$35 renewal fee. Should the licensee fail

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to receive the renewal notice, a copy of the license may be submitted with the required fee.

B. Applicants shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license a late renewal fee; ~~equal to the regular renewal fee, of \$35~~ shall be required in addition to the regular renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part VI VII of these regulations.

~~§ 6.6:~~ § 7.6. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

~~§ 6.7:~~ § 7.7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos management planner training course and have passed an EPA approved asbestos management planner examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos management planner refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos management planner license as required in these regulations.

NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989. After July 1, 1989, all applicants for an asbestos management planner's license must have successfully completed a Virginia approved asbestos management planner's training course.

A. All requests for interim license applications should be directed to:

Assistant Director  
Asbestos Licensing Program  
Virginia Department of Commerce  
3600 West Broad Street  
5th Floor  
Richmond, Virginia 23230  
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization as an asbestos management planner has not been suspended or revoked by any

jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos management plan might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos management planner's license, an interim license will be mailed to the address indicated on the application.

~~F:~~ § 7.8. Fees.

A. The fee for an interim asbestos management planner license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VI, § 6.7 VII, § 7.7 of these regulations) shall be accompanied by the appropriate required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate required fee.

2. The fee for an asbestos management planner's interim license will be established by the director pursuant to § 54-1.28.1 of the Code of Virginia. Fee amounts are based on administrative costs of the asbestos licensing program.

3. C. All fees will be nonrefundable.

4. D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

## PART VII. VIII. TRAINING COURSE REQUIREMENTS.

IN ALL OF THE FOLLOWING TRAINING COURSE

## REQUIREMENTS ONE DAY SHALL BE EQUAL TO EIGHT HOURS.

### § 7.1. § 8.1. Worker training.

Asbestos abatement workers shall complete at least a three day (24 hours) training course as outlined below. All training courses shall be approved by the Virginia Department of Commerce. The training course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and an examination. The training shall address the following topics:

1. Physical characteristics of asbestos:
  - a. Identification of asbestos.
  - b. Aerodynamic characteristics.
  - c. Typical uses and physical appearance.
  - d. A summary of abatement control options.
2. Potential health effects related to asbestos exposure:
  - a. The nature of asbestos related diseases.
  - b. Routes of exposure, dose response relationships and the lack of a safe exposure level.
  - c. Synergism between cigarette smoking and asbestos exposure.
  - d. Latency period for disease.
3. Employee personal protective equipment:
  - a. Classes and characteristics of respirator types.
  - b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures.
  - c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).
  - d. Qualitative and quantitative fit testing procedures.
  - e. Variability between field and laboratory protection factors.
  - f. Factors that alter respirator fit (e.g., facial hair).
  - g. The components of a proper respiratory protection program.
  - h. Selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing.
  - i. Regulations covering personal protective

equipment.

#### 4. State-of-the-art work practices:

- a. Proper asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.
- b. Positioning of warning signs.
- c. Electrical and ventilation system lock-out.
- d. Proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.
- e. Proper clean-up and disposal procedures.
- f. Work practices for removal, encapsulation, enclosure, and repair.
- g. Emergency procedures for sudden releases.
- h. Potential exposure situations, and transport and disposal procedures.
- i. Recommended and prohibited work practices.

#### 5. Personal hygiene:

- a. Entry and exit procedures for the work area, use of showers, avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.
- b. Potential exposures, such as family exposure.

#### 6. Additional safety hazards:

- a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.
- b. Scaffold and ladder hazards.
- c. Slips, trips and falls.
- d. Confined spaces.

#### 7. Medical monitoring:

- a. OSHA requirements for a pulmonary function test.
- b. Chest x-rays and a medical history for each employee.

#### 8. Air monitoring:

- a. Procedures to determine airborne concentrations of asbestos fibers.

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b. Focusing on how personal air sampling is performed and the reasons for it.

9. Relevant federal, state and local regulatory requirements, procedures and standards, with particular attention directed at relevant EPA, OSHA, and state regulations concerning asbestos abatement workers.

10. Establishment of respiratory protection programs.

11. Course review. A review of key aspects of the training course.

## § 7.2: § 8.2. Examinations.

Upon completion of an approved initial training course a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certificate indicating successful completion of the course. The following are the requirements for examination:

Asbestos abatement workers:

1. 50 multiple choice questions.
2. Passing score: 70% correct.

IN ALL REFRESHER TRAINING COURSE REQUIREMENTS ONE DAY SHALL BE EQUAL TO EIGHT HOURS.

## § 7.3: § 8.3. Refresher training course.

Refresher courses shall be one day (8 hours) in length for asbestos abatement workers. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and a review of key aspects of the initial training course as set forth in Part VII, § 7.1 VIII, § 8.1 of these regulations. A written closed book examination of 50 multiple choice questions will be administered covering the topics included in the refresher course. A passing refresher examination score will be 70% correct. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

## § 7.4: § 8.4. ~~Contractor~~ Supervisor training.

Asbestos abatement ~~contractors~~ and supervisors shall complete a four day (32 hours) training course as outlined below. All training courses shall be approved by the Virginia Department of Commerce. The training course shall include lecture, demonstrations, individual respirator fit testing, course review, examination, and at least six hours of hands-on training which allows ~~contractors~~ and supervisors the experience of performing actual tasks

associated with asbestos abatement.

For purposes of approval, asbestos abatement supervisors include those persons who provide supervision and direction to workers engaged in asbestos removal, encapsulation, enclosure, and repair. ~~The contractor may designate a supervisor to serve as his agent for the purposes of meeting the requirements for approval.~~

The ~~contractor~~ and supervisor's training course shall adequately address the following topics:

1. The physical characteristics of asbestos and asbestos-containing materials:
  - a. Identification of asbestos.
  - b. Aerodynamic characteristics.
  - c. Typical uses, physical appearance.
  - d. A review of hazard assessment considerations.
  - e. A summary of abatement control options.
2. Potential health effects related to asbestos exposure:
  - a. The nature of asbestos-related diseases.
  - b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
  - c. Synergism between cigarette smoking and asbestos exposure.
  - d. Latency period for disease.
3. Employee personal protective equipment:
  - a. Classes and characteristics of respirator types.
  - b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance and storage procedures.
  - c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).
  - d. Qualitative and quantitative fit testing procedures.
  - e. Variability between field and laboratory protection factors.
  - f. Factors that alter respirator fit (e.g., facial hair).
  - g. The components of a proper respiratory protection program.
  - h. Selection and use of personal protective clothing; use, storage and handling of nondisposable clothing.

- i. Regulations covering personal protective equipment.
  4. State-of-the-art work practices:
    - a. Proper asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.
    - b. Positioning of warning signs.
    - c. Electrical and ventilation system lock-out.
    - d. Proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.
    - e. Proper clean-up and disposal procedures.
    - f. Work practices for removal, encapsulation, enclosure and repair.
    - g. Emergency procedures for sudden releases.
    - h. Potential exposure situations, and transport and disposal procedures.
    - i. Recommended and prohibited work practices.
  5. Personal hygiene:
    - a. Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing, (gum or tobacco) in the work area.
    - b. Potential exposures, such as family exposure, shall also be included.
  6. Additional safety hazards:
    - a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants, other than asbestos, fire and explosion hazards.
    - b. Scaffold and ladder hazards.
    - c. Slips, trips and falls.
    - d. Confined spaces.
  7. Medical monitoring. OSHA requirements for a pulmonary function test, chest x-rays and a medical history for each employee.
  8. Air monitoring:
    - a. Procedures to determine airborne concentration of asbestos fibers, including a description of an aggressive sampling, equipment and methods.
    - b. Reasons for air monitoring.
    - c. Types of samples and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.
  9. Relevant federal, state, and local regulatory requirements, procedures and standards including:
    - a. Requirements of TSCA Title II.
    - b. 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standards for Asbestos).
    - c. OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).
    - d. OSHA Asbestos Construction Standard (29 CFR 1926.58).
    - e. EPA Worker Protection Rule, 40 CFR Part 763, Subpart G.
  10. Respiratory protection programs and medical surveillance programs.
  11. Insurance and liability issues:
    - a. Contractor issues, worker's compensation coverage, and exclusions.
    - b. Third-party liabilities and defenses.
    - c. Insurance coverage and exclusions.
  12. Recordkeeping for asbestos abatement projects:
    - a. Records required by federal, state, and local regulations.
    - b. Records recommended for legal and insurance purposes.
  13. Supervisory techniques for asbestos abatement activities. Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.
  14. Contract specifications. Discussions of key elements that are included in contract specifications.
  15. Course review. A review of key aspects of the training course.
- § 7.5: § 8.5. Examinations.

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Upon completion of an approved initial training course, a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive some form of a written certificate indicating successful completion of the course. The following are the requirements for examination:

Asbestos abatement ~~contract~~ supervisors:

1. 100 multiple choice questions.
2. Passing score: 70% correct.

§ 7-6. § 8.6. Refresher training course.

Refresher courses shall be one day (8 hours) in length for ~~contractors~~ supervisors. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and review of key aspects of the initial training course as set forth in Part VII, § 7.4 VIII, § 8.4 of these regulations. A written closed book examination will be included in the refresher course. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

§ 7-7. § 8.7. Inspector training.

Asbestos inspectors shall complete a three day (24 hour) training course as outlined below. The course shall include lectures, demonstrations, four hours of hands-on training, individual respirator fit testing, course review and a written examination.

The inspector training course shall adequately address the following topics:

1. Background information on asbestos:
  - a. Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings.
  - b. Physical appearance of asbestos.
2. Potential health effects related to asbestos exposure:
  - a. The nature of asbestos-related diseases.
  - b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
  - c. The synergistic effect between cigarette smoking and asbestos exposure.
  - d. Latency period for asbestos-related diseases, a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancer of

other organs.

3. Functions/qualifications and role of inspectors:

- a. Discussions of prior experience and qualifications for inspectors.
- b. Discussions of the functions of an accredited inspector as compared to those of an accredited management planner.
- c. Discussion of inspection process including inventory of ACM and physical assessment.

4. Legal liabilities and defenses:

- a. Responsibilities of the inspector, a discussion of comprehensive general liability policies, claims made and occurrence policies, environment and pollution liability policy clauses; state liability insurance requirements.
- b. Bonding and relationship of insurance availability to bond availability.

5. Understanding building systems:

- a. The interrelationship between building systems, including: an overview of common building physical plan layout; heat, ventilation and air conditioning (HVAC) system types; physical organization; and where asbestos is found on HVAC components.
- b. Building mechanical systems, their types and organization and where to look for asbestos on such systems.
- c. Inspecting electrical systems, including appropriate safety precautions.
- d. Reading building plans and as-built drawings.

6. Public/employee/building occupant relations:

- a. Notifying employee organizations about the inspection.
- b. Signs to warn building occupants.
- c. Tact in dealing with occupants and the press.
- d. Scheduling of inspections to minimize disruption.
- e. Education of building occupants about actions being taken.

7. Preinspection planning and review of previous inspection records:

- a. Scheduling the inspection and obtaining access.

- b. Building record review; identification of probable homogeneous areas from building plans or as-built drawings.
  - c. Consultation with maintenance or building personnel.
  - d. Review of previous inspection, sampling, and abatement records of a building.
  - e. The role of the inspector in exclusions for previously performed inspections.
8. Inspection for friable and nonfriable asbestos-containing material (ACM) and assessment of the condition of friable ACM:
- a. Procedures to follow in conducting visual inspections for friable and nonfriable ACM.
  - b. Types of building materials that may contain asbestos.
  - c. Touching materials to determine friability.
  - d. Open return air plenums and their importance in HVAC systems.
  - e. Assessing damage, significant damage, potential damage, and potential significant damage.
  - f. Amount of suspected ACM, both in total quantity and as a percentage of the total area.
  - g. Type of damage.
  - h. Accessibility.
  - i. Material's potential for disturbance.
  - j. Known or suspected causes of damage or significant damage, and deterioration as assessment factors.
9. Bulk sampling/documentation of asbestos in schools:
- a. Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials" (EPA 560/5-85-030a October 1985) techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials.
  - b. Techniques for bulk sampling.
  - c. Sampling equipment the inspector should use.
  - d. Patching or repair of damage done in sampling; and inspector's repair kit.
  - e. Discussion of polarized light microscopy.
  - f. Choosing an accredited laboratory to analyze bulk samples.
  - g. Quality control and quality assurance procedures.
10. Inspector respiratory protection and equipment:
- a. Classes and characteristics of respirator types.
  - b. Limitations of respirators.
  - c. Proper selection, inspection, donning, use maintenance, and storage procedures for respirators.
  - d. Methods for field testing of the facepiece-to-mouth seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures.
  - e. Variability between field and laboratory protection factors.
  - f. Factors that alter respirator fit (e.g., facial hair).
  - g. The components of a proper respiratory protection program.
  - h. Selection and use of personal protective clothing.
  - i. Use, storage, and handling of nondisposable clothing.
11. Recordkeeping and writing the inspection report:
- a. Labeling of samples and keying sample identification to sampling location.
  - b. Recommendations on sample labeling.
  - c. Detailing of ACM inventory.
  - d. Photographs of selected sampling areas and examples of ACM condition.
  - e. Information required for inclusion in the management plan by TSCA Title II § 203 (i)(1).
12. Regulatory review:
- a. EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G.
  - b. TSCA Title II.
  - c. OSHA Asbestos Construction Standard 29 CFR 1926.58.
  - d. OSHA respirator requirements found at 29 CFR 1910.134.
  - e. The friable ACM in Schools Rule found at 40 CFR Part 763 Subpart F.



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(The above materials are incorporated by reference).

f. Applicable state and local regulations.

## 13. Field trip:

- a. To include a field exercise including a walk-through inspection.
- b. Discussion on information gathering and determination of sampling locations.
- c. On-site practice in physical assessment.
- d. Classroom discussion of field exercise.

14. Course review. A review of key aspects of the training course.

## § 7-8. § 8.8. Examinations.

Upon completion of an approved initial training course, a closed book examination will be administered. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the course. The following are the requirements for examination:

Asbestos inspectors:

1. 50 multiple choice questions.
2. Passing score: 70% correct.

## § 7-9. § 8.9. Refresher training course.

Refresher courses shall be one-half day (4 hours) in length for inspectors. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the initial training course as set forth in Part VII, § 7-7 VIII, § 8.7 of these regulations. A written closed book examination will be administered covering the topics included in the asbestos inspector refresher training course. Persons who pass the refresher course examination will receive some form of written certification indicating successful completion of the course.

## § 7-10. § 8.10. Abatement Asbestos project designers.

Asbestos project designers shall complete either a three-day abatement project designer training course as outlined below or the four-day asbestos abatement contractor and supervisor's training course as outlined in § 7 § 8.4. The three-day abatement project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The three-day abatement project designer training course shall adequately address the following topics:

1. Background information on asbestos:
  - a. Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings.
  - b. Physical appearance of asbestos.
2. Potential health effects related to asbestos exposure:
  - a. Nature of asbestos-related diseases.
  - b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
  - c. The synergistic effect between cigarette smoking and asbestos exposure.
  - d. The latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.
3. Overview of abatement construction projects:
  - a. Abatement as a portion of a renovation project.
  - b. OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.58).
4. Safety system design specifications:
  - a. Construction and maintenance of containment barriers and decontamination enclosure systems.
  - b. Positioning of warning signs.
  - c. Electrical and ventilation system lock-out.
  - d. Proper working techniques for minimizing fiber release.
  - e. Entry and exit procedures for the work area, use of wet methods, use of negative pressure exhaust ventilation equipment, use of high efficiency particulate aerosol (HEPA) vacuums, proper clean-up and disposal of asbestos, work practices as they apply to encapsulation, enclosure, and repair, use of glove bags and a demonstration of glove bag use.
5. Field trip:
  - a. Visit an abatement site or other suitable building site, including on-site discussions of abatement design.
  - b. Building walk-through inspection, and discussion following the walk-through.
6. Employee personal protective equipment:

- a. To include the classes and characteristics of respirator types.
  - b. Limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures.
  - c. Methods for field testing of the facepiece-to-facepiece seal (positive and negative pressure fitting tests).
  - d. Qualitative and quantitative fit testing procedures.
  - e. Variability between field and laboratory protection factors, factors that alter respirator fit (e.g., facial hair).
  - f. Components of a proper respiratory protection program.
  - g. Selection and use of personal protective clothing, use, storage and handling of nondisposable clothing.
  - h. Regulations covering personal protective equipment.
7. Additional safety hazards:
- a. Hazards encountered during abatement activities and how to deal with them.
  - b. Electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.
8. Fiber aerodynamics and control:
- a. Aerodynamic characteristics of asbestos fibers.
  - b. Importance of proper containment barriers.
  - c. Settling time for asbestos fibers.
  - d. Wet methods in abatement.
  - e. Aggressive air monitoring following abatement.
  - f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.
9. Designing abatement solutions.
- a. Discussions of removal, enclosure, and encapsulation methods.
  - b. Asbestos waste disposal.
10. Budgeting/cost estimation.
- a. Development of cost estimates.
  - b. Present costs of abatement versus future operations and maintenance costs.
- c. Setting priorities for abatement jobs to reduce cost.
11. Writing abatement specifications.
- a. Means and methods specifications versus performance specifications.
  - b. Design of abatement in occupied buildings.
  - c. Modification of guide specifications to a particular building.
  - d. Worker and building occupant health/medical considerations.
  - e. Replacement of ACM with nonasbestos substitutes.
  - f. Clearance of work area after abatement.
  - g. Air monitoring for clearance.
12. Preparing abatement drawings:
- a. Use of as-built drawings.
  - b. Use of inspection photographs and on-site reports.
  - c. Particular problems in abatement drawings.
13. Contract preparation and administration.
14. Legal/liabilities/defenses.
- a. Insurance considerations, bonding, hold harmless clauses, use of abatement contractor's liability insurance.
  - b. Claims-made versus occurrence policies.
15. Replacement of asbestos with asbestos-free substitutes.
16. Role of other consultants:
- a. Development of technical specification sections by industrial hygienists or engineers.
  - b. The multidisciplinary team approach to abatement design.
17. Occupied buildings.
- a. Special design procedures required in occupied buildings.
  - b. Education of occupants.
  - c. Extra monitoring recommendations.

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d. Staging of work to minimize occupant exposure.

e. Scheduling of renovation to minimize exposure.

18. Relevant federal, state and local regulatory requirements. Procedures and standards including:

a. Requirements of TSCA Title II.

b. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

c. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).

d. EPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.

e. OSHA Asbestos Construction Standard found at 29 CFR 1926.58.

19. A review of key aspects of the training course.

## ~~§ 7.11.~~ § 8.11. Examinations.

Upon completion of an approved initial training course, a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the course. The following are the requirements for examination:

Asbestos Project Designers:

1. 100 multiple choice questions.

2. Passing score: 70% correct.

## ~~§ 7.12.~~ § 8.12. Refresher training course.

Refresher courses shall be one day (eight hours) in length for project designers. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and review of key aspects of the initial training course as set forth in Part V of these regulations. A written closed book examination shall be included in the refresher course. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

## ~~§ 7.13.~~ § 8.13. Asbestos management planner training.

Asbestos management planners seeking accreditation must complete an inspection training course as outlined

above and a two day management planning training course. The two day training program shall include lectures, demonstrations, course review, and a written examination. The management planner training course shall adequately address the following topics:

1. Course overview:

a. The role of the management planner.

b. Operations and maintenance programs.

c. Setting work priorities; protection of building occupants.

2. Evaluation/interpretation of survey results:

a. Review of TSCA Title II requirements for inspection and management plans as given in § 203(i)(1) of TSCA Title II.

b. Summarized field data and laboratory results; comparison between field inspector's data sheet with laboratory results and site survey.

3. Hazard assessment:

a. Amplification of the difference between physical assessment and hazard assessment.

b. The role of the management planner in hazard assessment.

c. Explanation of significant damage, damage, potential damage, and potential significant damage and use of a description (or decision tree) code for assessment of ACM; assessment of friable ACM.

d. Relationship of accessibility, vibration sources, use of adjoining space, and air plenums and other factors to hazard assessment.

4. Legal implications:

a. Liability; insurance issues specific to planners.

b. Liabilities associated with interim control measures, in-house maintenance, repair, and removal.

c. Use of results from previously performed inspections.

5. Evaluation and selection of control options:

a. Overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method.

b. Response actions described via a decision tree or other appropriate method; work practices for each

response action.

c. Staging and prioritizing of work in both vacant and occupied buildings.

d. The need for containment barriers and decontamination in response actions.

6. Role of other professionals:

a. Use of industrial hygienists, engineers and architects in developing technical specifications for response actions.

b. Any requirements that may exist for architect sign-off of plans.

c. Team approach to design of high-quality job specifications.

7. Developing an operations and maintenance (O&M) plan:

a. Purpose of the plan.

b. Discussion of applicable EPA guidance documents.

c. What actions should be taken by custodial staff: proper cleaning procedures; steam cleaning and high efficiency particulate aerosol (HEPA) vacuuming.

d. Reducing disturbance of ACM.

e. Scheduling O&M for off-hours; rescheduling or canceling renovation in areas with ACM.

f. Boiler room maintenance.

g. Disposal of ACM.

h. In-house procedures for ACM: bridging and penetrating encapsulants, pipe fittings, metal sleeves, polyvinyl chloride (PVC), canvas, and wet wraps; muslin with straps; fiber mesh cloth; mineral wool, and insulating cement.

i. Discussion of employee protection programs and staff training.

j. Case study in developing an O&M plan (development, implementation process, and problems that have been experienced).

8. Regulatory review:

a. Focusing on the OSHA Asbestos Construction Standard found at 29 CFR 1926.58.

b. The National Emission Standard for Hazardous Air Pollutants (NESHAPS) found at 40 CFR Part 61, Subparts A (General Provisions) and M (National

Emission Standard for Asbestos).

c. EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G; TSCA Title II.

d. Applicable state regulations.

9. Recordkeeping for the management planner:

a. Use of field inspector's data sheet along with laboratory results.

b. On-going recordkeeping as a means to track asbestos disturbance.

c. Procedures for recordkeeping.

10. Assembling and submitting the management plan:

a. Plan requirements in TSCA Title II § 203(i)(1).

b. The management plan as a planning tool.

11. Financing abatement actions:

a. Economic analysis and cost estimates.

b. Development of cost estimates.

c. Present costs of abatement versus future operations and maintenance costs.

d. Asbestos School Hazard Abatement Act grants and loans.

12. A review of key aspects of the training course.

§ 7.14. § 8.14. Examinations.

Upon completion of an approved management planner training course, a closed book examination will be administered. Each examination shall adequately cover the topics included in the management planner training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the management planner training course. The following are the requirements for examination:

Asbestos Management Planners:

1. 50 multiple choice questions.

2. Passing score: 70% correct.

§ 7.15. § 8.15. Refresher training course.

Management planners shall attend the inspector refresher course of one-half day (four hours) in length plus an additional half-day (four hours) on management planning. The course shall review and discuss changes in

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federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the inspector and management planner training courses as set forth in Parts ~~IV and VI~~ V and VII of these regulations. A written closed book examination will be administered covering the topics included in the asbestos inspector and management planner refresher courses. Persons who pass the asbestos inspector and management planner refresher course examinations will receive some form of written certification indicating successful completion of the course.

## PART ~~VIII~~ IX . TRAINING COURSE APPROVAL.

### § ~~8-1~~ § 9.1. Training course approval requirements.

All approved training courses shall meet the minimum requirements as outlined in Part ~~VIII~~ IX of these regulations. Individuals, businesses, agencies, or institutions wishing to sponsor training courses to prepare applicants for licensure requirements shall submit the following information for review to the Department of Commerce at least 45 days prior to the commencement of the training course:

1. Sponsor's name, address and phone number.
2. The course curriculum.
3. A narrative explanation that clearly indicates how the course meets the requirements for approval in the following areas:
  - a. Length of training in hours.
  - b. Amount and type of hands-on training.
  - c. Examinations (length, format and passing score).
  - d. Topics covered in the course.
  - e. Assurances as to test security and how exams are administered.
4. A copy of all course materials (student manuals, instructor notebooks, handouts, etc.).
5. A detailed statement about the development of the examination used in the course.
6. Names, qualifications (include education or experience, or both), and subject areas that each instructor will teach.
7. Teacher-student ratio.
8. Description and an example of numbered certificates that will be issued to students who successfully complete the course.

### § ~~8-2~~ § 9.2. Examination.

In order for courses to be approved by the Department of Commerce, they are required to have a monitored, final written examination which shall include a practical component to test skill in asbestos abatement techniques. Students must obtain a minimum exam grade of 70% correct. A record of each student's grades will be retained by each institution for a period of three years.

### § ~~8-3~~ § 9.3. Certificate of course approval.

Certificates of course approval shall be displayed in each approved school facility in a conspicuous place readily accessible to the public. An approved school shall maintain lists of students trained and the dates training occurred. These records shall be made available for Department of Commerce and Department of Labor and Industry review, and shall be maintained for three years.

### § ~~8-4~~ § 9.4. Refresher course approval.

Refresher courses shall be one day (8 hours) in length for ~~contractors/~~ supervisors and workers, and one-half day (4 hours) in length for inspectors. The refresher course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and a review of key aspects of the initial training course. Individuals, businesses, agencies, or institutions wishing to sponsor refresher training courses shall submit the following information for review to the Department of Commerce at least 45 days prior to the commencement of the training course:

1. Length of training.
2. Topics covered in the course.
3. A copy of all course materials.
4. Names and qualifications of course instructors.
5. An example of certificates issued to students who complete the refresher course.
6. Location and dates the training course is to be held.
7. A detailed statement about the development of the examination and assurances as to test security and how exams are administered.
8. Description and an example of numbered certificates issued to students who successfully complete the course.

### § ~~8-5~~ § 9.5. Changes to an approved training course.

Once a training course has been approved, any change in topics covered, course materials, and instructors shall be submitted for approval by the Department of

Commerce.

§ 8-6. § 9.6. Suspension or revocation of approval of a training course.

The director may withdraw approval of any approved training program for the following reasons:

1. The school, instructors, or courses no longer meet the standards established by the director, and found in Part VIII, § 8-1 IX § 9.1 of these regulations.
2. Field inspectors indicate an approved individual, business, agency, institution or sponsor is not conducting the training that meets the requirements as set forth in these regulations. Training course sponsors shall permit Department of Commerce and Department of Labor and Industry representatives to attend, evaluate, and monitor any training course.

Prior notice of attendance by agency representatives may or may not be given.

3. If the approval of a training course is revoked or suspended, the Department of Commerce will promptly notify the individual business, agency, institution, or sponsor in writing of the reason for the suspension or revocation. In the case of a suspension, the necessary steps that shall be taken to comply with the requirements as set forth in Part VIII XI of the regulations will be specified.

PART IX X.  
EXEMPTIONS.

§ 9-1. § 10.1. Emergency exemption from licensing.

An exemption from the licensing requirements, as set forth in these regulations may be granted by the director, pursuant to § 54-145.10:6 of the Code of Virginia, based on a situation that requires immediate removal, repair or encapsulation of asbestos containing materials and a licensed contractor/supervisor and workers are not available to perform the abatement work. Notification shall be immediate and followed by a written description of :

1. A written description of the emergency situation.
2. A description of the planned abatement project to include : description of the abatement techniques, safety precautions, provisions for worker safety and protection, and safety equipment to be used in the abatement project.
3. The project shall not commence until the exemption has been approved by the director.

§ 9-2. § 10.2. "BUSINESS NECESSITY" WILL NOT QUALIFY FOR EMERGENCY EXEMPTION FROM LICENSING REQUIREMENTS.

§ 9-3. § 10.3. Exemption from licensure (not an emergency exemption).

The director may exempt from licensure any employer and any employees of such employer, but only with respect to an asbestos project on premises owned or leased by such employer and only after the director has determined that the training course implemented by the employer for his employees meets all of the standards as set forth in Part VIII VIII of these regulations. However, the requirement that the premises be owned or leased by the employer shall not apply if the asbestos project is located on a ship or other vessel designed for operation on or underneath, and intended to be operated on or underneath, the water. All exemptions from licensure will be reviewed on at least an annual basis. To aid the director in making a determination of exemption, the employer shall submit to the director the following information regarding the asbestos safety and training program of the employer:

1. Employer's name, address, phone number, and contact person.
2. A narrative explanation that clearly indicates how the course or training program is structured to meet the training course requirements as set forth in Part VIII IX of these regulations.

Upon the approval by the director of the request for exemption from licensing requirements, the employer will be notified in writing by the Department of Commerce.

Employers shall permit the Department of Commerce or Department of Labor and Industry representatives to attend, evaluate, and monitor any training course. Prior notice of attendance by agency representatives may or may not be given.

§ 10.4. Fees.

The fee for the evaluation of an employer's training program for exemption from licensure shall be \$2,100. The required fee must be submitted with the information listed in § 10.3.

§ 10.5. Annual reevaluation of exemption status.

The fee for reevaluation of exemption status shall be \$500.

APPENDIX A  
FEE SCHEDULE

Type of Application	Fee Amount
Asbestos Contractor License	\$ 500
Renewal	\$ 500

# Proposed Regulations

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Asbestos Worker License .....	\$ 35
Renewal .....	\$ 35
Asbestos Supervisor License .....	\$ 35
Renewal .....	\$ 35
Asbestos Inspector License .....	\$ 35
Renewal .....	\$ 35
Asbestos Management Planner License .....	\$ 35
Renewal .....	\$ 35
Asbestos Project Designer License .....	\$ 35
Renewal .....	\$ 35
Asbestos Worker Training Course .....	\$2100
(24 hours)	
Refresher Course (8 hours) .....	\$ 700
Asbestos Supervisor Training Course .....	\$2800
(32 hours)	
Refresher Course (8 hours) .....	\$ 700
Asbestos Inspector Training Course .....	\$2100
(24 hours)	
Refresher Course (4 hours) .....	\$ 700
Asbestos Management Planner Training Course .....	\$1400
(16 hours)	
Refresher Course (8 hours) .....	\$ 700
Asbestos Project Designer Training Course .....	\$2800
(32 hours)	
Refresher Course (8 hours) .....	\$ 700

MSW 1 (7-1-88)

For Office Use Only

Lic# \_\_\_\_\_  
Date \_\_\_\_\_  
Code \_\_\_\_\_

**DO NOT DUPLICATE THIS FORM**



COMMONWEALTH OF VIRGINIA  
Department of Commerce  
Application for Asbestos Licensing

PLEASE PRINT

Date \_\_\_\_\_ 19\_\_

1. Name \_\_\_\_\_ Phone No. (\_\_\_\_) \_\_\_\_\_  
Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

2. Date of Birth \_\_\_\_\_ 3. Social Security Number \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

4. IMPORTANT: Please Attach A Copy Of The Certificate Obtained After Successful Completion Of An Approved Asbestos Training Course and Examination.

Date of Training \_\_\_\_\_ Location \_\_\_\_\_ State \_\_\_\_\_

5. TYPE OF LICENSE REQUESTED: (only one type of license per application)

Worker (Reg. 2.3)	Fee: \$35.00 _____	Management Planner	Fee: \$35.00 _____
Supervisor (Reg. 3.3)	Fee: \$35.00 _____	Project Designer	Fee: \$35.00 _____
Inspector (Reg. 4.3)	Fee: \$35.00 _____		

ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA

6. License or authorization to perform Asbestos Work currently or previously held:

Type \_\_\_\_\_ License No. \_\_\_\_\_ Issued by \_\_\_\_\_

7. Applicant's signature below indicates that within the past 36 months license or authorization to perform Asbestos Abatement Work has not been suspended or revoked by any other state, and that no enforcement actions by any jurisdiction are pending against the applicant.

Signature \_\_\_\_\_

The reverse side of this application must be completed before license will be issued.

8. In the event an enforcement action has been taken against the applicant, the following information will be required as the Director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

- A. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
- B. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.
- C. A copy of any reports compiled by an enforcement agency.

AFFIDAVIT

9. THIS PORTION MUST BE COMPLETED BY APPLICANT.

I hereby certify that the above information is correct to the best of my knowledge and belief and that no information has been suppressed that might affect this application.

Typewritten or Printed Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

THIS PORTION MUST BE COMPLETED BY A NOTARY PUBLIC.

STATE OF \_\_\_\_\_

City/County of \_\_\_\_\_

Subscribed and sworn to before me, the undersigned Notary Public in and for the City or County aforesaid this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

My commission expires the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

Notary Public \_\_\_\_\_

(Seal)



MLC 1 (7-1-88)

DO NOT DUPLICATE THIS FORM

For Office Use Only  
File \_\_\_\_\_  
Date \_\_\_\_\_  
Code \_\_\_\_\_



COMMONWEALTH OF VIRGINIA  
Department of Commerce  
Application for Asbestos Contractor License

PLEASE PRINT Date \_\_\_\_\_ 19 \_\_\_\_

1. Name \_\_\_\_\_  
Mailing or \_\_\_\_\_  
Business \_\_\_\_\_  
Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone No. (\_\_\_\_) \_\_\_\_\_

2. Virginia Contractor's License Number: \_\_\_\_\_ Tax Identification Number: \_\_\_\_\_

Type of Business: (check one)

Individual \_\_\_\_\_ Limited partnership \_\_\_\_\_ Corporation \_\_\_\_\_ Co-partnership \_\_\_\_\_ Other \_\_\_\_\_

3. 

CONTRACTOR'S LICENSE FEE \$500.00
ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA.

4. License or authorization to perform Asbestos Work currently or previously held:  
Type \_\_\_\_\_ License No. \_\_\_\_\_ Issued by \_\_\_\_\_

5. Applicant's signature below indicates that within the past 36 months license or authorization to perform asbestos abatement work has not been suspended or revoked by any other state, and that no enforcement actions by any jurisdiction are pending against the applicant.

Signature \_\_\_\_\_

6. In the event an enforcement action has been taken against the applicant, the following information will be required as the Director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

- 1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
- 2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.
- 3. A copy of any reports compiled by an enforcement agency.

The reverse side of this application must be completed before license will be issued.

AS REQUIRED BY CHAPTER 7.01 section 54-145.9:2 OF THE CODE OF VIRGINIA WHICH STATES A CONTRACTOR SHALL;

Demonstrate to the satisfaction of the Director that the applicant and his employees or agents are familiar with and are capable of complying fully with all applicable requirements, procedures and standards of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, the Department of Labor and Industry, and the State Air Pollution Control Board covering any part of an asbestos project.

BY MY SIGNATURE BELOW, I UNDERSTAND AND AGREE TO MY DUTIES AND OBLIGATIONS AND I AM FAMILIAR WITH THE STATUTES AND REGULATIONS OF THE COMMONWEALTH OF VIRGINIA APPLICABLE TO ASBESTOS CONTRACTORS.

AFFIDAVIT

7. THIS PORTION MUST BE COMPLETED BY APPLICANT.

I hereby certify that the above information is correct to the best of my knowledge and belief and that no information has been suppressed that might affect this application.

Typewritten or  
Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Applicant's Tradename \_\_\_\_\_

8. THIS PORTION MUST BE COMPLETED BY A NOTARY PUBLIC.

STATE OF \_\_\_\_\_

City/County of \_\_\_\_\_

Subscribed and sworn to before me the undersigned Notary Public in and for the City or County aforesaid this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_ 19 \_\_\_\_

My commission expires the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_

(Seal)

Notary Public

# Proposed Regulations

## DEPARTMENT OF EDUCATION (STATE BOARD OF)

**Title of Regulation:** VR 270-02-0007. Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia.

**Statutory Authority:** § 22.1-16 of the Code of Virginia; 20 USC §§ 1412 and 1413

**Public Hearing Date:** N/A - Written comments may be submitted until January 21, 1989.

(See Calendar of Events section for additional information)

**REGISTRAR'S NOTICE:** Due to its length, the proposed Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia filed by the State Board of Education are not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Education.

### Summary:

The Board of Education is reproposing these regulations. The purpose of the reproposal of the regulations is to publish the amendments based on the comments which substantially changed the original draft of amended regulations. The amended regulations bring the state regulations in compliance with Congressional amendments P.L. 94-142, the federal law mandating that handicapped children and youth receive a free and appropriate public education.

The major changes in the reproposed regulations include deletion of the requirement for parental consent before any change in the identification or placement for a handicapped child, maintaining autism as a separate category, defining reevaluation and significant change in placement, expanding the definition of special education to comport with federal law, adding qualifications of personnel providing services, adding related services to an existing IEP, termination of special education services, adding language and timelines regarding suspensions and expulsions and amending the regulations to comply with the law for serving children in juvenile detention homes.

## DEPARTMENT OF FIRE PROGRAMS (VIRGINIA FIRE SERVICES BOARD)

**Title of Regulation:** VR 310-01-02. Regulations Establishing Certification Standards for Fire Inspectors.

**Statutory Authority:** § 9-155 of the Code of Virginia.

**Public Hearing Date:** February 3, 1989 - 9 a.m.

(See Calendar of Events section for additional information)

### Summary:

This regulation establishes certification standards for fire inspectors and is amended to incorporate training required as a result of revisions to the Code of Virginia by the 1988 General Assembly authorizing search warrants for inspection or reinspection of buildings.

VR 310-01-02. Regulations Establishing Certification Standards for Fire Inspectors.

### PART I. DEFINITIONS.

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

"Approved" means acceptable to the authority having jurisdiction.

"Authority having jurisdiction" means the organization, office or individual responsible for "approving" equipment, an installation or a procedure.

"Basic knowledge" means a fundamental acquaintance with facts, truths, or principles.

"Bleve" means Boiling Liquid Expanding Vapor Explosion.

"Candidate" means the individual who has made application to become a Fire Inspector I or Fire Inspector II.

"Code Requirement(s)" means the statement in a law, ordinance or legally adopted reference which mandates or guides a particular action or procedure, or restricts a particular action or procedure.

"Demonstrate" means to show by actual use, illustration, simulation or explanation.

"Fire Department" means the agency that provides fire suppression and other fire-related services.

"Fire hazard" means any situation, process, material or condition which, on the basis of applicable data, may cause a fire or explosion or provide a ready fuel supply to augment the spread or intensity of the fire or explosion and which poses a threat to life of property.

"Fire Inspector I" means the candidate who has demonstrated the knowledge and ability to perform the objectives specified in the standard for the Fire Inspector I level.

# Proposed Regulations

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*"Fire Inspector II"* means the Fire Inspector I who has demonstrated the knowledge and ability to perform the objectives specified in the standard for the Fire Inspector II level.

*"Fire Inspector III"* means a Fire Inspector II who is qualified to perform as the technical and administrative supervisor of a group of fire inspectors or placed in charge of a particular branch or section of a fire prevention bureau and has demonstrated the knowledge and ability to perform the objectives specified in the standard for the Fire Inspector III level.

*"Identify"* means to physically select, indicate or explain verbally or in writing, using acceptable and recognizable terms.

*"Inspection Warrants"* means an order in writing, made in the name Commonwealth, signed by any judge or magistrate whose territorial jurisdiction encompasses the building, structure or premises to be inspected or entered, and directed to a state or local official, commanding him to enter and to conduct any inspection, examination, testing or collection of samples for testing required or authorized by the Virginia Statewide Fire Prevention Code.

*"Labeled"* means equipment or materials to which has been attached a label, symbol or other identifying mark of an organization acceptable to the "authority having jurisdiction" and concerned with product evaluation, that maintains periodic inspection of production of labeled equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

*"Listed"* means equipment or materials included in a list published by an organization acceptable to the "authority having jurisdiction" and concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

*"Local fire alarm"* means any fire alarm device or system other than a municipal fire alarm system.

*"May"* means to indicate a recommendation or that which is advised but not required.

*"Objective"* means a goal that is achieved through the attainment of a skill, knowledge, or both, which can be observed or measured.

*"Qualified"* means having satisfactorily completed the requirements of the objectives.

*"Refusal"* means a deliberate interference; to place limitations; to deny an inspection or denial of entry.

*"Regulation"* means the statute, laws, ordinance or

authorized rules by which something or someone is governed.

*"Reasonable time"* means normal hours of operations. During working hours of the building, structure, property or premises to be inspected.

*"Shall"* means to indicate a mandatory requirement.

*"Working knowledge"* means the ability to translate an understanding of facts, truths or principles into a desired action or application.

## PART II. ADMINISTRATION.

### Article 1. Purpose.

§ 2.1. The standards are designed as the basis for assuring that a Fire Inspector I has a clear understanding of the Fire Prevention Code, laws, rules, and regulations which have been adopted to make Virginia communities a safer place to live, work and play. Upon successfully completing the course, the student will have a clear understanding of how to conduct a fire prevention inspection and what action is required to have hazardous conditions corrected.

It is not the intent of this course to produce an experienced Fire Inspector or Fire Marshal, but to supply the basic knowledge and skills necessary for functioning at a satisfactory level in this position while continuing to gain experience and knowledge.

The students meeting these prerequisites will be certified as meeting the provisions of N.F.P.A. (National Fire Protection Association) Standards Number 1031 for Fire Inspector I as adopted by the Virginia Fire Services Board and incorporated by reference and made a part of these regulations.

Upon satisfactorily completing the Inspector I course, or meeting the requirement for equivalency, passing the test developed for this course of study and satisfactorily completing the field work, the individual will be certified an Inspector I.

### Article 2. Instructors for the Course.

§ 2.2. Instructors will be State Certified Fire Instructors who have experience and knowledge in the subject area or persons who have special knowledge or skills in a particular subject and who have been approved by the Department of Fire Programs.

§ 2.3. Law-enforcement subjects will be taught by certified Department of Criminal Justice Services personnel.

§ 2.4. Legal matters will be instructed by a representative from the Attorney General's office, a Commonwealth's

# Proposed Regulations

Attorney, or an attorney who is knowledgeable in such matters.

## Article 3. Reference Material.

§ 2.5. The instructor may choose to use a wide variety of reference material and teaching aids; however, the subject matter will be taken from the currently state accepted BOCA (Building Officials and Code Administrators International, Inc.) Codes and the IFSTA (International Fire Services Training Association) manual 110-Fire Prevention and Inspection Practices promulgated by the Virginia Department of Housing and Community Development.

§ 2.6. Other reference material may include:

Forest Fire and Related Laws, Virginia Department of Forestry

Uniform Statewide Building Code

Statistics from Virginia Fire Incident Reporting System

N.F.P.A. Handbook and Standards.

All other reference materials used shall be approved by the Deputy Director of the Department of Fire Programs.

## Article 4. Field Training.

§ 2.7. When the student has successfully completed the Fire Inspector I training, he shall work for a minimum of 15 hours in his own community under the supervision of an Inspector II having two or more years experience. If there is no such experienced Inspector in his community, he shall make arrangements for working with an experienced Inspector II from a neighboring community, state or federal agency.

§ 2.8. The Inspector under whom the student works shall submit a written report recommending that the student be certified or he shall state why he feels the candidate needs additional training.

## Article 5. Qualifications and Certification of Candidates.

§ 2.9. Any member in good standing of any fire department or fire brigade who is responsible for making Fire Prevention Inspections or Fire Safety Inspections may make applications to attend the course. Candidates who wish to be certified under the N.F.P.A. 1031 Standards shall successfully complete the Inspector I course.

§ 2.10. Any individual who is responsible for fire inspection or prevention activities may make application to attend the Inspector I course. Course applications shall be approved by the deputy director.

§ 2.11. Upon satisfactory course completion:

A. Those individuals who meet Department of Fire Program's Firefighter III qualifications and Department of Criminal Justice Services medical requirements will receive a Department of Fire Program's certificate for Inspector I.

or

B. Those individuals not certified as Firefighter III will receive a certificate for completion of the Fire Inspector I course.

## Article 6. Grading.

§ 2.12. All grades, reports, and records will be submitted to the Department of Fire Programs within 15 working days following the completion of the course. The procedure for grading will be as follows:

1. All written examinations shall include a minimum of two questions for each hour of mandatory instruction. This requirement likewise includes the classroom instruction on performance-oriented subject matter; however, those subjects which exceed five hours of instruction, 10 questions will suffice as an acceptable minimum.

2. All students shall attain a grade of 85% to satisfactorily complete mandatory training, and shall be tested at the mid-term and course final examination. Any student who does not attain 85% will be allowed one retest.

3. Performance testing, when utilized, will be graded on a satisfactory or unsatisfactory basis. A satisfactory rating on all performance testing will be required to satisfactorily complete the school. The determination of satisfactory or unsatisfactory performance on any performance test will be determined by the instructor administering the test.

## Article 7. Attendance.

§ 2.13. No more than 10% absenteeism for the course will be allowed for any reason. Students who are absent will be required to make up any material missed. If for any reason a student must be absent from the class, he shall advise the instructor or the deputy director of the Department of Fire Programs immediately upon learning this fact.

## Article 8. School Location and Dates.

§ 2.14. The deputy director of the Training Division, Department of Fire Programs, will schedule Inspector I classes, as deemed appropriate, based on the number of

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inquiries and applications received. The deputy director will select the sites where the classes will be held based on availability of facilities and student interest.

## Article 9.

### Failure to Comply With the Rules and Regulations.

§ 2.15. Any student who attends the course shall comply with the rules and regulations established by the Department of Fire Programs and the Department of Criminal Justice Services. The deputy director or instructor will be responsible for the proper enforcement of all rules and regulations. Any student who, in the opinion of the instructor or deputy director, fails to follow the rules or regulations, or who behaves in an unsafe or disruptive manner, may be removed from the class if deemed necessary. The instructor will report to the deputy director immediately after the incident who may expel the individual from the school if after an investigation has been made such action is deemed necessary and appropriate.

Any student who is expelled will be deemed to have not satisfactorily completed the course and will not be awarded a certificate.

The deputy director will immediately report the incident to the executive director of the Department of Fire Programs and to the student's supervisor. The deputy director will make a complete written report of the circumstances associated with the incident and submit it to the executive director of the Department of Fire Programs within 24 hours.

The rules and regulations will be in effect immediately upon the approval by the Department of Criminal Justice Services and the Virginia Fire Services Board, subject to the requirements of the Virginia Administrative Process Act Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia. They will remain in effect until such time as they are amended or rescinded.

## Article 10.

### In-Service Training.

§ 2.16. In order to remain certified and comply with the N.F.P.A. 1031 standards at the Inspector I level an individual shall attend a minimum of 16 hours of training every two years which is approved by the Department of Fire Programs. This training shall include the following:

Review of constitutional law

Update on state codes

Review of latest court decisions affecting code enforcement

Review of the fire prevention code

Update on code reference material and N.F.P.A.

standards.

## PART III. CANDIDATES.

§ 3.1. Candidates shall possess a valid driver's license for the Commonwealth of Virginia and shall identify state and local laws governing the operation of emergency vehicles.

Candidates shall demonstrate an ability to clearly express themselves orally.

Candidates shall demonstrate an ability to clearly express themselves in writing.

Candidates shall demonstrate a knowledge of occupationally related personal safety practices and procedures.

Candidates shall demonstrate through tests, or interview, or both, their ability to interact with the public, under conditions of code enforcement, fire investigation, or fire prevention education duties, with tact, discretion, and without loss of authority.

The candidates shall meet the requirements specified for Firefighter III unless such requirements are waived by the executive director.

## PART IV. FIRE INSPECTOR I STANDARDS.

### Article 1. General.

§ 4.1. General.

A. Fire Inspector I shall demonstrate a knowledge of the legally established responsibilities and authority related to the performance of the inspector's duties.

B. The Fire Inspector I shall demonstrate a knowledge of the established procedure for modification of requirements.

C. The Fire Inspector I shall demonstrate a knowledge of the established appeals procedure and judicial review process for the jurisdiction in which the inspector is employed.

D. The Fire Inspector I shall demonstrate a knowledge of other agencies which may be referred to for assistance in correcting hazards.

E. The Fire Inspector I shall demonstrate an ability to initiate corrective procedures for fire hazards discovered during fire inspections.

### Article 2. Flammable and Combustible Liquids.

## § 4.2. Properties of Flammable and Combustible Liquids.

A. The Fire Inspector I shall identify and explain general properties of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate a working knowledge of the definition of flash point.

C. The Fire Inspector I shall demonstrate a working knowledge of the definition of ignition temperature.

D. The Fire Inspector I shall demonstrate a working knowledge of the basic effects of temperature and pressure on flammable and combustible liquids.

E. The Fire Inspector I shall demonstrate a working knowledge of the definition of flammable and explosive limits.

F. The Fire Inspector I shall demonstrate a working knowledge of the definition of specific gravity.

G. The Fire Inspector I shall demonstrate a working knowledge of the definition of boiling point.

H. The Fire Inspector I shall demonstrate a working knowledge of the basic class of flammable and combustible liquids as defined by NFPA 30, Flammable and Combustible Liquids Code.

I. The Fire Inspector I shall demonstrate a working knowledge of the definition of toxicity.

J. The Fire Inspector I shall demonstrate a working knowledge of the definition of reactivity.

## § 4.3. Storage, handling and use of flammable and combustible liquids.

A. The Fire Inspector I shall identify the fire hazards associated with the storage, handling and use of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate the knowledge of the regulations and hazards attendant to the transfer of flammable and combustible liquids.

C. The Fire Inspector I shall demonstrate a knowledge of the regulations and fire hazards attendant to finishing processes that involve flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a knowledge of what may constitute possible sources of ignition during storage, handling and use of flammable and combustible liquids.

E. The Fire Inspector I shall demonstrate a knowledge of conditions which might be conducive to creating explosive atmospheres in the storage, handling and use of flammable and combustible liquids.

F. The Fire Inspector I shall demonstrate a knowledge of conditions associated with the typical storage, handling and use of flammable and combustible liquids.

G. The Fire Inspector I shall demonstrate a working knowledge of regulations or code provisions related to the storage, handling or use of flammable or combustible liquids.

## § 4.4. Underground storage tanks for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of regulations and acceptable installation practices relative to underground storage tanks for flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate a knowledge of normal venting procedures and devices installed on underground storage tanks for flammable and combustible liquids.

C. The Fire Inspector I shall demonstrate a knowledge of the normal requirements and acceptable installation practices relative to piping and valves attendant to underground storage tanks for flammable and combustible liquids.

## § 4.5. Aboveground storage tanks for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of the regulations and acceptable installation practices of aboveground storage tanks for flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate an ability to determine if normal and emergency venting devices are being properly maintained.

C. The Fire Inspector I shall demonstrate a knowledge of drainage or diking systems, or both, that may be required for aboveground storage of flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a knowledge of the requirements for an installation of piping and valves attendant to aboveground storage tanks for flammable and combustible liquids.

## § 4.6. Inside storage tanks for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of the regulations and acceptable installation practices relative to inside storage of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate an ability to determine if normal and emergency venting devices are being properly maintained.

# Proposed Regulations

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C. The Fire Inspector I shall demonstrate a knowledge of drainage or containment systems which may be required for the inside storage of flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a knowledge of requirements and acceptable installation practices relative to piping and valves attendant to the inside storage of flammable and combustible liquids.

§ 4.7. Outside container storage for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of the regulations or code requirements relative to the outside storage of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate a knowledge of acceptable flammable and combustible liquid containers for outside storage.

C. The Fire Inspector I shall demonstrate a knowledge of acceptable locations and storage parameters such as aisle spacing, stacking, storing of containers in vertical or horizontal positions, relative to the outside storage of flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a basic knowledge of container venting devices and venting practices.

§ 4.8. Inside container storage for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of the regulation, including quantity limitations, that may exist for different occupancies relative to the inside storage of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate a basic knowledge of acceptable flammable and combustible liquid containers for inside storage.

C. The Fire Inspector I shall demonstrate a basic knowledge of the storage parameters such as aisle spacing, stacking, storage of containers in vertical or horizontal positions, relative to the inside storage of flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a knowledge of normal and emergency venting devices or procedures acceptable for the inside storage of flammable and combustible liquids.

§ 4.9. Flammable and combustible liquids fire extinguishment.

A. The Fire Inspector I shall have a knowledge of the basic techniques of flammable and combustible liquids fire extinguishment.

B. The Fire Inspector I shall demonstrate a knowledge of portable fire extinguisher operations and installation requirements for areas involving flammable and combustible liquids.

C. The Fire Inspector I shall demonstrate a basic knowledge of fixed fire extinguishing systems required or installed for flammable and combustible liquids storage, handling or use.

§ 4.10. Flammable and combustible liquids labeling.

The Fire Inspector I shall demonstrate a basic understanding of the regulatory labeling and placarding systems used for flammable and combustible liquids identification.

§ 4.11. Transportation of flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a basic understanding of regulations relative to the transportation of flammable and combustible liquids within the jurisdiction in which the inspector is employed.

B. The Fire Inspector I shall have a knowledge of which agencies regulate the transportation of flammable and combustible liquids within the jurisdiction in which the inspector is employed.

C. The Fire Inspector I shall have a knowledge of which agencies offer assistance in handling flammable and combustible liquids emergencies in the jurisdiction in which the inspector is employed.

## Article 3.

### Compressed and Liquefied Gases.

§ 4.12. Properties of compressed and liquefied gases.

A. The Fire Inspector I shall identify the general properties of compressed and liquefied gases.

B. The Fire Inspector I shall demonstrate a working knowledge of the effects of temperature and pressure as they relate to compressed and liquefied gases.

C. The Fire Inspector I shall demonstrate a working knowledge of the definition of specific gravity particularly as it relates to compressed and liquefied gases.

D. The Fire Inspector I shall demonstrate a knowledge of the differences between compressed and liquefied gases.

§ 4.13. Storage, handling and use of compressed and liquefied gases.

A. The Fire Inspector I shall identify the fire hazards associated with the typical storage, handling, and use of compressed and liquefied gases.

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B. The Fire Inspector I shall demonstrate a knowledge of possible ignition sources and fire causes involving compressed and liquefied gases.

C. The Fire Inspector I shall demonstrate an understanding of the conditions which might be conducive to fire initiation and propagation involving compressed and liquefied gases.

## § 4.14. Compressed and liquefied gases containers.

The Fire Inspector I shall demonstrate the acceptable practices relative to compressed and liquefied gases container installation and storage.

## § 4.15. Compressed and liquefied gases transfer operations.

The Fire Inspector I shall demonstrate a basic knowledge of the practices and procedures involved in the transfer of compressed and liquefied gases.

## § 4.16. Compressed and liquefied gases leaks.

The Fire Inspector I shall demonstrate a basic knowledge of the means of compressed and liquefied gases leakage control.

## § 4.17. Transportation of compressed and liquefied gases.

A. The Fire Inspector I shall demonstrate a basic knowledge of the regulations relative to the transportation of compressed and liquefied gases.

B. The Fire Inspector I shall have a knowledge of the agencies which regulate the transportation of compressed and liquefied gases within the jurisdiction in which the inspector is employed.

C. The Fire Inspector I shall have a knowledge of agencies which offer assistance in handling compressed and liquefied gases emergencies within the jurisdiction in which the inspector is employed.

## § 4.18. Fire extinguishment of compressed and liquefied gases.

A. The fire Inspector I shall have a knowledge of the basic fire extinguishment practices and procedures for compressed and liquefied gases emergencies.

B. The Fire Inspector I shall demonstrate a knowledge of portable fire extinguisher operations and installation requirements for areas involving compressed and liquefied gases.

C. The Fire Inspector I shall demonstrate a basic knowledge of fixed fire extinguishing systems required or installed for the storage, handling, or use of compressed and liquefied gases.

## § 4.19. Labeling of compressed and liquefied gases.

The Fire Inspector I shall demonstrate a basic knowledge of the regulatory labeling and placarding regulations relative to compressed and liquefied gases.

## Article 4. Explosives, Including Fireworks.

### § 4.20. Properties of explosives.

A. The Fire Inspector I shall identify the classifications of explosives. (See NFPA 495, Code for the Manufacture, Transportation, Storage and Use of Explosive Materials.)

B. The Fire Inspector I shall understand the need for security of explosives.

§ 4.21. The Fire Inspector I shall understand the regulations relative to the transportation of explosives, including fireworks, within the jurisdiction in which the inspector is employed.

§ 4.22. The Fire Inspector I shall identify the common hazards associated with the typical storage, handling and use of explosives, including fireworks.

### § 4.23. Labeling of explosives, including fireworks.

A. The Fire Inspector I shall demonstrate a knowledge of regulatory labeling and placarding systems relative to explosives, including fireworks.

B. The Fire Inspector I shall have a knowledge of the sources from which detailed or technical information on explosives, including fireworks, might be obtained.

### § 4.24. Storage of explosives, including fireworks.

A. The Fire Inspector I shall have a knowledge of the code requirements and regulations for the storage of explosives, including fireworks.

B. The Fire Inspector I shall have a basic knowledge of the type and construction of storage facilities required for the various classes of explosives.

## Article 5. Other Hazardous Materials.

### § 4.25. General.

A. The Fire Inspector I shall demonstrate a basic knowledge of the regulatory labeling and placarding systems for various types and quantities of hazardous materials.

B. The Fire Inspector I shall demonstrate a working knowledge of the code requirements and regulations for the typical storage, handling and use of various types and quantities of hazardous materials.

C. The Fire Inspector I shall possess a knowledge of



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sources of detailed and technical information about various hazardous materials.

## § 4.26. Specific hazardous materials.

A. Fire Inspector I shall have a basic knowledge of the characteristics of corrosives and shall be able to name the more common corrosives.

B. Fire Inspector I shall have a basic knowledge of reactive material characteristics and shall be able to name the more common reactive materials.

C. Fire Inspector I shall have a basic knowledge of unstable material characteristics and shall be able to name the more common unstable materials.

D. The Fire Inspector I shall demonstrate a basic knowledge of toxic materials characteristics and shall be able to name the more common toxic materials.

E. The Fire Inspector I shall have a basic knowledge of radioactive material characteristics and shall be able to name the more common radioactive materials.

F. The Fire Inspector I shall demonstrate a basic knowledge of oxidizing material characteristics and shall be able to name the more common oxidizing materials.

G. The Fire Inspector I shall demonstrate a basic knowledge of the general fire hazard properties of the various types of plastics.

H. The Fire Inspector I shall demonstrate a knowledge of the code requirements and regulations for the typical storage, handling and use of natural and synthetic fibers.

## § 4.27. Combustible metals.

A. The Fire Inspector I shall demonstrate an understanding of combustible metal characteristics and shall be able to name the more common combustible metals.

B. The Fire Inspector I shall demonstrate a knowledge of the code requirements and regulations to the typical storage, handling, and use of combustible metals.

## § 4.28. Combustible dusts.

A. The Fire Inspector I shall demonstrate a basic knowledge of combustible dust characteristics and shall be able to name more common combustible dusts.

B. The Fire Inspector I shall understand the basic fire and explosion characteristics of the various combustible dusts.

C. The Fire Inspector I shall demonstrate a basic knowledge of the code requirements and regulations relative to the typical storage and handling of combustible

dusts.

## Article 6. Fire Protection Equipment.

### § 4.29. Portable fire extinguishers.

A. The Fire Inspector I shall have a basic knowledge of the types of portable fire extinguishers. (See NFPA 10, Standard on Portable Fire Extinguishers.)

B. The Fire Inspector I shall demonstrate a working knowledge of portable fire extinguishers.

C. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of portable fire extinguishers.

D. The Fire Inspector I shall demonstrate a knowledge of the capability of extinguishing agents and the proper method for agent application.

E. The Fire Inspector I shall demonstrate a knowledge of code requirements and regulations relative to the distribution and location of portable fire extinguishers.

F. The Fire Inspector I shall demonstrate a basic knowledge of portable fire extinguishers maintenance requirements and procedures.

### § 4.30. Fixed fire extinguishing systems.

A. The Fire Inspector I shall demonstrate a basic understanding of fixed fire extinguishing systems.

B. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of fixed fire extinguishing systems.

C. The Fire Inspector I shall demonstrate a working knowledge of fixed fire extinguishing systems.

D. The Fire Inspector I shall demonstrate a knowledge of the capabilities of the extinguishing agent and the proper procedures for agent application in a fixed fire extinguishing system.

### § 4.31. Sprinkler systems.

A. The Fire Inspector I shall demonstrate a basic knowledge of the different types of sprinkler systems. (See NFPA 13, Standard on Sprinkler Systems.)

B. The Fire Inspector I shall demonstrate a working knowledge of sprinkler systems and their appurtenances.

C. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of a sprinkler system.

D. The Fire Inspector I shall demonstrate a knowledge of the capabilities or limitations of sprinkler systems.

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## § 4.32. Standpipe and hose systems.

A. The Fire Inspector I shall demonstrate a basic knowledge of the types of standpipe and hose systems. (See NFPA 14, Standard on Sprinkler Systems.)

B. The Fire Inspector I shall demonstrate a working knowledge of standpipe and hose systems and their appurtenances.

C. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of a standpipe and hose systems.

D. The Fire Inspector I shall demonstrate a knowledge of standpipe and hose system equipment use and capabilities.

## § 4.33. Private water supply systems.

A. The Fire Inspector I shall demonstrate a basic knowledge of private water supply systems.

B. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of a private water supply system.

## § 4.34. Heat, smoke and flame detection systems.

A. The Fire Inspector I shall demonstrate a basic knowledge of heat, smoke and flame detection systems and devices.

B. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of heat, smoke and flame detection systems or device.

C. The Fire Inspector I shall demonstrate a basic knowledge of the proper installation locations of heat, smoke and flame detection devices.

## § 4.35. Fire alarm systems and devices.

A. The Fire Inspector I shall demonstrate a basic knowledge of local fire alarm systems and devices.

B. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of local fire alarm systems and devices.

C. The Fire Inspector I shall demonstrate a knowledge of the warning capability of local fire alarm systems and devices.

D. The Fire Inspector I shall demonstrate a basic knowledge of municipal fire alarms systems.

E. The Fire Inspector I shall demonstrate a basic knowledge of the interconnection between local and municipal fire alarm systems.

F. The Fire Inspector I shall differentiate between home, local, proprietary, central station, and municipal fire alarm systems.

G. The Fire Inspector I shall demonstrate a basic knowledge of the proper installation locations of fire alarm system components or devices.

## § 4.36. Heating and cooking equipment.

A. The Fire Inspector I shall demonstrate a basic knowledge of the fire hazards related to the various types of heating and cooking equipment.

B. The Fire Inspector I shall demonstrate a knowledge of the general fire safety safeguards incorporated in the various types of heating and cooking equipment systems.

C. The Fire Inspector I shall demonstrate a basic knowledge of the fire hazards and code requirements related to installation and fuel storage of heating and cooking equipment.

D. The Fire Inspector I shall demonstrate a knowledge of sources of detailed and technical information about heating and cooking equipment.

## § 4.37. Principles of electricity.

A. The Fire Inspector I shall have a basic knowledge of applied elementary electrical theory.

B. The Fire Inspector I shall have a basic knowledge of the construction of and safety devices used in electrical systems.

C. The Fire Inspector I shall have a basic knowledge of the fire and life hazards associated with the typical uses of electricity and electrical systems.

D. The Fire Inspector I shall have a knowledge of sources of detailed and technical information related to electricity and electrical systems.

Article 7.  
Safety to Life.

## § 4.38. General.

The Fire Inspector I shall have a basic knowledge of the code requirements, regulations, basic operational features, and fire hazards presented by various occupancies and, particularly, public assembly, residential, business, mercantile, office, storage, industrial, manufacturing and utility occupancies.

## § 4.39. Means of egress.

A. The Fire Inspector I shall have a knowledge of the means of egress requirements for various occupancies.

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B. The Fire Inspector I shall demonstrate an ability to determine if existing egress facilities for the building, floor or room are adequate for the occupancy involved.

C. The Fire Inspector I shall demonstrate the ability to determine whether travel distances to exits are within allowable limits.

D. The Fire Inspector I shall demonstrate an ability to determine if there is adequate access to egress facilities.

E. The Fire Inspector I shall demonstrate an ability to determine if exits are properly illuminated, marked, placed, secured, openable and equipped with hardware.

F. The Fire Inspector I shall demonstrate an ability to distinguish between enclosed stairwells and smoke towers and to determine if general construction and access are properly maintained.

G. The Fire Inspector I shall demonstrate an ability to determine if egress paths are adequate in width and properly illuminated and maintained.

H. The Fire Inspector I shall have a knowledge of the code requirements and regulations relative to the maintenance of means of egress from various occupancies.

## § 4.40. Interior finishes.

A. The Fire Inspector I shall demonstrate an ability to determine the proper interior finish for various areas of an occupancy, particularly that for egress paths.

B. The Fire Inspector I shall demonstrate an ability to conduct a field test of interior finish materials.

C. The Fire Inspector I shall demonstrate a knowledge of acceptable flame spread and smoke ratings for the various areas of an occupancy.

D. The Fire Inspector I shall demonstrate a knowledge of acceptable test methods and markings or labeling for interior finishes.

E. The Fire Inspector I shall demonstrate a knowledge of the purpose and acceptability of fire retardant paints and impregnation treatments.

## § 4.41. Building construction.

A. The Fire Inspector I shall have a basic knowledge of the features of fire protection and life safety related to building construction that are germane to various types of occupancies.

B. The Fire Inspector I shall demonstrate a knowledge of acceptable test methods and marking or labeling for building construction assemblies or devices.

C. The Fire Inspector I shall demonstrate a working

knowledge of the types of fire doors and installation requirements.

D. The Fire Inspector I shall demonstrate a basic knowledge of where rated building construction is required.

E. The Fire Inspector I shall demonstrate a knowledge of building construction components installed for fire-related purposes including, but not limited to, fire stops, draft curtains, fire walls, smoke vents, chimneys, flues, and fire rated floor/roof ceiling systems.

F. The Fire Inspector I shall demonstrate a knowledge of the classes of roof covering.

G. The Fire Inspector I shall demonstrate a knowledge of the requirements for and construction of special building construction features including, but not limited to, projection booths, stages, proscenium openings, and flammable liquid storage rooms.

H. The Fire Inspector I shall demonstrate a knowledge of building construction classification.

## § 4.42. Building equipment.

A. The Fire Inspector I shall have a basic knowledge of the types of and installation requirements for building service equipment that are germane to various occupancies and which can, through their operation, affect fire protection and life safety.

B. The Fire Inspector I shall demonstrate a knowledge of the proper installation, maintenance and use of heating, ventilating and air conditioning systems from a fire safety standpoint including, but not limited to, attendant devices such as dampers, detection devices, thermostats, and operational controls.

C. The Fire Inspector I shall demonstrate a knowledge of the proper installation, maintenance and use of cooking equipment, including hoods and ducts.

D. The Fire Inspector I shall have a basic knowledge of which other jurisdictional authorities may have requirements, or conduct inspections, involving life safety or fire protection.

## § 4.43. Decorations, decorative materials and furnishings.

A. The Fire Inspector I shall have a knowledge of the basic fire safety requirements for decorations, decorative materials and furnishings.

B. The Fire Inspector I shall demonstrate an ability to field test decorations, decorative materials and furnishings for acceptability and use in various occupancies.

## § 4.44. Fire drills.

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A. The Fire Inspector I shall demonstrate a knowledge of the requirements relative to fire drills which may be required within the jurisdiction in which the inspector is employed.

B. The Fire Inspector I shall demonstrate an ability to conduct or evaluate, or both, fire drills in various occupancies.

## § 4.45. General fire safety.

A. The Fire Inspector I shall have a working knowledge of general fire safety code requirements and regulations including, but not limited to, trash and debris, smoking, open burning, maintaining fire department access, housekeeping procedures, reporting of fire incidents, and limiting combustible decorations and furnishings.

B. The Fire Inspector I shall have a basic knowledge of the requirements, and the purpose of emergency evacuation plans.

## Article 8. Code Enforcement Procedures.

### § 4.46. General.

A. The Fire Inspector I shall demonstrate a knowledge of acceptable code enforcement procedures.

B. The Fire Inspector I shall demonstrate a knowledge of jurisdictional responsibilities of federal, state and local governments and organizations relative to code enforcement procedures.

C. The Fire Inspector I shall demonstrate a basic knowledge of anticipated human behavior relative to code enforcement.

D. The Fire Inspector I shall demonstrate a knowledge of local code enforcement procedures.

E. The Fire Inspector I shall demonstrate a basic knowledge of the judicial system, particularly as it relates to code enforcement procedures.

F. The Fire Inspector I shall demonstrate a basic knowledge of the legal processes as they relate to code enforcement procedures.

G. The Fire Inspector I shall demonstrate a knowledge of recommended courtroom demeanor as it relates to code enforcement procedures.

H. The Fire Inspector I shall demonstrate a basic knowledge of the moral and legal responsibilities associated with code enforcement procedures.

I. The Fire Inspector I shall be knowledgeable as to when licenses, or permits, or both, are required for the sale, use, storage or possession of hazardous materials.

J. The Fire Inspector I shall be knowledgeable of which processes and procedures of business operations involving fire protection equipment require licenses, or permits, or both.

K. The Fire Inspector I shall demonstrate a knowledge of sources of information on code enforcement procedures.

### § 4.47. Report preparation.

A. The Fire Inspector I shall demonstrate a basic knowledge of report preparation.

B. The Fire Inspector I shall demonstrate a knowledge of accepted filing techniques.

### § 4.48. Code enforcement equipment.

The Fire Inspector I shall demonstrate a basic knowledge of the essential equipment necessary to accomplish code enforcement including, but not limited to, elementary photography equipment and portable flammable and combustible atmosphere detection equipment.

### § 4.49. Plans and specifications.

The Fire Inspector I shall be familiar with the procedures required for the processing of plans and specifications.

### § 4.50. Fire cause determination.

The Fire Inspector I shall have a basic knowledge of the requirements, need and purpose for fire cause determination and fire investigation.

### § 4.51. Miscellaneous.

A. The Fire Inspector I shall demonstrate a knowledge of what is required in performing standby fire safety duties in public assembly occupancies.

B. The Fire Inspector I shall demonstrate a knowledge of the general procedures for handling complaints.

C. The Fire Inspector I shall demonstrate a basic knowledge of building code contents and requirements.

## PART V. ADMINISTRATION.

### Article 1. Purpose.

§ 5.1. The standards are designed as the basis for assuring that a Fire Inspector II has a clear understanding of the Fire Prevention Code, laws, rules, and regulations which have been adopted to make Virginia communities a safer place to live, work and play. Upon successfully completing the course, the student will have a clear understanding of

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how to conduct a fire prevention inspection and what action is required to have hazardous conditions corrected.

It is not the intent of this course to produce an experienced fire inspector or fire marshal, but to supply the basic knowledge and skills necessary for functioning at a satisfactory level in this position while continuing to gain experience and knowledge.

The candidate for Fire Inspector II shall have satisfactorily met the standards for Fire Inspector I, as adopted by the Virginia Fire Services Board.

The students who successfully complete this course will be qualified as having met the requirements of § 27-34.2 of the Code of Virginia and may be granted the powers by their locality.

The students meeting these prerequisites will be certified as meeting the provisions of N.F.P.A. (National Fire Protection Association) Standards Number 1031 for Fire Inspector I and II as established by the Department of Fire Programs.

Upon satisfactorily completing the Inspector II course, or meeting the requirement for equivalency testing, passing the test developed for this course of study and satisfactorily completing the field work, the individual will be certified an Inspector II.

## Article 2. Instructors for the Course.

§ 5.2. Instructors will be state certified fire instructors who have experience and knowledge in the subject area or persons who have special knowledge or skills in a particular subject and who have been approved by the Deputy Director, Training Division, Department of Fire Programs.

Law-enforcement subjects will be taught by certified Department of Criminal Justice Services personnel.

Legal matters will be instructed by a representative from the Attorney General's office, a Commonwealth's Attorney, or an attorney who is knowledgeable in such matters.

## Article 3. Reference Material.

§ 5.3. The instructor may choose to use a wide variety of reference material and teaching aids; however, the subject matter will be taken from the current state-accepted BOCA (Building Officials and Code Administrators International, Inc.) Codes and the IFSTA (International Fire Services Training Association) manual 110-Fire Prevention and Inspection Practices.

Other reference material may include:

Forest Fire and Related Laws, Virginia Department of Forestry

Uniform Statewide Building Code

Statistics from Virginia Fire Incident Reporting System

N.F.P.A. Handbook and Standards

All other reference materials used shall be approved by the Deputy Director of the Department of Fire Programs.

## Article 4. Field Training.

§ 5.4. When the student has successfully completed the Fire Inspector II Program he shall work for a minimum of 15 hours in his own community under the supervision of an Inspector II having two or more years experience. If there is no such experienced Inspector II in his community, he shall work arrangements for working with an experienced Inspector II from a neighboring community, state or federal agency.

The experienced inspector under whom the student works shall submit a written report recommending that the student be certified or he shall state why he feels the candidate needs additional training.

## Article 5. Qualifications and Certification of Candidates.

§ 5.5. Any member in good standing of any fire department or fire brigade who is responsible for making fire prevention or fire safety inspections may make applications to attend the course. All inspectors who wish to be granted the powers permissible under § 27-34.2 of the Code of Virginia shall successfully complete both the Fire Inspector I and Fire Inspector II courses. (See application.)

Any individual who is responsible for fire inspection or prevention activities may make application to attend the Inspector II course. Applications shall be approved by the deputy director.

Upon satisfactory course completion:

A. Those individuals certified as Firefighter III (unless granted waiver by the deputy director), who meet DCJS requirements, and who have completed the course requirements for Inspector II and § 27-34.2 of the Code of Virginia, will receive a certificate for Fire Inspector II.

B. Those individuals not certified as Firefighter III will receive a certificate for completion of the Fire Inspector II course.

C. To meet the training requirements of § 27-34.2, the candidate shall be certified in Parts I through VIII of these regulations.

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## Article 6. Grading.

§ 5.6. All grades, reports, and records will be submitted to the Department of Fire Programs within 15 working days following the completion of the course. The procedure for grading will be as follows:

A. All written examinations shall include a minimum of two questions for each hour of mandatory instruction. This requirement likewise includes the classroom instruction on performance-oriented subject matter; however, for those subjects which exceed five hours of instruction, 10 questions will suffice as an acceptable minimum.

B. All students shall attain a grade of 85% to satisfactorily complete mandatory training, and shall be tested at the mid-term and course final examination. Any student who does not attain 85% will be allowed one retest.

C. Performance testing, when utilized, will be graded on a satisfactory or unsatisfactory basis. A satisfactory rating on all performance testing will be required to satisfactorily complete the school. The determination of satisfactory or unsatisfactory performance on any performance test will be determined by the instructor administering the test.

## Article 7. Attendance.

§ 5.7. No more than 10% absenteeism for the course will be allowed for any reason. Students who are absent will be required to make up any material missed. If for any reason a student must be absent from the class, he will advise the instructor or the deputy director of the Department of Fire Programs immediately upon learning this fact.

## Article 8. School Location and Dates.

§ 5.8. The deputy director of the training division, Department of Fire Programs, will schedule Inspector II classes as deemed appropriate based on the number of inquiries and applications received. The deputy director will select the sites where the classes will be held based on availability of facilities and student interest.

## Article 9. Failure to Comply With the Rules and Regulations.

§ 5.9. Any student who attends the course shall comply with the rules and regulations established by the Department of Fire Programs and the Department of Criminal Justice Services. The deputy director or instructor will be responsible for the proper enforcement of all rules and regulations. Any student who, in the opinion of the instructor or deputy director, fails to follow the rules or regulations, or who behaves in an unsafe or disruptive manner, may be removed from the class if deemed

necessary. The instructor will report to the deputy director immediately after the incident who may expel the individual from the school if after an investigation has been made such action is necessary and appropriate.

Any student who is expelled will be deemed to have not satisfactorily completed the course and will not be awarded a certificate.

The deputy director will immediately report the incident to the executive director of the Department of Fire Programs and to the student's supervisor. The deputy director will make a complete written report of the circumstances associated with the incident and submit it to the executive director of the Department of Fire Programs within 24 hours.

The rules and regulations will be in effect immediately upon the approval by the Department of Fire Programs, the Department of Criminal Justice Services and the Virginia Fire Services Board and will remain in effect until such time as they are amended or rescinded.

## Article 10. In-Service Training.

§ 5.10. In order to remain certified and comply with the N.F.P.A. 1031 standards at the Inspector II level an individual must attend a minimum of 16 hours of training every two years which is approved by the Department of Fire Programs. This training must include the following:

Review of Constitutional Law

Update on State Codes

Review of latest Court decisions affecting Code Enforcement

Review of the Fire Prevention Code

Update on Code Reference material and N.F.P.A. standards

## PART VI. CANDIDATES.

### Article 1. General.

§ 6.1. Candidates shall possess a valid driver's license for the state in which they are employed and shall identify state and local laws governing the operation of emergency vehicles.

Candidates shall demonstrate an ability to clearly express themselves orally.

Candidates shall demonstrate an ability to clearly express themselves in writing.

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Candidates shall demonstrate a knowledge of occupationally related personal safety practices and procedures.

Candidates shall demonstrate through tests, or interview, or both, their ability to interact with the public, under conditions of code enforcement, fire investigation, or fire prevention education duties, with tact, discretion, and without loss of authority.

The candidates shall meet the requirements specified for Fire Inspector I unless such requirements are waived by the executive director.

## PART VII. FIRE INSPECTOR II STANDARDS.

### Article 1. Liquids, Gases and Fireworks.

#### § 7.1. Flammable and combustible liquids.

A. The Fire Inspector II shall demonstrate a basic knowledge of the effect of pressure on the design, size and contents or storage tanks and containers for flammable and combustible liquids.

B. The Fire Inspector II shall demonstrate a knowledge of the storage, handling and use conditions of flammable and combustible liquids which are most conducive to the initiation, propagation and spread of fire.

C. The Fire Inspector II shall demonstrate a knowledge of the installation and operational requirements of fixed fire extinguishing systems installed concomitant to flammable and combustible liquids storage, handling or use.

D. The Fire Inspector II shall demonstrate a knowledge of how to abate the fire hazards associated with flammable or combustible liquid spills or leaks.

#### § 7.2. Compressed and liquefied gases.

A. The Fire Inspector II shall demonstrate a basic knowledge of the physical and chemical characteristics of compressed and liquefied gases and cryogenics.

B. The Fire Inspector II shall demonstrate a knowledge of the storage, handling and use conditions of compressed and liquefied gases which are most conducive to the initiation, propagation and spread of fire.

C. The Fire Inspector II shall demonstrate a knowledge of which organizations have codes or specifications relative to compressed and liquefied gases containers, cylinders, or tanks.

D. The Fire Inspector II shall demonstrate a knowledge of the requirements for marking, testing, repair, and maintenance of compressed and liquefied gases containers,

cylinders or tanks.

E. The Fire Inspector II shall demonstrate a knowledge of the code requirements and regulations relative to quantity limitations, distances, physical damage and protection for aboveground containers for compressed and liquefied gases.

F. The Fire Inspector II shall demonstrate a knowledge of the special handling procedures for gas transfer operations involving compressed and liquefied gases.

G. The Fire Inspector II shall demonstrate a basic knowledge of the operation and use of excess flow check valves in compressed and liquefied gases piping and storage.

H. The Fire Inspector II shall demonstrate a knowledge of how to abate the fire hazards associated with compressed and liquefied gases spills or leaks.

J. The Fire Inspector II shall demonstrate a knowledge of the installation and operations requirements of fixed fire extinguishing systems installed concomitant to the storage, handling and use of compressed and liquefied gases.

#### § 7.3. Explosives, including fireworks.

A. The Fire Inspector II shall demonstrate a knowledge of the requirements for security measures for explosives, including fireworks.

B. The Fire Inspector II shall demonstrate a knowledge of which federal or state regulatory agencies govern the transportation of explosives, including fireworks.

C. The Fire Inspector II shall demonstrate a knowledge of the effects of temperature and moisture on explosives, including fireworks.

D. The Fire Inspector II shall demonstrate a knowledge of sensitivity of stability characteristics of the various types of explosives, including fireworks.

E. The Fire Inspector II shall demonstrate a knowledge of explosives storage facility construction and operation.

### Article 2. Other Hazardous Materials.

#### § 7.4. Natural and synthetic fibers.

A. The Fire Inspector II shall demonstrate a knowledge of the fire hazards associated with the storage, handling and use of natural and synthetic fibers.

#### § 7.5. Combustible dusts.

A. The Fire Inspector II shall demonstrate a knowledge of code requirements and regulations governing

combustible dusts.

B. The Fire Inspector II shall demonstrate a knowledge of code requirements, regulations and basic installation practices relative to explosion suppression systems for combustible dusts.

## § 7.6. Fire protection equipment.

A. The Fire Inspector II shall demonstrate an ability to evaluate the proper installation and testing of all types of fire protection equipment including, but not limited to, fire doors, fire walls, fixed fire extinguishing systems, water supply systems, fire detection systems, and fire alarm systems.

B. The Fire Inspector II shall demonstrate an ability to evaluate the testing of portable fire extinguishers.

C. The Fire Inspector II shall demonstrate an ability to evaluate the application, capabilities, testing and maintenance of fixed fire extinguishing systems.

## § 7.7. Water supply systems.

A. The Fire Inspector II shall demonstrate a knowledge of water system pressure and piping requirements.

B. The Fire Inspector II shall demonstrate a knowledge of hydrant construction, location, and spacing.

C. The Fire Inspector II shall demonstrate a knowledge of the factors that affect fire flow demands.

## § 7.8. Heating and cooking equipment.

A. The Fire Inspector II shall demonstrate a working knowledge of the fire hazards related to the various types of heating and cooking equipment and systems.

B. The Fire Inspector II shall demonstrate a working knowledge of the fire safety safeguards normally installed concomitant to heating and cooking equipment.

C. The Fire Inspector II shall demonstrate a working knowledge of the fire hazards and code requirements related to heating and cooking equipment installation and fuel storage.

## § 7.9. Industrial ovens and furnaces.

A. The Fire Inspector II shall demonstrate a working knowledge of the fire hazards inherent to industrial ovens and furnace systems.

B. The Fire Inspector II shall demonstrate a working knowledge of the fire safety safeguards normally installed concomitant to industrial ovens and furnaces.

## § 7.10. Safety to life.

A. The Fire Inspector II shall demonstrate a knowledge of the code requirements and purposes for rated interior finishes.

## § 7.11. Means of egress.

A. The Fire Inspector II shall demonstrate a knowledge of how to calculate egress requirements.

B. The Fire Inspector II shall demonstrate an ability to determine the required location of exits.

C. The Fire Inspector II shall demonstrate a working knowledge of acceptable means of egress devices including, but not limited to, doors, hardware, and lights.

## § 7.12. Interior finishes.

A. The Fire Inspector II shall demonstrate a working knowledge for specifying interior finish requirements in various areas of a building according to its designated occupancy.

B. The Fire Inspector II shall demonstrate an ability to evaluate tests and test reports of interior finish materials.

## § 7.13. Building construction.

A. The Fire Inspector II shall demonstrate a working knowledge of when to specify enclosed stairs, smoke towers or other methods of egress.

B. The Fire Inspector II shall demonstrate an ability to evaluate tests and test reports of building construction assemblies or devices.

C. The Fire Inspector II shall demonstrate a working knowledge of what types of fire door assembly are required for the protection of openings of fire rated wall and partitions.

D. The Fire Inspector II shall demonstrate an ability to evaluate the tests and test reports of fire doors.

E. The Fire Inspector II shall demonstrate a working knowledge of where fire rated building construction may be required for various occupancies.

F. The Fire Inspector II shall demonstrate a working knowledge of the conditions which require that special fire-related building components be installed including, but not limited to, fire stops, draft curtains, fire walls, smoke vents, chimneys, flues, and fire windows.

## § 7.14. Building equipment.

A. The Fire Inspector II shall demonstrate a working knowledge of the conditions which require that fire related equipment be installed including, but not limited to, extinguishing systems, alarm systems, detection systems, fire dampers, kitchen hood and vent systems, standpipe



# Proposed Regulations

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and hose systems, and portable fire extinguishers.

B. The Fire Inspector II shall demonstrate a working knowledge of the proper installation of the equipment included in § 7.14 A above.

## § 7.15. Decorations, decorative materials and furnishings.

The Fire Inspector II shall demonstrate an ability to evaluate the tests and test reports on flame spread and smoke generation of decorations, decorative materials and furnishings.

## § 7.16. Fire loads.

A. The Fire Inspector II shall demonstrate an ability to calculate fire loads.

B. The Fire Inspector II shall demonstrate a working knowledge of acceptable fire loads for various occupancies.

C. The Fire Inspector II shall demonstrate knowledge of how to classify building contents according to hazard.

## § 7.17. Occupant loads.

A. The Fire Inspector II shall demonstrate an ability to calculate allowable occupant loads for various occupancies and building areas.

B. The Fire Inspector II shall have a working knowledge of code requirements, regulations, basic operational features and fire hazards presented by various occupancies.

C. The Fire Inspector II shall demonstrate a working knowledge of the fire safety regulations and code requirements for industrial occupancies utilizing hazardous processes, equipment or materials.

## § 7.18. Code enforcement.

A. The Fire Inspector II shall demonstrate a basic knowledge of fire scene photography.

B. The Fire Inspector II shall demonstrate a basic knowledge of the legal requirements pertaining to the admissibility of photographs in a civil or criminal court.

## § 7.19. Plans and specifications.

A. The Fire Inspector II shall demonstrate the ability to interpret plans and specifications and symbols related to construction plans and specifications.

B. The Fire Inspector II shall demonstrate an ability to read and interpret construction plans and specifications, and recognize standard symbols used by design.

C. The Fire Inspector II shall demonstrate a basic knowledge of acceptable construction methods and

materials related to fire safety.

D. The Fire Inspector II shall demonstrate a knowledge of sources of detailed and technical information relative to plans and specifications details.

E. The Fire Inspector II shall demonstrate a knowledge of the moral and legal responsibilities relative to plans and specifications examination.

## § 7.20. Emergency evacuation plans.

A. The Fire Inspector II shall demonstrate an ability to develop emergency evacuation plans for various occupancies.

B. The Fire Inspector II shall demonstrate a basic knowledge of anticipated human behavior during emergencies.

C. The Fire Inspector II shall demonstrate an ability to implement fire safety programs for crowd control.

D. The Fire Inspector II shall demonstrate a basic knowledge of the role played by each agency and person in implementing an emergency evacuation plan.

E. The Fire Inspector II shall demonstrate an ability to coordinate agencies involved in the development of an emergency evacuation plan.

F. The Fire Inspector II shall demonstrate a knowledge of the sources of technical and detailed information relative to emergency evacuation plans.

## § 7.21. Fire cause determination.

The Fire Inspector II shall demonstrate a working knowledge of fire cause determination procedures.

## § 7.22. Miscellaneous.

A. The Fire Inspector II shall demonstrate a knowledge of building code requirements as they may affect fire safety for the jurisdiction in which the inspector is employed.

B. The Fire Inspector II shall demonstrate a knowledge of building height and area limitations as they may affect fire behavior.

## Article 3. Communication.

§ 7.23. The Fire Inspector II shall demonstrate proficiency in communicating effectively and professionally through written, oral and mechanical media.

A. Understand and have a working knowledge of interpersonal communication.

# Proposed Regulations

B. Identify verbal and nonverbal factors which contribute to a negative response from the public.

C. Given practical simulation role-playing exercises depicting stressful situations of interaction with the public, communicate properly and effectively with various types of persons.

§ 7.24. Demonstrate how to properly use the telephone in communications.

A. Identify what shall be accomplished by a Fire Inspector II in a telephonic situation reflecting a law-enforcement problem which results in a positive image and effective communications.

§ 7.25. Demonstrate proper standard radio-use techniques.

Demonstrate the ability to give clear and complete descriptions of persons, locations, and vehicles.

## Article 4. Report Writing.

§ 7.26. Identify the basic techniques of notetaking.

A. Identify uses of the inspector's field notes.

B. Identify the types of information that should be entered into field notes.

C. Given a practical simulation role-playing exercise, take notes during an interview in such a manner as to not discourage the person being interviewed from talking.

D. Given word-pictures or audio-visual presentations, properly utilize the fire inspector's notebook by neatly and accurately recording all necessary information in a specified format.

§ 7.27. Be able to demonstrate a basic understanding of report writing principles.

A. Identify the uses of fire inspection reports.

B. Identify essential characteristics of a good report.

C. Identify the questions that should be answered by a complete report.

D. Demonstrate the ability to write clear and concise reports.

E. Given word-pictures or audio-visual presentations depicting law-enforcement problems, organize or write the facts in an appropriate report format.

F. Given word-pictures or audio-visual presentations, complete the primary reports similar to or used by the Fire Inspector's agency.

G. Prepare a memorandum.

## PART VIII. STANDARDS RELATING TO ISSUING SUMMONSES AND SERVING WARRANTS.

### Article 1. Issuance of Virginia Uniform Summonses.

§ 8.1. The Fire Inspector II shall understand the process for issuance of Virginia Uniform Traffic Summonses.

A. Describe the court procedures and violator's alternatives in dealing with an issued summons.

B. Give a blank Virginia Uniform Summons, a word-picture, or audio-visual presentation depicting a fire code violation, and legibly complete the form within the allotted time.

C. Identify that the required signature on a citation is not an admission of guilt but a promise to appear.

### Article 2. Court System.

§ 8.2. The inspector shall understand and have a working knowledge of the organization and operation of the Virginia court system.

~~§ 8.3.~~ A. Identify the organizational structure, constitutional basis and primary responsibility for the Virginia Supreme Court, Circuit Court, General District Court, and magistrates.

§ 8.4. B. Define jurisdiction and venue of the Circuit Court, General District Court, and the Juvenile and Domestic Court in the locality employing the fire inspector.

~~§ 8.5.~~ C. Identify the organizational structure of the U.S. Federal Courts.

~~§ 8.6.~~ D. Identify the purposes of bail, arraignment, preliminary hearing, indictment, and trial in criminal cases.

§ 8.7. E. Define the difference between a judge and a magistrate.

§ 8.8. F. Define the role and functions of the judge, bailiff, Commonwealth's attorney, and defense attorney in the courts.

§ 8.9. G. Given descriptions of several different crimes or violations, identify in which court each would first be tried.

### Article III. Fire Inspection Warrants.

# Proposed Regulations

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*§ 8.3. The Inspector II shall demonstrate a working knowledge of the proper procedures and legal requirements set forth in §§ 27-98.1 through 27-98.5 of the Code of Virginia for the issuance of a fire inspection warrant.*

*A. The Inspector II shall be able to demonstrate a working knowledge of the constitutional rights of the owner, operator, or agent in charge of a building, structure, property or premises in which the inspection is to be made.*

*B. The Inspector II shall demonstrate a working knowledge of Rules of Evidence.*





ATTACHMENT 3



COMMONWEALTH of VIRGINIA

DEPARTMENT OF FIRE PROGRAMS  
VIRGINIA FIRE BOARD

James Monroe Building  
17th Floor  
101 N. 14th Street  
Richmond, Virginia 23219  
(804) 225-2681

Executive Director  
Carl M. Cimino

- Board Members**
- Frank A. Kearney  
Norton  
Chairman
  - John L. Griffin  
Norton  
Vice-Chairman
  - Victoria J. Adams  
Petersburg
  - William A. Anderson  
Lynchburg
  - Carter W. Beamer  
Wytheville
  - James W. Epperly  
Christiansburg
  - James W. Garner  
Charlottesville
  - Harry T. Gladding, Jr.  
Tappahannock
  - James M. Henderson, Jr.  
Grafton
  - Anni Kavanagh  
Sterling
  - William H. Lloyd, Sr.  
Virginia Beach
  - Lynn A. Miller  
Woodstock
  - Johnny L. Reamy  
Richmond
  - Howard M. Summers, Jr.  
Richmond

Date \_\_\_\_\_

From: \_\_\_\_\_ Area Supervisor  
To: \_\_\_\_\_ Adjunct Instructor  
Subject: Instructor for School/Test No. \_\_\_\_\_

You have been selected as an instructor to teach  
\_\_\_\_\_ at the above  
(Course)  
referenced Fire Service School/Test located at \_\_\_\_\_  
on \_\_\_\_\_ (Dates)

Your rate of pay for instructing will be \$13.75 per hour plus expenses. In addition to instructing at the school, you will be paid for the necessary administration of the course not to exceed 1 hour.

Please acknowledge acceptance on the below endorsement and return this letter to the area supervisor, no later than \_\_\_\_\_  
Date

\_\_\_\_\_  
Area Supervisor

From: \_\_\_\_\_  
Date \_\_\_\_\_  
To: \_\_\_\_\_

I accept employment with the Department of Fire Programs as an Adjunct Instructor for School No. \_\_\_\_\_

DEPARTMENT OF FIRE PROGRAMS  
RICHMOND, VA.

MON. TUE. WEEK WED. THU. FRI.

0800 AM					
0850 AM					
0900 AM					
0950 AM					
BREAK	***** BREAK *****				
1010 AM					
1100 AM					
1110 AM					
1200 AM					
1200	***** LUNCH *****				
1300 PM					
1350 PM					
1400 PM					
1450 PM					
BREAK	***** BREAK *****				
1510 PM					
1600 PM					
1610 PM					
1700 PM					

REMARKS:

# Proposed Regulations

ATTACHMENT 5 DEPARTMENT OF FIRE PROGRAMS  
Division of Fire Services Training  
Class Attendance Record

Page      of     

Class Title	Dates	Location	Attendance Dates												DIVISION		
			1	2	3	4	5	6	7	8	9	10	11	12			
1.																	
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29.																	
30.																	
Daily Total Attendance																	
Daily Hours Taught																	

I certify this record to be true and correct to be the best of my knowledge and belief.  
(Signed) \_\_\_\_\_ Date \_\_\_\_\_

ATTACHMENT 6 LOCATION (STATE): \_\_\_\_\_ DATES ATTENDED

INSTRUCTOR \_\_\_\_\_

1) POPULATION SERVED BY YOUR ORGANIZATION: Rural  Urban  Institutional   
Suburban  Statewide  Government

2) ATTENDING COURSE AS: Career  Volunteer  Other

3) YEARS OF EXPERIENCE IN SUBJECT AREA RELATED TO COURSE: Less than 1  1 to 5  6 to 10  11 to 15  16 to 20  Over 20

4) YEARS OF FORMAL EDUCATION: Less than 9  9 to 12  13 to 15  Over 15

5) PRESENT FIRE POSITION: (SHADE IN ONE RESPONSE ONLY)

Chief	<input type="checkbox"/>
Assistant/Deputy Chief	<input type="checkbox"/>
Battalion/Division Chief	<input type="checkbox"/>
Company Officer	<input type="checkbox"/>
Training Officer/Instructor	<input type="checkbox"/>
Inspector	<input type="checkbox"/>
Maintenance Officer	<input type="checkbox"/>
Command	<input type="checkbox"/>
Fire Suppression	<input type="checkbox"/>
Emergency Medical Services	<input type="checkbox"/>
Fire Investigation	<input type="checkbox"/>
Inspection/Enforcement	<input type="checkbox"/>
Communications	<input type="checkbox"/>

6) AREA OF RESPONSIBILITY: (SHADE IN ONE RESPONSE ONLY)

Public Education	<input type="checkbox"/>
Training	<input type="checkbox"/>
Academic Services	<input type="checkbox"/>
Vehicle/Equip. Maint.	<input type="checkbox"/>
Other	<input type="checkbox"/>

7) ARE YOU A FIRE SERVICE INSTRUCTOR IN YOUR JURISDICTION: Yes  No

8) SHADE IN THE RESPONSE CLOSEST TO YOUR OPINION

9) PRINTED MATERIALS WERE:

a. well organized	<input type="checkbox"/>
b. complete	<input type="checkbox"/>
c. readable (printed well)	<input type="checkbox"/>
d. related to the course	<input type="checkbox"/>
e. in appropriate number	<input type="checkbox"/>
f. easy to see	<input type="checkbox"/>

10) VISUAL MATERIALS WERE:

a. related material to class needs	<input type="checkbox"/>
b. clear subject photography	<input type="checkbox"/>
c. encouraged participation	<input type="checkbox"/>
d. made course expectations, requirements and objectives clear	<input type="checkbox"/>
e. answered questions completely	<input type="checkbox"/>
f. used course text and materials efficiently	<input type="checkbox"/>
g. tolerated differences of opinion	<input type="checkbox"/>

11) CLASSROOM:

a. was comfortable	<input type="checkbox"/>
b. included a manageable number of students	<input type="checkbox"/>
c. contained a minimum number of distractions	<input type="checkbox"/>
d. contained enough activities	<input type="checkbox"/>
e. was a reasonable length	<input type="checkbox"/>
f. covered the right amount of material	<input type="checkbox"/>
g. was worth recommending to others	<input type="checkbox"/>
h. contributed to my knowledge and skills	<input type="checkbox"/>
i. related to my needs	<input type="checkbox"/>

12) COURSE:

a. contained enough activities	<input type="checkbox"/>
b. included useful activities	<input type="checkbox"/>
c. was a reasonable length	<input type="checkbox"/>
d. covered the right amount of material	<input type="checkbox"/>
e. was worth recommending to others	<input type="checkbox"/>
f. contributed to my knowledge and skills	<input type="checkbox"/>
g. related to my needs	<input type="checkbox"/>

DEPARTMENT OF FIRE PROGRAMS  
220 ENTERPRISE PARKWAY, SUITE 106  
RICHMOND, VIRGINIA 23299

• MAKE HEAVY DARK MARKS  
• ERASE COMPLETELY TO CHANGE  
• SAMPLE: 11 02 00 00 00 00 00 00

ATTACHMENT 7

REVISED 1/78

\*STATE CODE

LOCATION: DEPARTMENT/ORGANIZATION:

Please refer to the special numerical codes listed below to complete item 1 on the front of this form. For example, if your department/organization is located in Maryland, which is code 24, then you would fill in the number "2" on the top line of this item, and the number "4" on the bottom line of this item.

EXAMPLE: 02 24 4 (Maryland - 24)

- 01. ALASKA 21. KENTUCKY 41. OREGON
02. ALABAMA 22. LOUISIANA 42. PENNSYLVANIA
03. ARKANSAS 23. MASSACHUSETTS 43. PUERTO RICO
04. AMERICAN SAMOA 24. MARYLAND 44. RHODE ISLAND
05. ARIZONA 25. MAINE 45. SOUTH CAROLINA
06. CALIFORNIA 26. MICHIGAN 46. SOUTH DAKOTA
07. COLORADO 27. MINNESOTA 47. TENNESSEE
08. CONNECTICUT 28. MISSOURI 48. TRUST TERRITORIES
09. CANAL ZONE 29. MISSISSIPPI 49. TEXAS
10. DISTRICT OF COLUMBIA 30. MONTANA 50. UTAH
11. DELAWARE 31. NORTH CAROLINA 51. VIRGINIA
12. FLORIDA 32. NORTH DAKOTA 52. VIRGIN ISLANDS
13. GEORGIA 33. NEBRASKA 53. VERMONT
14. GUAM 34. NEW HAMPSHIRE 54. WASHINGTON
15. HAWAII 35. NEW JERSEY 55. WISCONSIN
16. IOWA 36. NEW MEXICO 56. WEST VIRGINIA
17. IDAHO 37. NEVADA 57. WYOMING
18. ILLINOIS 38. NEW YORK 58. OTHER
19. INDIANA 39. OHIO
20. KANSAS 40. OKLAHOMA

PLEASE ENTER CODE NUMBER ON FRONT PAGE BEFORE CONTINUING.

SUGGESTIONS

- 14. How could the printed and/or audiovisual materials be improved to increase learning?
15. How could the course content or structure be improved?
16. How could the instructor improve the class delivery?
17. How could the classroom be improved?

PLEASE FEEL FREE TO USE ADDITIONAL BLANK PAPER, IF ADDITIONAL COMMENTS ARE NEEDED.

CHECK FRONT PAGE TO MAKE SURE YOU HAVE COMPLETED ALL QUESTIONS.

THANK YOU FOR YOUR COOPERATION.

01-26-83

School Number \_\_\_\_\_

DEPARTMENT OF FIRE PROGRAMS

COURSE COMPLETION REPORT

Location of Course Department Address

Name of Course \_\_\_\_\_

Departments or Companies No. per City or F.D.I.D.
participating Dept. County

Type of Course: General [ ] Advanced [ ] Other \_\_\_\_\_

Date of Course: Begin \_\_\_\_\_ End \_\_\_\_\_ Total no. hours \_\_\_\_\_

No. Enrolled: Paid: Male \_\_\_\_\_ Volunteer: Male \_\_\_\_\_
Female \_\_\_\_\_ Female \_\_\_\_\_ Total \_\_\_\_\_

Remarks \_\_\_\_\_

Did a representative of the Department of Fire Programs visit this school?
[ ] Yes [ ] No

Were State funds involved in this Course? \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

-Do Not Write Below This Line -

Date \_\_\_\_\_ Area Supervisor \_\_\_\_\_ Signature \_\_\_\_\_



List Subjects Taught:

<u>SUBJECT</u>	<u>NO. HOURS</u>	<u>*INSTRUCTOR</u>

DO NOT WRITE BELOW THIS LINE - STATE USE ONLY

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\*Instructor must be listed for each subject instructed.

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**Title of Regulation:** VR 310-01-04. Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities.

**Statutory Authority:** §§ 9-155 and 38.2-401 of the Code of Virginia.

**Public Hearing Date:** February 3, 1989 - 9 a.m.  
(See Calendar of Events section for additional information)

**Summary:**

*Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities are being promulgated to comply with § 38.2-401 of the Code of Virginia. The purpose of the regulations is to assure that where funds from the local portion of Fire Programs Funds are used by localities to construct, improve or expand local fire training centers the training at these centers is conducted by certified instructors who are qualified to conduct training in a manner which will assure that quality instruction is provided safely, efficiently and effectively.*

VR 310-01-04. Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities.

**PART I.  
GENERAL.**

§ 1.1. Definitions.

*"Fire chief" means any individual appointed the head of a fire department established according to § 27-6.1 of the Code of Virginia, or the principal officer of a fire company organized according to § 27-9 of the Code of Virginia.*

*"Fire company" means a volunteer firefighting organization organized pursuant to § 27-8 of the Code of Virginia.*

*"Fire department" means that department of government established by the local governing body of any city, county or town pursuant § 27-6.1 of the Code of Virginia.*

*"Live fire training" means any training in which there is used any open flame or device, located inside of a building, outside of a building or elsewhere, that can propagate fire to a building or other combustible materials.*

**PART II.  
INSTRUCTOR REQUIREMENTS.**

§ 2.1. Fire related training at a local fire training center

*where fire programs funds are used to construct, improve or expand the center shall be supervised by the chief of a fire department or fire company or a person who, at a minimum, holds a certificate as a Fire Instructor II issued by the Department of Fire Programs.*

§ 2.2. An individual who holds an appointment as a faculty member at an institution of higher learning accredited by the State Council of Higher Education or the Virginia Community College System shall be accepted by the Department of Fire Programs as qualified to provide training to fire personnel in Virginia provided the subject the individual teaches is within the curriculum for which he holds his faculty appointment.

§ 2.3. An individual who holds an appointment as a faculty member at an institution of higher learning in other states must be approved by the Department of Fire Programs prior to providing training to fire service personnel in Virginia.

§ 2.4. Adjunct faculty of the National Fire Academy are approved as instructors at local fire training centers provided the course they are presenting are National Fire Academy courses. If any such individual plans to present an independently developed course prior approval must be obtained from the Department of Fire Programs before it can be presented in the Commonwealth.

§ 2.5. An individual or organization having special knowledge, skills and abilities but not meeting the criteria of §§ 2.1, 2.2, 2.3, or 2.4 of these regulations shall obtain approval from the Department of Fire Programs before conducting such training or instruction.

§ 2.6. The Department of Fire Programs will work with local fire chiefs to develop and maintain a list of approved individuals and organizations who may present training programs at local fire training centers without additional approval being required.

§ 2.7. Once an individual or organization is approved by the Department of Fire Programs to offer a course of training that approval shall remain in full force and effect for that course of training until the approval is rescinded by the department.

§ 2.8. The Department of Fire Programs may upon a finding of good cause prohibit any individual or organizations from providing instruction at a local fire service training facility where the locality has used funds from its share of Fire Programs Funds to construct, improve or expand the facility. Good cause may include but is not limited to such things as incompetency or failing to adhere to fire training safety standards. Any such action by the Department of Fire Programs shall be subject to an appeal by the affected individual or organization to the Fire Services Board.

§ 2.9. An individual meeting the criteria of § 2.1 shall be present at the fire training center at all times when any

# Proposed Regulations

training is conducted which is dangerous or which could result in injury to students or instructors.

§ 2.10. Live fire training conducted at a local fire training center shall be conducted under the direct supervision and control of an individual meeting the criteria of § 2.1.

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

**NOTICE:** The Department of Social Services proposes to REPEAL the four regulations listed below:

- VR 615-70-02. Application Fee Scale.
- VR 615-70-03. Separate Fee Charged for Child Support Services.
- VR 615-70-04. Policy of the Department of Social Services, Division of Child Support Enforcement.
- VR 615-70-06. Credit Bureau Reporting.

The following regulations replace the repealed.

**Title of Regulation:** VR 615-45-02. Child Protective Services Client Appeals.

**Statutory Authority:** §§ 63.1-25 and 63.1-248.6:1 of the Code of Virginia.

**Public Hearing Date:** January 19, 1989 - 2 p.m.  
(See Calendar of Events section for additional information)

### Summary:

*This proposed amendment addresses the due process rights of individuals found to have abused or neglected a child in their care. The new section establishes appeal hearings at the request of the individual. Current departmental procedures require a process which is not compatible with the new Code requirements.*

VR 615-45-02. Child Protective Services Client Appeals.

### PART I. DEFINITIONS.

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

"Alleged abuser" means any person who is the subject of a complaint and is suspected of or is found to have committed the abuse or neglect of a child pursuant to § 63.1-248 et. seq. of the Code of Virginia.

"Child protective services" means the identification, receipt and immediate investigation of complaints and reports of child abuse and neglect for children under 18 years of age. It also includes documenting, arranging for,

and providing social casework and other services for the child, his family, and the alleged abuser.

"Complaint" means a valid report of suspected child abuse/neglect which must be investigated by the local department of social services.

"Final disposition" means the determination of founded, reason to suspect or unfounded made on each complaint by the investigating worker.

"Founded" means that a review of the facts shows clear and convincing evidence that child abuse or neglect has occurred.

"Reason to suspect" means that a review of the facts shows no clear and convincing evidence that abuse or neglect has occurred. However, the situation gives the worker reason to believe that abuse or neglect has occurred.

"Unfounded" means that a review of the facts shows no reason to believe that abuse or neglect has occurred.

### PART II. POLICY.

§ 2.1. Appeal process.

Appeal is the process by which the alleged abuser may request amendment of the record in cases where the investigation has resulted in a "founded" or "reason to suspect" disposition.

#### A. Final disposition.

The agency shall notify the alleged abuser of its disposition of the investigation in writing, to be mailed to the alleged abuser by certified mail, return receipt requested. The written decision shall state the finding as "founded" or "reason to suspect" and outline the rights of appeal and the right to review the case record pursuant to the Virginia Privacy Protection Act of 1976.

#### B. Local conference.

1. A request to amend the record must be made in writing to the local director within 30 days of receipt of the agency decision by the alleged abuser. The local department shall stamp the date of receipt on the request. The local department shall also notify the Child Protective Services System that an appeal is pending.

2. The local director or his designee shall arrange a convenient time for an informal conference with the appellant. Participants in the conference will include the appellant and, if the appellant chooses, his authorized representative, and the worker who made the disposition on the case. The local director or his designee shall preside during conference; a designee

# Proposed Regulations

must be one to whom the worker who made the disposition is subordinate.

3. Prior to the informal conference, the appellant shall have the opportunity to review the record pursuant to the Virginia Privacy Protection Act of 1976.

4. During the informal conference, the appellant may submit any additional documentation or arguments that he deems relevant to the disposition. Such documentation shall become part of the record.

5. The presiding employee shall issue a written decision as a result of the informal conference within 30 days of receipt of the written request from the appellant. The written decision shall prescribe:

a. What action will be taken on the request for amendment, and

b. What further appeal rights exist.

The written decision shall be mailed to the appellant by certified mail, return receipt requested.

## C. Administrative hearing.

1. Within 30 days of receipt of the written decision of the informal conference or if the local department fails to render a decision within 30 days of a request by an appellant, the appellant may request in writing that the commissioner provide an administrative hearing to review the request for amendment.

2. The commissioner shall appoint a hearing officer to conduct an administrative hearing to review the request for amendment.

3. Hearing officer's powers and responsibilities.

a. The hearing officer shall set a convenient time to conduct the hearing. The hearing officer can reschedule the hearing upon good cause, such as illness.

b. The hearing officer has no subpoena power or authority to administer oaths or affirmations.

c. The hearing officer can accept all relevant evidence submitted during the hearing, and is not bound by strict rules of evidence.

d. Either party has the right to have the hearing recorded by a court reporter. In the absence of a court reporter, the hearing officer shall make or cause to be made an audio recording, a copy of which shall be available to either party.

e. The hearing officer may defer his decision for a specified period after conclusion of the hearing in order for either party to present additional

evidence.

f. The hearing officer may examine any witness and give the appellant and the local department an opportunity to examine any witness.

4. Hearing procedure.

a. All persons present shall be identified on the record. The appellant may be accompanied by an authorized representative.

b. The hearing officer shall explain the purpose of the hearing and the procedures that will be followed. The hearing officer shall state that the appellant must prove by a preponderance of the evidence that the record should be amended because it contains information which is irrelevant or inaccurate.

c. The local department will submit a copy of all material in the local agency's record which contains information and documentation used to make the determination of "founded" or "reason to suspect," which shall be accepted into evidence by the hearing officer.

d. The appellant will state his objections to the disposition reached by the local department and summarize the evidence supporting his conclusion. The appellant may submit any further relevant evidence not previously submitted to the local department.

5. Hearing decision.

a. The hearing officer shall render a written decision which shall be mailed to the appellant by certified mail, return receipt requested. A copy of the decision shall be mailed to the local department by first class mail.

b. The decision of the hearing officer shall outline:

1. Findings of fact;

2. Final disposition of the case;

3. Expungement or amendment of any information in the record; and

4. Right to judicial review.

D. Final action.

Upon receipt of the hearing officer's decision, the local department shall amend the record and the Child Protective Services Information System report in accordance with the decision.

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# Proposed Regulations

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**Title of Regulation:** VR 615-70-09. Enforcement of Child Support Obligations.

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

**Public Hearing Date:** N/A - Written comments may be submitted until January 20, 1989.

(See Calendar of Events section for additional information)

**Summary:**

*The Code of Federal Regulations and the Code of Virginia both require and empower the department to enforce certain child support obligations. The authority for the use of administrative remedies is found throughout Chapter 13 of Title 63.1 of the Code of Virginia. The department has proposed this regulation as the means to collect current and delinquent child support payments through remedies including wage withholding, tax refund intercepts, imposition of liens and orders to withhold and deliver. These remedies will assist the department in its efficient collection of support obligations.*

VR 615-70-09. Enforcement of Child Support Obligations.

**PART I.  
DEFINITIONS.**

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

"IV-D" means Title IV-D of the Social Security Act which is the part of federal law covering the Child Support Enforcement Program.

"IV-D agency" means either to the Division of Child Support Enforcement or a regional or district child support enforcement office.

"ADC" means Aid to Dependent Children under Title IV-A of the Social Security Act. This is a category of public assistance paid on behalf of children who are deprived of one or both of their parents by reason of death, disability, or continued absence (including desertion) from the home.

"ADC/FC" means Aid to Dependent Children under Title IV-E of the Social Security Act. This is a category of public assistance where benefits are paid to children in custody of the local social services department who otherwise meet the eligibility criteria for ADC benefits.

"Administrative" means outside the realm of judicial scope of establishing and enforcing an obligation.

"Administrative enforcement remedies" means procedures available to DCSE, other than judicial action, for the purpose of enforcing support obligations. These

procedures include mandatory withholding of earnings, liens, orders to withhold and deliver, foreclosure, and distraint, seizure and sale of property.

"Administrative support order" means a noncourt ordered, legally enforceable support obligation based on the income of the responsible parent and custodial parent as applied to the support scale, or a noncourt ordered, legally enforceable obligation based on the amount of the public assistance grant paid or that could be paid for non-PA cases. The administrative order has the same force and effect as a court order.

"Arrearage" means the total unpaid support obligation owed by a responsible parent.

"Assignment of earnings" means a voluntary wage assignment.

"Assistance" means a money payment from the Department of Social Services. For support enforcement purposes it includes ADC or ADC/FC or state/local foster care.

"Child support services" means civil, criminal, or administrative action taken by the Division of Child Support Enforcement to establish, modify, enforce or collect child support or child and spousal support.

"Client" means the person in receipt of child support enforcement services.

"Custodial parent" means the natural parent, adoptive parent or stepparent who is legally responsible for the child and with whom the child lives or may be used to include other entities eligible for child support services.

"Debt" means the total unpaid support obligation established by court order, administrative process or by the payment of public assistance, and owed by a responsible parent to either the Commonwealth or to his dependents.

"Department" means the Virginia State Department of Social Services.

"Director" means the commissioner of the State Department of Social Services or his designee or authorized representative.

"Disposable earnings" means the portion of earnings remaining after the deduction of amounts as required by law.

"Distraint, seizure and sale" is an administrative means of enforcement that allows the department to take property of the RP, sell the property and apply the proceeds to the debt or obligation and arrears owed by the RP.

"District office" means one of the DCSE offices

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responsible for the operation of the IV-D program.

"Earnings" means current or future income due from the responsible parent's employer and compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and specifically includes periodic payments currently being made by the responsible parent pursuant to pension or retirement programs, unemployment compensation benefits, debts owed the responsible parent and income or profits due the responsible parent from sources including gambling, lotteries, prizes or other windfall or any type of payment.

"Enforcement" means enforcing a Child Support Obligation using administrative or judicial remedies.

"Expedited process" means written procedures to expeditiously establish and enforce child support obligations having the same force and effect as those established through judicial procedures.

"Financial records" means financial records including, but not limited to, records held by employers showing earnings, profit sharing contributions and benefits paid or payable, records held by financial institutions, broker-dealers and institutions and entities showing bank accounts, IRA and separate contributions, gross winnings, dividends, interest, distributive share, stocks, bonds, agricultural subsidies, royalties, prizes and awards held for or due and payable to a responsible parent.

"Financial statement" means a sworn statement showing the financial situation of both the responsible parent and the custodial parent. A statement is filed annually with the Department of Social Services. Failure to comply with the requirements of the Code section describing the financial statement shall constitute a Class 4 misdemeanor.

"Foreclosure" means a judicial procedure to enforce debts, involving a forced judicial sale of the real or personal property of the debtor.

"Foster Care (state/local FC)" means a category of assistance financed by state and local funds on behalf of children who have been removed from their parents' home due to detrimental conditions, but who do not meet the ADC criteria.

"Grant amount" means the amount of public assistance to which the family is entitled.

"Health care coverage" means a plan providing hospital, medical or surgical care coverage for dependent children, provided such coverage is available and can be obtained by a responsible parent, at a reasonable cost.

"Hearings officer" means a disinterested person who holds administrative appeal hearings and renders decisions based on whether program policy is followed.

"Immediate payroll deduction" means a wage assignment that is entered at the time the court order is entered. This can be used to collect current support and delinquent support.

"Immediate withholding of earnings" means a wage assignment that is entered at the time the administrative support order is entered. This can be used to collect current support and delinquent support.

"Initiating state" means the state in which a URESA proceeding starts and where the obligee resides.

"JDRDC" means Juvenile and Domestic Relations District Court.

"Judicial means of enforcement" means action through the court to enforce support obligations.

"Lien" means an encumbrance on real or personal property for the satisfaction of a debt.

"Local agency (LA)" means the department located in each county, city, or town throughout the Commonwealth charged with administering public assistance and social services programs.

"Mandatory payroll deduction" means a judicial means of collecting current and delinquent support. This remedy is requested by the party owing court ordered support or is ordered by the judge for good cause shown or delinquency that accrues.

"Mandatory withholding of earnings" means an involuntary administrative means of collecting current and delinquent support. This is initiated after a delinquency of one month's support.

"MWE" means mandatory withholding of earnings.

"Mistake of fact" means an error in the identity of the payor or the amount of current support or arrearage.

"Net income" means that income remaining after the following deductions are taken from gross income: federal income tax, state income tax, federal income compensation act benefits, union dues where collection is required under federal law, and amounts required by law.

"Non-PA cases" means IV-D cases in which individuals are receiving ADC or ADC/FC or state/local foster care apply for child support enforcement services.

"Notice and finding of financial responsibility" means the document which (i) makes an administrative debt legally enforceable and (ii) makes administrative means of enforcement legal in court ordered cases. Effective July 1, 1988, this document is superseded by the Administrative Support Order.

"Notice of proposed action" means a form to notify the

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RP of the intent to initiate a mandatory withholding of earnings.

“Obligation” means the amount and frequency of money which the responsible parent is legally bound to pay.

“Obligor” means any person owing a duty of support.

“Order To Withhold and Deliver” means a document which provides an administrative procedure to enforce a support debt. It orders a third party who has control over real or personal property belonging to the responsible parent to turn over the property to the Department of Social Services.

“Other legal process” means a procedure by which the Commonwealth has the authority to establish a debt without court involvement.

“OWD” means an Order To Withhold and Deliver document.

“Parentage” means determination of fatherhood (paternity) or motherhood by judicial process.

“Personal property” means property that is cash, liquid assets, automobiles, or other similar property, not defined as real property.

“Public Assistance (PA or ADC)” means a payment from the Department of Social Services; for Support Enforcement purposes, ADC, ADC/FC or state/local foster care.

“Real property” means property that is land, tenements, and buildings, which are permanent, fixed, and immovable.

“Recipient” means a person receiving public assistance under the IV-A program or Title XIX (Medicaid) Program.

“Responding state” means the state in a URESA action responding to a proceeding initiated in another state because it is the state where the responsible parent resides.

“Responsible parent” means a person obligated under law for the support of a dependent child and the caretaker or parent of such child.

“RP” means a parent responsible for support of a child.

“State agency” means Division of Child Support Enforcement.

“Statutes” means formal written law found in code books.

“Summary of facts” is a statement of facts outlining an appeal request which is submitted to the hearings officer by the district office.

“Support” means financial support paid to a parent or caretaker on behalf of a child who is without the financial assistance of one or both parents.

“Support enforcement cases” means IV-D cases resulting from application for support enforcement services by individuals not receiving ADC or ADC/FC, or cases referred by the IV-A agencies.

“Support enforcement hearings officer” means an impartial person authorized by the Division of Child Support Enforcement to render decisions about the proper application of policy and procedure when the responsible parent files an appeal.

“Tax set-off” means the process of intercepting state and federal tax refunds to satisfy a child support debt.

“Virginia Employment Commission” means that part of state government which administers the Unemployment Compensation Program.

## PART II ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS.

### § 2.1. General.

Absent responsible parents shall be required to comply with established support orders. Compliance shall be enforced for a current obligation through the use of administrative or court-ordered wage withholding. Delinquent support shall be enforced once the obligation has been identified as being delinquent for 30 days. There are administrative methods of enforcing delinquent child support.

### § 2.2. Administrative enforcement remedies.

Both administrative and court-ordered support obligations shall be enforced by the Division of Child Support Enforcement through administrative means if the RP is either employed in Virginia, holds attachable assets in Virginia, or is a person subject to Virginia law. The administrative enforcement remedies available are:

#### A. Mandatory withholding of earnings (MWE).

1. The MWE will be issued for IV-D cases if the RP fails to make payments in an amount equal to the support payment for one month.
2. The MWE will be issued against earnings except those exempted from garnishment under federal and state laws.
3. The amount of money withheld from wages shall only be withheld up to the amount allowed under the Consumer Credit Protection Act.

#### B. Liens.

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The lien of the department shall be subordinate to the lien of any prior mortgagee.

1. All of the following shall be met in order to file a lien:

a. The RP shall reside in or be employed in Virginia or hold attachable assets or, if residing and working outside Virginia, be a federal employee. If the RP's employer has a registered agent in Virginia, the RP's income is attachable.

b. An Administrative Support Order or Notice and Finding of Financial Responsibility shall be properly served and 10 days shall have elapsed from the date of service or a waiver of service signed by the RP or a court order must be in effect. A lien may be filed immediately upon receipt of a support order from a jurisdiction outside of Virginia.

c. The obligation of the RP shall be delinquent.

2. The lien will be released when the debt on the lien is satisfied.

C. Order to withhold and deliver.

1. The Order to Withhold and Deliver (OWD) orders the holder of the RP's assets to turn the assets over to the Division of Child Support Enforcement. The OWD shall be used to collect assets such as bank accounts and trust funds, stocks, bonds, and other types of financial holdings.

2. Release of the order to withhold and deliver. The order to withhold and deliver shall be released (i) when the debt on the order to withhold and deliver is paid, (ii) when the RP makes satisfactory alternate arrangements for paying the debt, or (iii) when the order cannot be served on the RP.

D. Distraint, seizure, and sale.

Final approval for use of distraint, seizure and sale will be given by the Director of the Division of Child Support Enforcement.

E. Unemployment compensation benefits intercept.

If there is a delinquency for support equal to one month's support obligation, the MWE or Assignment of Earnings shall be used to collect unemployment compensation benefits. Benefits paid by the Commonwealth to an RP who lives out of state shall be subject to interception as long as all service requirements on serving notices can be met. The Virginia Employment Commission will only allow 50% of the benefits to be intercepted.

F. Bonds, securities and guarantees.

The use of bonds, securities or guarantees as a remedy

shall be approved by the manager of the district office and reviewed by legal counsel. Approval shall be given only when (i) there is a legally established obligation, (ii) the arrearage exceeds \$1,000, and (iii) the RP has received adequate notice. This remedy is used after all other collection remedies fail or are not feasible. A bond will be released when arrearages are satisfied and no current support obligation exists.

G. Tax set off.

State and federal income tax refunds shall be intercepted and applied in whole or in part against delinquent support obligations due the custodial parent or the Commonwealth.

Money received from IRS will be retained by DCSE up to the most recent amount certified. If additional arrears have accrued since the time of certification, the RP shall be contacted regarding allowing DCSE to keep the excess funds.

Money received from the State Department of Taxation will be retained up to the total arrears amount which exists at the due date of the finalization notice to the Department of Taxation.

1. State tax set off.

a. There shall be a legally established obligation when the debt, of at least \$25, is due and owing and no appeal is pending.

b. Refunds shall be issued promptly when:

(1) The certification is made in error;

(2) The RP pays arrears in full after the deletion deadline; or

(3) The total amount intercepted from state and federal tax refunds is more than the amount certified plus any arrears that have accrued in addition to the certified amount.

2. Federal tax set off.

a. Criteria for certification of cases to IRS.

(1) The client shall be receiving or have received ADC or ADC/FC benefits or an application for support enforcement services shall have been made.

(2) There shall be a legally enforceable obligation by: court order, Administrative Support Order or Notice and Finding of Financial Responsibility.

(3) The certifying state shall have an assignment of rights/authorization to seek or enforce a support obligation.



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(4) The amount certified as delinquent shall be at least \$150 (combined case total) for ADC or ADC/FC cases and not less than \$500 for all other cases.

(5) The amount certified as delinquent shall be delinquent for three months or longer for ADC and ADC/FC cases. There is no time period for delinquency for non-ADC cases.

(6) For non-ADC cases, child support shall be submitted for tax offset, spousal support shall not be submitted. For ADC or ADC/FC benefit cases, spousal and child support amounts will be submitted.

(7) Support certified for cases not receiving public assistance where no prior ADC or ADC/FC benefit money is owed to the state shall be owed to or on behalf of a minor child. If debt is owed to the Commonwealth and was owed when child was a minor, certification is applicable.

## b. Deletions or changes to case certification.

(1) Deletions to the case certification list will be made when the certifying state does not have an assignment of rights or authorization to seek or enforce a support obligation.

(2) Changes to the certification amount shall be made to decrease the amount and will be made when the amount certified is incorrect.

c. Refunds. Refunds shall be issued when the certification is made in error or the RP pays arrears in full after the deletion deadline. The RP will also get a refund if the total amount intercepted from a federal tax refund is more than the amount certified for interception and if the RP will not consent to having this additional amount applied toward arrearage that accrues since certification.

## § 2.3. Federal enforcement remedies.

In addition to the state administrative enforcement remedies, there are federal enforcement remedies which shall be used by DCSE.

### A. Internal Revenue Service full collection service.

Federal regulations provide that if IV-D agencies have made reasonable efforts to collect child support without success, IV-D agencies can request, through the Office of Child Support Enforcement (OCSE), that the Internal Revenue Service collect the delinquent support due. Internal Revenue Service collection remedies include garnishment of wages and distraint, seizure and sale of property. The Internal Revenue Service can enforce in all 50 states, and the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any foreign countries with

whom the U.S. has a treaty to levy against assets.

### B. Enforcement remedies to be used against federal employees.

1. Federal law (5 CFR, Part 581) allows for the garnishment/attachment of U.S. military and civilian active and retired personnel pay to satisfy child and spousal support orders. As long as all requirements are met, any of the Virginia's administrative and court enforcement proceedings can be used to garnish and attach pay to satisfy child and spousal support orders.

The following legal provisions apply:

a. There shall be a legally established Administrative Support Order, Notice and Finding of Financial Responsibility or a court order for support.

b. A request for garnishment shall be sent to the designated agent by certified or registered mail, return receipt requested.

2. Listed below are remedies which may be used for active military personnel and public health service employees if garnishment (i.e., IWE, MWE) cannot be processed under Virginia statute.

a. Mandatory Military Allotments - Navy, Army, Marine Corps, Air-Force, and Coast Guard Personnel

(1) The Federal Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 (Public Law 97-248) requires that allotments be made from the pay and allowances of active members of the uniformed services for current or delinquent child or child and spousal support. This applies when the member has failed to pay support equal to the amount due for two months.

(2) The amount of money withheld from wages shall only be withheld up to the amount allowed under the Consumer Credit Protection Act.

b. Involuntary child support allotments - public health service employees.

(1) The Federal Tax Equity and Fiscal Responsibility Act of 1982 requires that allotments be made from pay of public health service commissioned officers on active duty to satisfy child and spousal current and past due support payments. This applies when the officer has failed to pay support equal to the amount due for two months.

(2) The amount of money withheld from wages shall be withheld up to the amount allowed under the Consumer Credit Protection Act.

## § 2.4. Appeals.

## A. General.

1. Actions to enforce child support payments through federal enforcement remedies shall not be appealed through the Division of Child Support Enforcement administrative hearing process. Appeals of these federal enforcement actions are handled by the federal agency which took the enforcement action.

2. Actions to enforce child support payments through administrative enforcement remedies shall be appealed through the Division of Child Support Enforcement administrative hearing process depending on the enforcement remedy used.

3. The decision of the Division of Child Support Enforcement hearings officer may be appealed by either the RP or the custodial parent to the court.

B. The responsible parent and the custodial parent shall have the following rights regarding the appeal procedure in addition to those in Chapter 13 of Title 63.1 of the Code of Virginia.

1. The RP may be represented at the administrative hearing by legal counsel.

2. The RP shall receive, prior to the hearing, a copy of the summary of facts prepared by the Division of Child Support Enforcement.

3. The RP and custodial parent may request to see material kept in the Division of Child Support Enforcement file. The request shall be made in writing.

4. The RP and custodial parent shall receive the hearings officer's decision within 45 days from the date of service of the Notice of Action or at the time of the hearing if service is waived by the RP.

## C. Possible disposition of appeal.

1. The RP may withdraw the appeal.

2. If the RP does not appear at the hearing and does not give prior notice, the appeal shall be considered abandoned. The RP and custodial parent shall be notified that the appeal is abandoned.

3. The RP may have the hearing continued if there is good reason and the request is made in writing and received at least five days before the hearing. Continuances shall not be for more than 10 days.

D. The responsible parent may appeal four administrative enforcement remedies initiated to enforce delinquent support payments. Each of these has special conditions which shall apply in order for the appeal to be valid:

## 1. Mandatory withholding of earnings.

a. The appeal shall be based on a mistake of fact.

b. The RP shall appeal to the administrative hearings officer within 10 days of service of the notice to implement the MWE.

c. The RP and custodial parent may appeal the decision of the hearings officer's decision.

## 2. Order to withhold and deliver.

a. The appeal shall be based either on a mistake of fact or on whether property to be withheld is exempt.

b. The RP shall appeal to the administrative hearings officer within 10 days from the date of service of the notice.

c. The custodial parent and RP may appeal the decision of the hearings officer to the appropriate JDRDC within 10 days.

## 3. State tax intercept.

a. The appeal shall be based on validity of the claim or whether the amount listed as delinquent support is correct.

b. The RP shall have 30 days to object in writing to the administrative hearings officer.

c. The RP and custodial parent must appeal to the circuit court within 10 days of the hearings officer's decision.

## 4. Federal tax intercept.

a. The appeal shall be based on whether the claim is valid and on whether the amount of past due debt is owed.

b. The RP shall receive a pre-offset and offset notice.

c. The RP may contest the intercept at the time of the pre-offset notice but not later than the date listed on the pre-offset notice.

d. The RP may contest the intercept within 30 days from the date of the offset notice.

e. All appeal rights shall expire if the appeal is not noted within 30 days of the offset.

f. The RP and custodial parent may appeal the hearings officer's decision to circuit court within 10 days of receipt of the hearings officer's decision.

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**Title of Regulation:** VR 615-70-10. Confidentiality and Exchange of Information for Child Support.

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

**Public Hearing Date:** N/A - Written comments may be submitted until January 20, 1989.  
(See Calendar of Events section for additional information)

**Summary:**

*The Department of Social Services, with the approval of the Board of Social Services, proposes to put restrictions on the collection, release and exchange of personal information relating to absent responsible parents and applicants for services.*

VR 615-70-10. Confidentiality and Exchange of Information for Child Support.

**PART I.  
DEFINITIONS.**

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

“IV-D” means Title IV-D of the Social Security Act which is the part of federal law covering the Child Support Enforcement Program.

“IV-D agency” means either the Division of Child Support Enforcement or a regional or district child support enforcement office.

“CP” means custodial parent.

“Custodial parent” means the natural parent, adoptive parent or stepparent who is legally responsible for the child and with whom the child lives or may be used to include other entities eligible for child support services.

“Department of Medical Assistance Services” means the agency administering the Medicaid program in Virginia.

“Division of Child Support Enforcement” means the division of the Department of Social Services given the responsibility of administering the Child Support Enforcement program in Virginia.

“DMAS” means Department of Medical Assistance Services.

“Health care coverage” means a plan providing hospital, medical or surgical care coverage for dependent children, provided such coverage is available and can be obtained by a responsible parent, at a reasonable cost.

“Hearing officer” means a disinterested person who holds administrative appeal hearings and renders decisions based on whether program policy is followed.

“IRS” means Internal Revenue Service.

“Lien” means a charge or security or encumbrance upon property.

“Local welfare agency” means the department located in each county, city, or town throughout the Commonwealth charged with administering public assistance and social services programs.

“Non-PA Cases” means IV-D cases in which individuals not receiving ADC, ADC/FC, or State/Local Foster Care may apply for child support enforcement services.

“Obligee” means a person to whom child support is owed.

“Obligor” means a person owing child support.

“RP” means absent responsible person.

“Responsible parent” means a person obligated under law for the support of a dependent child and the caretaker or parent of a child.

**PART II.  
CONFIDENTIALITY AND EXCHANGE OF  
INFORMATION.**

§ 2.1. Information collected by DCSE.

A. All state, county and city offices and agencies shall provide the Division of Child Support Enforcement with information about absent responsible parents. This information is used to help locate and collect support from absent responsible parents.

B. The Commissioner of the Department of Social Services and the Director of the Division of Child Support Enforcement may subpoena financial records of the obligor and the obligee from any person, firm, corporation, association, political subdivision or state agency to corroborate the existence of assets identified by the Internal Revenue Service (IRS).

§ 2.2. Information released by DCSE.

A. Courts, consumer credit agencies and other state IV-D agencies shall have access to DCSE information.

B. Permission to release information to agencies other than courts, consumer credit reporting agencies and other IV-D agencies shall be given by the subject of the information before the information can be released.

C. Names, addresses and other personal information about RPs and support enforcement clients, except

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information provided by IRS, is released if the information is for one of the following reasons:

1. The investigation or prosecution of persons suspected of abusing federal or federally assisted programs for needy individuals;
2. The administration of federal or federally assisted programs for needy individuals;
3. Consumer credit reporting agencies when an RP accumulates at least \$1,000 in arrearages and the consumer credit reporting agency requests it; and
4. When a lien is filed by the Division of Child Support Enforcement and when the Division of Child Support Enforcement releases the information as part of an enforcement remedy.

D. Information provided by IRS cannot be released to anyone outside of the IV-D agency, except that:

1. The Division of Child Support Enforcement provides information to local welfare agencies and the courts, but the source of the payment (IRS) is not to be given; and
2. If the information is verified by a source independent of IRS, the Division of Child Support Enforcement releases the information.

E. The Director of the Division of Child Support Enforcement, or his designee, may release information on RPs to the Internal Revenue Service.

F. Requests for confidential, personal information from the general public shall be answered within 14 days of receiving the request. The answer to the request the Division of Child Support Enforcement provides explains that this information is subject to § 63.1-274.6 of the Code of Virginia which says this information is confidential.

1. Copies of personal information about himself kept by the Division of Child Support Enforcement are provided to the RP or client receiving the Division of Child Support Enforcement's services after review of the case by the Division of Child Support Enforcement's legal counsel. The RP or CP can also correct, explain, and challenge the personal information kept about him. The RP or CP cannot review the entire case record. The RP or CP can be given medical or psychological information about himself that the Division of Child Support Enforcement might have collected, unless the physician has stated that the RP or CP should not be given the information. The RP or CP cannot review case information solely related to other people.

2. A fee of \$.10 a page shall be charged for copying case record information for the RP or client, except during the hearings process and there is no charge for

copying forms given to the RP which have not already been served on the RP.

3. Copies of the following forms shall be released to the obligee:

- a. Copy of Notice of Proposed Action (MWE);
- b. Copy of Administrative Support Order; and
- c. Copies of notices for appeal hearings and decisions for all administrative appeals.

4. Copies of court orders and fiscal records will be released to both parties.

§ 2.3. Exchange of information with the Department of Medical Assistance Services.

The Department of Social Services has a cooperative agreement with the Department of Medical Assistance Services (DMAS) to provide health care coverage information to that agency on all ADC and ADC/FC cases in which health care coverage is in force. Information regarding health care coverage for dependents in non-PA cases shall be provided to DMAS only with the consent of the non-PA clients. This information is used to identify additional medical insurance to offset Medicaid costs. In out-of-state cases, health care coverage information shall be transmitted to the out-of-state IV-D agency.

\* \* \* \* \*

Title of Regulation: VR 615-70-11. Establishment of Paternity in Child Support Enforcement.

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

Public Hearing Date: N/A - Written comments may be submitted until January 20, 1989.

(See Calendar of Events section for additional information)

Summary:

Sections 63.1-250.2 and 63.1-274.6 of the Code of Virginia authorize the department to obtain voluntary admissions of paternity. This regulation allows the department to use court recognized consent orders and also obtain Acknowledgment of Paternity Forms which can be part of the consent order or used as evidence in a judicial paternity determination.

VR 615-70-11. Establishment of Paternity in Child Support Enforcement.

## PART I. DEFINITIONS.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meanings unless the

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context already indicates otherwise:

"Caretaker" means a parent, relative or guardian who maintains care and control of a dependent child and whose needs may be included with the child's in a public assistance payment under the ADC program.

"DCSE" means the Division of Child Support Enforcement.

"Department" means the Department of Social Services.

"Paternity" means determination of fatherhood.

"PF" means putative father.

"Putative father" means alleged father. A person who has been named as the father of a child born out-of-wedlock, but for whom paternity has not been established.

"Support" means financial support paid to a parent or caretaker on behalf of a child who is without the financial assistance of one or more parents.

## PART II. ESTABLISHMENT OF PATERNITY.

### § 2.1. Methods of establishing paternity.

A. Paternity shall be established involuntarily through court hearings or voluntarily by admission by the putative father through a consent order or other procedure which has the same effect as a judicial determination.

B. The department shall use three methods of obtaining voluntary admissions.

1. Consent order. A consent order is a procedure by which the putative father, who is 18 years or older, acknowledges paternity and agrees to pay support, and the acknowledgment and agreement are officially recognized by the court.

2. Court hearing. An Acknowledgment of Paternity Form may be taken from a minor putative father, age 14 and older. An Acknowledgment of Paternity Form will be part of a consent order or may be used as evidence in a court hearing.

3. Acknowledgment. An acknowledgment will be obtained from a court proceeding not related to a support matter where the PF voluntarily testifies that he is the father of a child. The court will obtain an Acknowledgment of Paternity Form and forward it to DCSE where it will be maintained pending action. DCSE shall obtain a consent order or petition the court to establish paternity.

### § 2.2. Interstate cases.

DCSE shall establish paternity if possible on all requests from other states when the putative father lives in Virginia. A consent order shall be obtained by the Virginia Division of Child Support Enforcement where possible for paternity establishment and support.

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Title of Regulation: VR 615-70-12. Responsibilities of IV-D Agencies in Interstate Child Support.

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

Public Hearing Date: N/A - Written comments may be submitted until January 20, 1989  
(See Calendar of Events section for additional information)

### Summary:

This regulation complies with provision of the Code of Virginia which require the Division of Child Support Enforcement to manage the flow of interstate correspondence through the Interstate/URESAs unit located in Central Office and to forward all incoming IV-D URESAs petitions to the Central Registry. The regulation covers the rights and responsibilities of Virginia as either the initiating or responding state in an interstate support case.

VR 615-70-12. Responsibilities of IV-D Agencies in Interstate Child Support.

## PART I. DEFINITIONS.

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

"IV-D" means Title IV-D of the Social Security Act which is the part of federal law covering the Child Support Enforcement Program.

"IV-D agency" means the Division of Child Support Enforcement or a regional or district office.

"Central office" means the central unit within the Department of Social Services that administers the Child Support Enforcement Program under Title IV-D of the Social Security Act.

"District office" means the local unit that carries out the intent of the Child Support Enforcement Program under Title IV-D of the Social Security Act and is under the supervision of Central Office.

"Initiating state" means the state in which a support proceeding is started and where the obligee resides.

"Judgment" means the decision, pronouncement or

sentence rendered by a court upon an issue over which it has jurisdiction.

"Long arm statute" means a statutory provision which prescribes the process needed to be followed to enable a court of this state to obtain jurisdiction over a nonresident.

"Obligee" means a person to whom child support is owed.

"Paternity" means the determination of fatherhood.

"Putative father" means the alleged father. A person who has been named is the father of a child born out-of-wedlock, but for whom paternity has not been established.

"Responding state" means the state in a URESA action responding to a support proceeding initiated in another state where the obligee resides.

"Responsible parent (RP)" means a person obligated under law for the support of a dependent child and the caretaker or parent of such child.

"Uniform Reciprocal Enforcement of Support Act (URES A)" means a uniform law which sets forth reciprocal legislation concerning the enforcement of support between the states.

"URES A state information agent" means the individual designated in Virginia who is responsible for answering questions for other states regarding Virginia child support laws.

PART II

IV-D AGENCIES IN INTERSTATE CHILD SUPPORT.

§ 2.1. Responsibilities of IV-D agencies in interstate child support enforcement cases.

A. Cooperation among IV-D agencies.

Federal regulations require the IV-D agency to provide the same services that it provides for its own cases when a case is referred from another state's IV-D agency. The request for help shall be written and must list the specific services needed.

The Division of Child Support Enforcement shall manage the flow of interstate correspondence through a central registry located in Central Office. The central unit shall act as URES A State Information Agent.

B. Responsibilities of Virginia when acting as the initiating state IV-D agency.

The district office shall:

- 1. Refer cases where the RP lives out of state to the other state's IV-D Interstate Central Registry for action

and periodically check the status of the case.

- 2. Supply necessary information or documentation to the responding state.

- 3. Use the authority of Virginia's long arm statute in establishing paternity, whenever appropriate.

- 4. Pay for blood tests ordered by the other state as a result of the action commenced by DCSE.

C. Responsibilities of Virginia when responding to an out-of-state request.

- 1. The district office shall within 60 days of receipt of the federal transmittal forms:

- a. Provide location services;
- b. Notify the IV-D agency in the initiating state of necessary additions or corrections to the request form; and
- c. Process the interstate IV-D case to the extent possible pending necessary action by the initiating state.

- 2. The district office shall inform the IV-D agency of the initiating state within 10 days if the responsible parent is in a different jurisdiction from the one originally thought to be.

- 3. Provide necessary services as it would in intrastate cases. Costs or fees deducted from support payments shall be identified when payments are forwarded to the IV-D agency in the initiating state.

- 4. Notify the IV-D agency in the initiating state of formal hearings which result from establishment or modification of an order or of the receipt of new information.

- 5. Notify the interstate central registry in the initiating state when a case is closed.

- 6. Attempt to obtain a judgment for the costs of the blood testing from the putative father, and reimburse the initiating state, if costs are recovered.

\* \* \* \* \*

Title of Regulation: VR 615-70-13. Child Support Enforcement Services (Application Fees, Rights and Responsibility, and Payment Recovery).

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

Public Hearing Date: N/A - Written Comments may be submitted until January 20, 1989.

Summary:

# Proposed Regulations

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This regulation sets out the services provided by the department in Child Support Enforcement cases and the rights and responsibilities of the custodial parent and the Division of Child Support Enforcement in the performance of these services. This regulation also describes the payment recovery policy to recover money owed to the department.

VR 615-70-13. Child Support Enforcement Services (Application Fees, Rights and Responsibility, and Payment Recovery).

## PART I. DEFINITIONS.

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

"IV-D" means Title IV-D of the Social Security Act that is the part of federal law covering the Support Enforcement Program.

"IV-D agency" means either the Division of Child Support Enforcement or any of the regional or district offices.

"ADC" means Aid to Dependent Children under Title IV-A of the Social Security Act. This is a category of public assistance paid on behalf of children who are deprived of one or both of their parents by reason of death, disability or continued absence (including desertion) from the home.

"ADC/FC" means Aid to Dependent Children under Title IV-E of the Social Security Act. This is a category of public assistance where benefits are paid to children in the custody of the local welfare department who otherwise meet the eligibility criteria for ADC benefits.

"Administrative" means procedures available to the Division of Child Support Enforcement, other than judicial action, for the purpose of enforcing support obligations. These procedures include mandatory withholding of earnings, liens, orders to withhold and deliver, foreclosure and distraint, seizure and sale of property.

"Arrearage" means the total unpaid support obligation owed by a responsible parent.

"Bad check" means a check returned to the department due to insufficient funds.

"B-1 payment" means the first \$50 of a payment on the required support obligation sent to the ADC family and disregarded by IV-A in determining the amount of the grant. The disregard is limited to a total of \$50 regardless of the number of responsible parents paying support.

"B-2 payment" means the portion of the support moneys not disbursed in a B-1 payment that is used to satisfy the

state and federal shares of public assistance paid for a current month.

"B-3 payment" means the portion of the support moneys not used in B-1 and B-2 processing of a payment that is paid to the client up to the deficit between the amount of public assistance received in a month and the support order.

"B-4 payment" means the portion of support moneys not used in B-1, B-2, and B-3 processing of a payment that is applied to state and federal shares of arrearage for past public assistance paid.

"B-5 payment" means the portion of the support moneys not used in B-1, B-2, B-3, and B-4 processing of a payment following the month in which the amount of the support payment was used to determine continued eligibility for an assistance payment under the IV-A Plan.

"Child support order" means a court or administrative order for support of dependent children. Court order for support can be for spousal and child support.

"Client" means the person in receipt of child support enforcement services.

"Custodial parent" means the natural parent, adoptive parent or stepparent who is legally responsible for the child and with whom the child lives or may be used to include other entities eligible for child support services.

"Debt" means the total unpaid support obligation established by court order, administrative process or by the payment of public assistance, and owed by a responsible parent to either the Commonwealth or to his dependents.

"Division" means the Division of Child Support Enforcement.

"Financial records" means financial records including, but not limited to, records held by employers showing earnings, profit sharing contributions and benefits paid or payable and records held by financial institutions, broker-dealers and other institutions and entities showing bank accounts, IRA and separate contributions, gross winnings, dividends, interest, distributive share, stocks, bonds, agricultural subsidies, royalties, prizes and awards held for or due and payable to a responsible parent.

"Grant" means a money payment from social services. For support enforcement purposes includes ADC or ADC/FC or state/local foster care.

"Health care coverage" means any plan providing hospital, medical or surgical care coverage for dependent children, provided such coverage is available and can be obtained by a responsible parent, at a reasonable cost.

"Judicial" means action through the court to enforce

support obligations.

"Non-PA" means IV-D cases in which individuals not receiving ADC, ADC/FC or state/local foster care apply for support enforcement services.

"Paternity" means determination of fatherhood.

"Public assistance" means a payment from the Department of Social Services; for support enforcement purposes, ADC, ADC/FC or state/local foster care.

"PA" means public assistance.

"Putative father" means alleged father. A person who has been named as the father of a child born out-of-wedlock, but for whom paternity has not been established.

"Recipient" means a person receiving public assistance under the IV-A or IV-E programs or Title XIX (Medicaid) Program.

"Responsible parent" means any person obligated under law for the support of a dependent child, or the caretaker or parent of such child.

"Supplemental security income" means a program administered by the federal government which guarantees a minimum income to persons who meet the requirement as aged, blind, or disabled.

"SSI" means Supplemental Security Income Program.

"Support orders" means a court or administrative order for child support.

## PART II. SERVICES AVAILABLE FOR SUPPORT ENFORCEMENT CASES.

### § 2.1. General.

Child support services include the following when a person applies:

1. Location of absent responsible parents to establish and enforce child support orders;
2. Establishment of paternity;
3. Establishment or modification of support orders to include provision for health care coverage;
4. Administrative and judicial enforcement; and
5. Collection and disbursement of support money.

### § 2.2. Application for services.

A. Application for child support services is required for

persons not receiving ADC or ADC/FC assistance.

B. Application is not required for persons receiving assistance under the ADC or ADC/FC programs in Virginia.

C. A written request for services is required from out of state IV-D agencies when requesting child support services for ADC and non-ADC IV-D cases.

D. An application for child support services is required for courts and agencies requesting locate services.

E. The following applies when a person applies for child support services:

1. The non-PA client must be informed at the point of application that receipt of ADC or ADC/FC creates a debt to the state.
2. If a debt is owed to the state due to the past payment of ADC or ADC/FC, any money collected above the amount due for current support will be applied to the ADC or ADC/FC debt.
3. Any money received from tax setoffs will be applied, in total, towards the ADC or ADC/FC debt until satisfied.

### § 2.3. Application fee and recovery of cost.

A. Federal and state laws require an application fee for support enforcement services that are provided. An application fee of \$1.00 is charged for child support services. This fee is paid by the state.

B. The following services are provided without an application fee being charged:

1. Location of absent responsible parents for other state IV-D agencies or in-state courts.
2. All child support services for out-of-state support enforcement referrals.
3. All child support services for clients who continue to receive services following the closing of their ADC case.
4. All child support services for state/local foster care agencies.
5. The custodial parent is not responsible for costs.
6. If the putative father signs a stipulation agreement to pay or is court-ordered to pay, he is responsible for payment of blood testing costs.

### § 2.4. Rights and responsibilities of the support enforcement client and the Division of Child Support Enforcement (DCSE).



# Proposed Regulations

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*At the time of initial application, the applicant shall be informed of his rights and responsibilities and of the division's rights and responsibilities.*

## *A. Custodial parent's rights.*

- 1. To be kept informed of status of case and receive notice of major decisions; and*
- 2. To receive copies of orders and decisions sent to the absent responsible parent.*

## *B. Custodial parent's responsibilities.*

- 1. To give the DCSE information necessary for processing the case;*
- 2. To provide new information or notice of change of status immediately; and*
- 3. To notify the DCSE before hiring an attorney to represent the custodial parent in child support matters.*

## *C. Division of Child Support Enforcement's rights.*

- 1. To decide the best way to handle the applicant's case to obtain the desired result;*
- 2. To assign priority to cases; and*
- 3. To close the case when:
  - a. The services applied for have been provided or all available, appropriate resources have been exhausted and no support can be obtained;*
  - b. The responsible parent receives PA or SSI;*
  - c. The client provides a written request for termination of services;*
  - d. The client and his attorney initiate legal action related to the case without prior notice to DCSE; or*
  - e. The client fails to cooperate in providing financial information;*
  - f. The client moves out of Virginia;*
  - g. The client obtains a court order for direct pay;*
  - h. The court finds there is no responsibility to pay support;*
  - i. The state finds that paternity cannot be established;*
  - j. The responsible parent resides in a foreign country which has no support/reciprocity agreement with reporting state;**

*k. There is a long-term inability to pay support; long-term is one year or longer;*

*l. Verification of responsible parent's death is obtained and no further action can be taken.*

## *D. Division of Child Support Enforcement's responsibilities.*

- 1. To act in a manner consistent with the best interests of the child;*
- 2. To provide the requested services in a timely manner consistent with an established priority system;*
- 3. To keep the custodial parent informed about the progress of the case;*
- 4. To inform the applicant that a debt owed to the state for public assistance paid is satisfied before support obligations when tax refunds are intercepted to pay off child support debts;*
- 5. To inform the applicant that support money received in excess of the current monthly obligation satisfies past public assistance paid;*
- 6. To determine the need for legal assistance and to inform the client that services provided by legal counsel are provided to DCSE and not to the client personally;*
- 7. To include the custodial parent in major decisions about handling the case;*
- 8. To establish paternity and establish and enforce a support obligation;*
- 9. To consider financial information provided by the custodial parent in determining the responsible parent's obligation.*

## *§ 2.5. Good cause for a IV-A applicant not cooperating with a IV-D agency.*

*A. Recipients receiving ADC or ADC/FC are required to cooperate with IV-D to establish paternity and support unless a good cause claim for not doing so exists. Good cause, when claimed and found to exist, excuses the recipient of ADC or ADC/FC from cooperating with DCSE. It suspends action on the case by DCSE as long as the claim exists. The IV-A agency makes the final determination as to whether the good cause claim by the ADC or ADC/FC applicant is valid.*

*B. If the recipient refuses to cooperate and good cause is not a valid reason for doing so, the recipient may receive a reduced grant as a result.*

## *C. Reasons for claiming good cause.*

# Proposed Regulations

1. The child or recipient may be physically or emotionally harmed if the recipient cooperates with DCSE.

2. The child was conceived as a result of incest or rape and the local agency believes harm will come to the child.

3. Adoption of the child is pending or being decided.

4. The caretaker, assisted by a public or a licensed private social services agency, is deciding whether to keep or relinquish for adoption the child for whom aid is requested.

## § 2.6. Payment recovery.

### A. Emergency petty cash fund duplicate payments.

Custodial parents who have received duplicative checks as a result of emergency petty cash fund payments shall be asked to return an amount equal to the overpayment. If a custodial parent is unable or unwilling to repay the full amount, DCSE shall take the following actions until the amount is paid in full.

1. For non-PA cases, DCSE shall:

- a. Intercept and retain RP payments on arrearage;
- b. Retain 10% of current support payment;
- c. Retain the lesser of the balance due or 100% of IRS or state tax funds intercepted;
- d. Retain the lesser of the balance due or funds seized from bank accounts.

2. For ADC cases, DCSE shall intercept and retain either 10% of disregard payments or the total B-3 payment.

### B. Bad checks.

When a notice is received from a financial institution that the payment instrument(s) previously received and deposited by DCSE has not been honored upon presentation and when DCSE distributed payments in error, DCSE shall demand the RP to repay the amount of the check returned for insufficient funds by certified check or money order.

If the RP does not comply with the payment request, the district office shall initiate appropriate enforcement action including, but not limited to mandatory withholding of earnings, orders to withhold and deliver, and other appropriate action. If payment cannot be effectuated from the RP, the full amount will be recovered from the custodial parent.

1. In ADC cases, DCSE shall recover the amount due

from the custodial parent first by asking that the payment made be returned to DCSE. If the custodial parent is unable or unwilling to repay the full amount, DCSE shall recover the amount due by retention of funds that otherwise would be due the custodial parent. This will be done in the following order:

- a. B-5 refund
- b. B-3 refund
- c. B-1 disregard payment

2. In non-PA cases, DCSE shall recover the amount due from the custodial parent first by asking that the payment made be returned to DCSE. In situations where this is not successful, DCSE shall recover the amount due the Commonwealth by retention of funds that otherwise will be due the custodial parent. This will be done in the following order:

- a. Intercept and retain RP payments on arrearage.
- b. Retain 10% of current support payment.

### C. Erroneous disbursements.

When DCSE has made an erroneous disbursement, DCSE shall recover those distributed funds.

1. In ADC cases, DCSE shall recover the amount due from the custodial parent first by asking that the payment may be returned to DCSE. If the custodial parent is unwilling or unable to repay the full amount, DCSE shall recover the amount due by retention of funds that otherwise would be due the custodial parent. This will be done in the following order:

- a. B-5 refund
- b. B-3 refund
- c. B-1 disregard payment

2. In non-PA cases DCSE shall recover the amount due from the custodial parent first by asking that the payment made be returned to DCSE. If the custodial parent is unwilling or unable to repay the full amount, DCSE shall recover the amount due the Commonwealth by retention of funds that otherwise will be due the custodial parent. This will be done in the following order:

- a. Intercept and retain RP payments on arrearage.
- b. Retain 10% of current support payment.

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**Title of Regulation:** VR 615-70-14. Establishment of Administrative Support Orders.

# Proposed Regulations

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

Public Hearing Date: N/A - Written comments may be submitted until January 20, 1989.

(See Calendar of Events section for additional information)

Summary:

Section 63.1-250.2 of the Code of Virginia empowers the department to use Administrative Support Orders to establish or modify child support obligations. The regulation specifies that administrative rather than judicial means of establishing and enforcing obligations should be used whenever possible to expedite matters, and establishes policies and procedures for imposing and determining amount of administrative support obligations.

VR 615-70-14. Establishment of Administrative Support Orders.

## PART I DEFINITIONS.

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

"ADC" means Aid to Dependent Children, a category of public assistance paid on behalf of children who are deprived of one or both of their parents by reason of death, disability, or continued absence (including desertion) from the home.

"ADC/FC" means public assistance paid under Title IV-E of the Social Security Act for children who are otherwise eligible for public assistance but custody is held by the Department of Social Services.

"Administrative Support Order (ASO)" means a noncourt ordered, legally enforceable support obligation based on the income of the responsible parent and custodial parent as applied to the support scale, or a noncourt ordered, legally enforceable obligation based on the amount of the public assistance grant paid or that could be paid for non-PA cases. The administrative order has the same force and effect as a court order.

"Arrearage" means the total unpaid support obligation owed by a responsible parent.

"Assistance" means a money payment from the Department of Social Services. For support enforcement purposes includes ADC or ADC/FC or state/local foster care.

"Custodial parent" means the natural parent, adoptive parent or stepparent who is legally responsible for the child and with whom the child lives or may be used to include other entities eligible for child support services.

"DCSE child support scale" means the scale/guidelines used to establish a monthly obligation amount a responsible parent must pay on behalf of his dependents.

"Debt" means the total unpaid support obligation established by court order, administrative process or by the payment of public assistance, and owed by a responsible parent to either the Commonwealth or to his dependents.

"Department" means the Virginia State Department of Social Services.

"Earnings" means current or future income due from the responsible parent's employer and compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and specifically includes periodic payments currently being made by the responsible parent pursuant to pension or retirement programs, unemployment compensation benefits; debts owed the responsible parent and income or profits due the responsible parent from sources including gambling, lotteries, prizes or other windfall or any type of payment.

"Expedited process" means written procedures to expeditiously establish and enforce child support obligations having the same force and effect as those established through judicial procedures.

"Financial statement" means a sworn statement showing the financial situation of both the responsible parent and the custodial parent. A statement is filed annually with the Department of Social Services. Failure to comply with the requirements of the Code section describing the financial statement shall constitute a Class 4 misdemeanor.

"Health care coverage" means a plan providing hospital, medical or surgical care coverage for dependent children, provided such coverage is available and can be obtained by a responsible parent, at a reasonable cost.

"Hearings officer" means a disinterested person who holds administrative appeal hearings and renders decisions based on whether program policy is followed.

"Immediate payroll deduction" means a wage assignment that is entered at the time the court order is entered. This can be used to collect current support and delinquent support.

"Immediate withholding of earnings" means a wage assignment that is entered at the time the administrative support order is entered. This can be used to collect current support and delinquent support.

"Judicial means of enforcement" means action through the court to enforce support obligations.

"Mandatory withholding of earnings" means an involuntary administrative means of collecting current and

delinquent support. This is initiated after a delinquency of one month's support.

"MWE" means mandatory withholding of earnings.

"Non-PA cases" means IV-D cases in which individuals not receiving ADC, ADC/FC or state/local foster care apply for child support enforcement services.

"Notice and Finding of Financial Responsibility (N&F)" means the document which (i) makes an administrative debt legally enforceable and (ii) makes administrative means of enforcement legal in court ordered cases. Effective July 1, 1988, this document is superseded by the Administrative Support Order.

"Obligation" means the amount and frequency of money which the responsible parent is legally bound to pay.

"Other legal process" means a procedure by which the Commonwealth has the authority to establish a debt without court involvement.

"Public Assistance (PA or ADC)" means a payment from the Department of Social Services; for support enforcement purposes, ADC, ADC/FC or state/local foster care.

"Responsible parent" means a person obligated under law for the support of a dependent child and the caretaker or parent of a child.

"Support enforcement hearings officer" means an impartial person authorized by the Division of Child Support Enforcement to render decisions about the proper application of policy and procedure when the responsible parent files an appeal.

## PART II. ESTABLISHMENT OF ADMINISTRATIVE SUPPORT ORDERS.

### § 2.1. The obligation.

The obligation is the amount and frequency of money which the absent responsible parent is legally bound to pay for support of his children. The obligation may include the debt to the Commonwealth and arrearages. Changes to the amount of an obligation, court order, or Administrative Support Order are made prospectively.

### § 2.2. General.

A. Administrative rather than judicial means of establishing and enforcing child support obligations shall be used whenever possible to expedite child support matters. Administrative processes are to be used to establish temporary administrative support orders in cases in which judicial determinations of support are delayed by issues regarding custody and visitation.

B. For ADC or ADC/FC cases in which paternity is not an issue an administrative obligation shall be based on the amount of ADC or ADC/FC paid to the responsible parent's dependents. The obligation amount shall be changed when the responsible parent provides financial information. The amount of the new obligation shall be based on the DCSE child support scale. If the obligation has been legally served and the appeal time frame has passed, there shall be no retroactive modification of the support obligation which was based on the ADC or ADC/FC grant.

C. For non-PA cases in which paternity is not an issue, an administrative obligation shall be based on the DCSE child support scale unless the responsible parent does not cooperate. In these situations a default administrative support order shall be issued based on the amount of public assistance that would be paid for the responsible parent's dependent based on 90% of the ADC Standard of Need.

D. The administrative obligation shall be established when the RP is legally served in Virginia with an Administrative Support Order. Original and amended orders shall be filed with the appropriate juvenile and domestic relations district court, if the Division of Child Support Enforcement determines the order should be treated in the same manner as a court order for enforcement purposes.

E. The Administrative Support Order shall contain an immediate withholding of earnings requirement which is an automatic deduction from the RP's earnings to satisfy the support obligation. If the RP and CP wish to choose an alternate arrangement of paying, they must choose a voluntary wage deduction order which can be released by the Division of Child Support Enforcement.

F. The responsible parent shall provide information regarding health care coverage for his dependent children. If the responsible parent does not have health care coverage (medical insurance) for his dependent children, he should be told to obtain this at a reasonable cost. (NOTE: Reasonable cost is defined as employer-related coverage.) The responsible parent shall provide health care coverage obtained at a reasonable cost when the support obligation is established.

### § 2.3. Financial statements.

A. Both the responsible parent and the custodial parent shall complete sworn statements of financial information and shall provide other information to determine their ability to support dependent children. A financial statement need not be completed by a person with legal custody of the children if that person is not the parent of the children in question.

B. Financial statements shall be filed annually with the Department of Social Services. Failure to file a sworn statement is a misdemeanor. The department may at any

# Proposed Regulations

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time request a statement of the RP's and CP's current gross income.

C. The Division of Child Support Enforcement will define the type of financial information which shall be required based on § 63.1-274.5 of the Code of Virginia.

## § 2.4. The administrative child support scale.

A. The administrative child support scale is a formula for calculating the amount of an administrative child support obligation based on the responsible parent's and custodial parent's gross monthly income. There shall be no deviation from the scale in establishing administrative child support orders.

### B. Factors considered in the formula.

1. The responsible parent's and custodial parent's gross monthly income and resource value. Gross income shall not include benefits from public assistance programs, such as ADC, ADC/FC, auxiliary grants to the aged, blind and disabled, medical assistance, food stamps, general relief, fuel assistance, or child support payments;

2. Number of children for whom the responsible parent and custodial parent share joint legal responsibility;

3. Extraordinary medical and dental expenses provided by the responsible parent for the children in question; and

4. Custodial parent's work-related child care expenses.

## § 2.5. Immediate withholding of earnings (IWE).

A. Every Administrative Support Order shall contain a provision for immediate withholding of earnings. The immediate withholding of earnings is a wage assignment that can be used to collect current support and delinquent support.

B. The rights and responsibilities of all parties are in § 63.1-258.1 and other sections of Chapter 13 of Title 63.1 of the Code of Virginia. The right to appeal decisions of the Division of Child Support Enforcement to a hearings officer as well as the rights and responsibilities of employers are covered in these sections.

C. The immediate withholding of earnings can be issued against all earnings except those exempted from garnishment under federal and state laws.

D. For responsible parents who are obligated for multiple cases, whether ADC or non-ADC, the amount withheld shall be prorated among the cases when the responsible parent's disposable earnings will not allow for the full payment of each current support order. Each family is to receive full payment of the current obligation

when possible.

E. Current amounts of support are satisfied before satisfying arrearage amounts.

F. Modification or release of immediate withholding of earnings shall become necessary if:

1. The current support obligation and the arrears have been paid; or, if arrears are owed, the arrears have been paid;

2. The whereabouts of the child or child and caretaker become unknown; or

3. There has been a change in the amount of the current support obligation or arrears.

The order shall not be released in cases in which there is still a current obligation, but the responsible parent has satisfied the arrears.

## § 2.6. Assignment of earnings.

An assignment of earnings is a voluntary agreement between the responsible parent and the Division of Child Support Enforcement to have support payments deducted from wages. This process is an alternate method of payment to the immediate withholding of earnings when an Administrative Support Order is issued or in lieu of the MWE if it is more expeditious to do so. This is not an option if the MWE notice has already been served on the responsible parent. An Administrative Support Order, Notice and Finding of Financial Responsibility, or court order for support shall be in effect before initiating an assignment of earnings.

The rights and responsibilities of all parties are in § 63.1-272 and other sections of Chapter 13 of Title 63.1 of the Code of Virginia. The right to appeal decisions of the Division of Child Support Enforcement and administrative hearings officers as well as the rights and responsibilities of employers are covered in these sections.

## § 2.7. Appeals.

The responsible parent may appeal an Administrative Support Order to a hearings officer. Both the responsible parent and the custodial parent may appeal the hearings officer's decision to the juvenile and domestic relations district court. The rights and responsibilities of the parties are in § 63.1-252.1 and contained in Chapter 13 of Title 63.1 of the Code of Virginia. In addition, the responsible parent and the custodial parent shall have the following rights:

1. To be represented at the hearing by legal counsel;
2. To withdraw the appeal;
3. To receive a copy of the administrative decision at

*the time of the appeal hearing or no later than 45 days from the date the appeal request was received by the District Office;*

*4. To be notified that the appeal is abandoned; and*

*5. To see material relevant to their case kept in the Division of Child Support Enforcement file by making a written request.*

# Proposed Regulations

## CHILD SUPPORT ENFORCEMENT FINANCIAL STATEMENT

**I IDENTIFICATION INFORMATION:**

1 Case Number: \_\_\_\_\_ Date: 2 \_\_\_\_\_ Social Security Number: \_\_\_\_\_  
 Name: \_\_\_\_\_ Date of birth (mo., day, year): 3 \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
 Resident Address: \_\_\_\_\_ City/City of Residence: \_\_\_\_\_  
 Persons living with you or whom you are liable to support are shown in table 10 of this report.

**II INCOME:**

11 If you are presently NOT in good health, explain briefly the condition in which you are working: \_\_\_\_\_  
 Give name and address of doctor, if unable to work: \_\_\_\_\_  
 12 If you are presently NOT in good health, explain briefly the condition in which you are working: \_\_\_\_\_  
 Give name and address of doctor, if unable to work: \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_

**III PROPERTY AND RESOURCES:**

15 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
 16 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
 17 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
 18 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
 19 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
 20 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
 21 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
 22 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
 23 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
 24 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_  
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 31 Describe in detail all real and personal property owned or controlled by you or for which you are liable to support. List the location, value, and date of acquisition for each item. \_\_\_\_\_

**IV HEALTH CARE COVERAGE:**

32 Do you have a health insurance policy?  Yes  No  42  
 If yes, name of insurance company \_\_\_\_\_ 43  
 Name of person(s) covered \_\_\_\_\_ 43  
 Number of policy \_\_\_\_\_

**V OTHER INFORMATION:**

33 Do you have any liens filed against you?  Yes  No  40  
 If yes, give name of claim where lien filed, amount and who has lien \_\_\_\_\_ 41

34 Do you have any other debts or liabilities?  Yes  No  41

35 Do you have any other debts or liabilities?  Yes  No  41

36 Do you have any other debts or liabilities?  Yes  No  41

37 Do you have any other debts or liabilities?  Yes  No  41

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95 Do you have any other debts or liabilities?  Yes  No  41

96 Do you have any other debts or liabilities?  Yes  No  41

97 Do you have any other debts or liabilities?  Yes  No  41

98 Do you have any other debts or liabilities?  Yes  No  41

99 Do you have any other debts or liabilities?  Yes  No  41

100 Do you have any other debts or liabilities?  Yes  No  41

EMPLOYER'S REQUEST FOR INFORMATION  
DCSEP-563/1

1

3

Re: 2

Dear: 4

The Division of Child Support Enforcement is required by Federal Law and Virginia State Statute as referenced below to secure support for those children receiving public assistance under the Aid to Dependent Children Program and for those children on whose behalf Support Enforcement services have been requested. State and Federal laws referenced below authorize the disclosure of the information indicated below.

In order to do this, we would appreciate any information you could provide regarding the above named individual who we believe to be currently employed or to have had an association with your firm in the past. Please fill in the information requested below and return this form in the enclosed self-addressed, stamped envelope. This information is considered confidential and will be used solely for the purpose of enforcing a child support obligation.

Sincerely,

5

Investigator  
Telephone: 6

7

1. Complete name (including maiden name, if applicable) a
2. Social Security number b Date of Birth: b
3. Current or last known address c  
Home Phone # c
4. Status of his/her employment with your company d
5. Dates of employment and position held e
6. Current or last known pay: Gross Amt. f Net Amt. f  
per pay period.  
f Paid: Weekly \_\_\_ Bi-Weekly \_\_\_ Semi-Monthly \_\_\_ Monthly \_\_\_ Day of  
week paid f

P.L. 93-647  
§63.1-251  
§63.1-274.6  
§63.1-250.2

7/88

7. Are there payroll deductions per pay period? g If yes, please list amount and type g
8. Name of dependents claimed for tax purposes and for medical insurance purposes h
9. Does employee have medical insurance? i Yes i No
10. If yes, please give name of insurance company, i policy number i, and names of dependents covered by the policy i
11. Does this employee have any mandatory withholding of earnings orders against his wages? k If yes, please list how many k
12. If terminated, name of prospective employers requesting references: l  
Date: l References: l
13. Other: m

Information provided by: m  
Date: \_\_\_\_\_

7/88



HEALTH CARE COVERAGE LETTER  
(Employer)  
DCSEP-564A

Dear Employer:

According to our records, your employee \_\_\_\_\_ 1 \_\_\_\_\_  
SSN \_\_\_\_\_ 2 \_\_\_\_\_ has \_\_\_\_\_, his  
dependent child(ren) enrolled in a health insurance policy. The name of the  
insurance provider is \_\_\_\_\_ 3 \_\_\_\_\_  
and the policy number is \_\_\_\_\_ 4 \_\_\_\_\_.

The Division of Child Support Enforcement is mandated by State law and Federal regulations to try to obtain health coverage for dependent children. In order to meet these requirements, we must determine if there has been a lapse in health care coverage. Please complete the bottom section of this letter and return it to us in the self-addressed envelope we have enclosed for your convenience.

Thank you for your cooperation. If you need further assistance, please call me.

Sincerely,

5  
Investigator  
Telephone: \_\_\_\_\_ 6 \_\_\_\_\_

\*\*\*\*\*  
7

1. Is health care coverage presently in effect?  Yes  No
2. If not, please tell us when this was terminated \_\_\_\_\_.
3. If health care coverage is presently in effect, was there a period of time this policy lapsed?  Yes  No If the policy lapsed, please list time period \_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

HEALTH CARE COVERAGE ENFORCEMENT LETTER  
DCSEP-564B

1

Dear \_\_\_\_\_ 2 \_\_\_\_\_:

On \_\_\_\_\_ 3 \_\_\_\_\_ we discussed with you the necessity of obtaining medical insurance for your dependent child(ren), \_\_\_\_\_ 4 \_\_\_\_\_.

As of this date, you have not informed us that this has been done.

State law and Federal regulations require that you obtain health care coverage for your dependent children if this is available at a reasonable cost. If you do not do this, you could be liable for the total expense of any hospital or doctor bills for your child(ren). The expense of this will be much greater than the cost of a medical insurance policy.

If you have enrolled your child(ren) in a policy, please complete the section below:

- 1) Name of insurance company: \_\_\_\_\_ 5 \_\_\_\_\_
- 2) Number of insurance policy: \_\_\_\_\_
- 3) Name of child(ren) covered: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 4) Name place of employment: \_\_\_\_\_
- 5) Address of employer: \_\_\_\_\_  
\_\_\_\_\_

If you have not enrolled your child(ren) in a policy, you should contact me by \_\_\_\_\_ 6 \_\_\_\_\_.

Legal action may be taken if you fail to respond to this request.

Sincerely,

7  
Investigator  
Telephone: \_\_\_\_\_ 8 \_\_\_\_\_

# Proposed Regulations

\* \* \* \* \*

**Title of Regulation:** VR 615-70-15. Persons Qualifying for Child Support Enforcement Services (Application Fees, Rights and Responsibilities, and Payment Recovery).

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

**Public Hearing Date:** N/A - Written comments may be submitted until January 20, 1989.

(See Calendar of Events section for additional information)

## Summary:

*This regulation defines those persons who qualify for support enforcement services in terms of their physical residence, the agency they are dealing with or being represented by and the type of case involved. This regulation is necessary to comply with 45 CFR 302.33 and § 63.1-250.2 of the Code of Virginia. The order of priority for handling DCSE cases is specified.*

VR 615-70-15. Persons Qualifying for Child Support Enforcement Services (Application Fees, Rights and Responsibilities, and Payment Recovery).

## PART I. DEFINITIONS.

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

"ADC" means Aid to Dependent Children, a category of public assistance paid on behalf of children who are deprived of one or both of their parents by reason of death, disability, or continued absence (desertion) from home.

"IV-D agency" means either the Division of Child Support Enforcement or a regional or district child support office.

"Child support services" means civil, criminal, or administrative action taken by the Division of Child Support Enforcement to establish, modify, enforce or collect child support or child and spousal support.

"DCSE" means Division of Child Support Enforcement.

"Local social service agencies" means the departments located in each county, city, or town throughout the Commonwealth charged with administering public assistance and social service programs.

"Non-PA cases" means IV-D cases in which individuals not receiving ADC, ADC/FC or state local foster care apply for support enforcement services.

"Obligation" means the amount and frequency of money

which the responsible parent is legally bound to pay.

"Public assistance (PA or ADC)" means a payment from the Department of Social Services; for support enforcement purposes, ADC, ADC/FC or state local foster care.

"Services" means location of absent parents, establishment of paternity, establishment of a child support order and enforcement of a child support order.

"State local foster care agency" means an agency administering a category of assistance financed by state and local funds on behalf of children who have been removed from their parents' home due to detrimental conditions, but who do not meet the ADC eligibility criteria.

"Support enforcement cases" means IV-D cases resulting from application for support enforcement services by individuals not receiving ADC, ADC/FC, state/local foster care or cases referred by the local welfare agencies.

## PART II. PERSONS ELIGIBLE FOR SERVICES.

§ 2.1. The following persons or entities qualify for child support services in Virginia:

1. Persons who live within the physical boundaries of Virginia or claim the Commonwealth as their place of residency and are:

a. Parents or legal guardians of children under 18 years of age who reside with the parent, guardian, or legal custodian.

b. Residents of Virginia who are parents or legal guardians of children over 18 years of age, when a support obligation was established prior to the child's 18th birthday. All services will be available as long as arrearages exist. The person applying for services must be a legal resident living within the physical boundaries of the Commonwealth of Virginia or claim Virginia as his place of residency (i.e., military personnel).

c. Parents of children up to 19 years of age when a court orders support to be paid to the parent. This may be ordered by a court beyond the age of 18 when the child is a full time high school senior.

d. Parents or legal guardians of children over 18 years of age who are handicapped. A current support order may be established for a disabled child over the age of 18.

2. Virginia state/local foster care agencies.

3. Virginia courts with authority to issue support orders.

# Proposed Regulations

4. IV-D agencies in other states.

5. Local Virginia social service agencies.

## PART III. TYPES OF CASES THE DCSE HAS IN ITS CASELOAD.

§ 3.1. In-state cases which are in the DCSE caseload.

A. ADC or foster care cases.

Party involved receives ADC, ADC/FC, or state local foster care.

B. Non-PA cases.

These shall be transition cases in which the ADC case (does not apply to ADC/FC) closes and DCSE continues collecting and enforcing on the case(s). For cases that were never on ADC an application shall be made and a fee paid.

§ 3.2. Out-of-state cases which are in the DCSE caseload.

A. ADC or foster care cases.

Recipient receives ADC, ADC/FC or state local FC benefits.

B. Non-PA cases.

Cases from other state IV-D agencies in which no ADC or ADC/FC benefits have been paid.

## PART IV. PRIORITIZATION OF CASES.

§ 4.1. Cases shall be prioritized and worked by DCSE in the order listed below:

1. Establishment of paternity;
2. Establishment of obligation;
3. Enforcement of obligation;
4. Modification of obligation; and
5. Increase only of obligation.

## DEPARTMENT OF TAXATION

Title of Regulation: VR 630-2-323.1. Individual Income Tax: Excess Cost Recovery.

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

Public Hearing Date: January 9, 1989 - 9 a.m.  
(See Calendar of Events section

for additional information)

### Summary:

This regulation explains the new requirements for the return of the outstanding balance of excess cost recovery to taxpayers beginning in 1988. The "outstanding balance of excess cost recovery" is defined as the difference between all ACRS additions reported on returns actually filed for 1982-1987 and all ACRS subtractions which would have been allowable for 1984-1987 whether or not a return was filed (see §§ 1 and 3). In most cases individuals may recover this "outstanding balance of excess cost recovery" through annual post-1987 subtractions over a two year period (see § 4).

Generally, if a taxpayer has insufficient income to benefit from a subtraction in a particular year, all or part of the subtraction may be carried over to the next year (see § 5). A taxpayer who files a final federal and Virginia return may claim an immediate subtraction for the unrecovered outstanding balance of excess cost recovery (see § 6). If, after filing an individual return for 1989, or after filing a final federal and Virginia return, the taxpayer still has not recouped the outstanding balance of excess cost recovery, the taxpayer may file an application for a refund (see § 7).

VR 630-2-323.1. Individual Income Tax: Excess Cost Recovery.

### § 1. Definitions.

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

"ACRS addition" means an excess cost recovery addition actually reported under § 58-151.013(b)(6) (prior to the recodification of Title 58), § 58.1-322.B.6. (for individuals) and § 58.1-402.B.3. (for corporations) of the Code of Virginia, on any return filed for a taxable year beginning between January 1, 1982 and December 31, 1987.

"ACRS subtraction" means an excess cost recovery subtraction allowable under § 58-151.013(c)(10) (prior to the recodification of Title 58), § 58.1-322.C.8. (for individuals) and § 58.1-402 C 9 (for corporations) of the Code of Virginia, for any taxable year beginning after December 31, 1983, but before January 1, 1988, regardless of whether or not a return was filed to claim the allowable subtraction.

"Corporation" means any person or entity subject to tax or required to file a return under Article 10, Chapter 3 (§ 58.1-400 et seq.) of Title 58.1 of the Code of Virginia.

"Individual" means any natural person, married or unmarried, who is subject to taxation or required to file a

return under Article 2 of Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 of the Code of Virginia.

"Outstanding balance of excess cost recovery" means the amount equal to the difference between:

1. The sum of the ACRS additions actually reported on Virginia returns filed for taxable years beginning on and after January 1, 1982 and before January 1, 1988; and
2. The sum of the ACRS subtractions allowed or allowable on Virginia returns, regardless of whether or not a Virginia return was actually filed, for taxable years beginning on and after January 1, 1984 and before January 1, 1988.

"Post-1987 ACRS subtraction" means the portion of the outstanding balance of excess cost recovery which may be subtracted by individuals on returns for taxable years beginning on or after January 1, 1988 and before January 1, 1990, or by corporations on returns for taxable years beginning on or after January 1, 1988, and before January 1, 1993.

## § 2. Purpose.

### A. Generally.

The Virginia Tax Reform Act of 1987 added § 58.1-323.1 of the Code of Virginia which phases out the excess cost recovery program through the allowance of post-1987 subtractions effective for taxable years beginning on and after January 1, 1988. In 1988 § 58.1-323.1 was amended to permit a refund if a final federal and Virginia return was filed for a taxable year beginning prior to January 1, 1988. This regulation sets forth the rules applicable to both individual and corporate taxpayers. In most cases the outstanding balance of excess cost recovery may be recouped through annual post-1987 subtractions over a two year period for individual taxpayers and a five year period for corporate taxpayers (see § 4). Generally, if a taxpayer has insufficient income to benefit from a subtraction in a particular year, all or part of the subtraction may be carried over to the next year (see § 5). A taxpayer who files a final federal and Virginia return may claim an immediate subtraction for the unrecovered outstanding balance of excess cost recovery (see § 6). If at a conclusion of the applicable subtraction period (1989 for individuals and 1992 for corporations), or after filing a final federal and Virginia return, the taxpayer still has not recouped the outstanding balance of excess cost recovery, the taxpayer may qualify to file an application for a refund (see § 7)

### B. Exclusive method.

Effective for taxable years beginning on and after January 1, 1988, the post-1987 subtractions and refunds allowable under this regulation shall be the exclusive means of recovering the outstanding balance of excess cost

recovery.

## § 3. Computation of the outstanding balance of excess cost recovery.

### A. Generally.

A taxpayer's outstanding balance of excess cost recovery is computed only with respect to ACRS additions attributable to federal ACRS deductions on property owned directly by the taxpayer or deemed to be owned by the taxpayer for federal income tax purposes, and ACRS subtractions attributable to such ACRS additions. For the treatment of ACRS additions and ACRS subtractions passed through from a conduit entity see § 4.D.

### B. Computation.

1. The outstanding balance of excess cost recovery includes the sum of ACRS additions actually reported on a Virginia return for taxable years beginning on and after January 1, 1982, and before January 1, 1988. If no Virginia return was filed for a taxable year then no ACRS addition with respect to such taxable year may be included in the outstanding balance of excess cost recovery.

2. For most taxpayers the information necessary to compute the "outstanding balance of excess cost recovery" can be found on the Form 302 included with the Virginia returns for taxable years 1986 and 1987.

a. The "ACRS additions" for taxable years 1982, 1983, 1984, and 1985 can be found in Column B of part II of the Form 302 attached to the 1986 and 1987 return.

b. The "ACRS additions" for taxable years 1986 and 1987 can be found in Part I of the Form 302 attached to the 1986 and 1987 return, respectively.

3. The outstanding balance of excess cost recovery is reduced by the sum of ACRS subtractions which would have been allowable with respect to each biennium's ACRS additions, whether or not a return was actually filed claiming an ACRS subtraction in each taxable year beginning on and after January 1, 1984 and before January 1, 1988.

a. The ACRS subtractions which would have been allowable with respect to the first biennium, 1982/1983, are the sum of the ACRS additions actually reported on a Virginia return for all taxable years beginning on and after January 1, 1982, and before January 1, 1984, multiplied by 80% (the percentage allowed or allowable in the four taxable years following the close of the 1982/1983 biennium, i.e., 20% x 4) or by 100% (see subdivision (2) of this subdivision).

# Proposed Regulations

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(1) The number of taxable years included in the first biennium may be one, two, or more, depending upon when the taxpayer was required to file a Virginia return and whether short taxable years were filed during the period.

(2) If one or more returns for a short taxable year were filed for a period beginning after the close of the 1982/1983 biennium the percentage allowed or allowable may be 100% for the first biennium (20% x 5).

b. The ACRS subtractions which would have been allowable with respect to the second biennium, 1984/1985, are the sum of the ACRS additions actually reported on a Virginia return for the first two taxable years beginning on and after January 1, 1984, multiplied by 40% (the percentage allowed or allowable in the two taxable years following the close of the 1984/1985 biennium, i.e., 20% x 2).

(1) The number of taxable years included in the second biennium will be two unless the taxpayer did not file a return or only filed one Virginia return during the period beginning after January 1, 1984.

(2) The percentage allowed or allowable may be more or less than 40% if one or more returns for a short taxable year were filed for a period beginning on and after January 1, 1984, or if the taxpayer was not required to file a Virginia return for a period beginning before January 1, 1985.

(3) For example: If a calendar year taxpayer first became subject to Virginia income tax in 1985, there would be no ACRS subtractions with respect to the first biennium because no returns were filed in 1982 and 1983, therefore, no ACRS additions were reported; the ACRS subtractions with respect to the second biennium would be based on ACRS additions reported on the 1985 and 1986 Virginia returns multiplied by 20% (i.e., 20% x 1, the number of taxable years beginning after the close of the second biennium and before January 1, 1988).

c. The ACRS subtractions which would have been allowable with respect to the third biennium, 1986/1987, will be zero unless one or more returns for a short taxable year were filed for a period beginning on and after January 1, 1984.

## § 4. Post-1987 ACRS subtractions.

### A. Generally.

1. Except as otherwise provided in § 5, Carryover of unused subtractions; § 6, Final return; § 7, Application for refund; and § 8, Special rules, the outstanding balance of excess cost recovery as computed in § 3 shall be claimed as post-1987 ACRS subtractions on returns filed for taxable years beginning on and after

January 1, 1988 as set forth in this section.

2. A taxpayer's post-1987 ACRS subtraction for a taxable year is the sum of:

a. The post-1987 ACRS subtraction computed as set forth in this section with respect to the outstanding balance of excess cost recovery attributable to federal ACRS deductions on property owned directly by the taxpayer or deemed to be owned by the taxpayer for federal income tax purposes, and

b. The post-1987 ACRS subtraction computed as set forth in this section with respect to the outstanding balance of excess cost recovery computed in accordance with § 3.B by a conduit entity and passed through to the taxpayer in accordance with § 4.D.

### B. Individuals.

1. 1988. For the taxable year beginning in 1988 the post-1987 ACRS subtraction is equal to two-thirds of the outstanding balance of excess cost recovery.

2. 1989. For the taxable year beginning in 1988 the post-1987 ACRS subtraction is equal to one-third of the outstanding balance of excess cost recovery.

### C. Corporations.

1. 1988. For the taxable year beginning in 1988 the post-1987 ACRS subtraction is equal to 10% of the outstanding balance of excess cost recovery.

2. 1989. For the taxable year beginning in 1989 the post-1987 ACRS subtraction is equal to 10% of the outstanding balance of excess cost recovery.

3. 1990. For the taxable year beginning in 1990 the post-1987 ACRS subtraction is equal to 30% of the outstanding balance of excess cost recovery.

4. 1991. For the taxable year beginning 1991 the post-1987 ACRS subtraction is equal to 30% of the outstanding balance of excess cost recovery.

5. 1992. For the taxable year beginning 1992 the post-1987 ACRS subtraction is equal to 20% of the outstanding balance of excess cost recovery.

### D. Conduit entities.

1. A conduit entity (estate, trust, partnership and S corporation) shall compute its outstanding balance of excess cost recovery in accordance with § 3.B.

2. In each taxable year beginning on and after January 1, 1988, and before January 1, 1990, a conduit entity shall compute the post-1987 ACRS subtraction in accordance with § 4.B relating to individual.

without regard to whether or not the beneficiary, fiduciary, partner or shareholder is an individual, and shall provide each beneficiary, partner or shareholder with sufficient information to report the appropriate post-1987 ACRS subtraction.

3. If a conduit entity files a short year return for the fiscal year ended December 31, 1987, in order to change its taxable year to a calendar year, each beneficiary, partner, or shareholder may, in certain circumstances, elect to spread the income from the conduit entity's short taxable year over four taxable years for federal income tax purposes. If such an election is made:

a. One-quarter of the conduit entity's Virginia modifications for the short taxable year (including the ACRS addition and ACRS subtraction) must be included in the 1987 Virginia taxable income of the beneficiary, partner, or shareholder;

b. One-quarter of the conduit entity's Virginia modifications for the short taxable year (excluding the ACRS addition and ACRS subtraction) must be included in the Virginia taxable income of the beneficiary, partner, or shareholder in each of the three following taxable years; and

c. The beneficiary, partner, or shareholder shall adjust the the post-1987 ACRS subtraction passed through from the conduit entity in each taxable year as follows: (i) For 1988, by subtracting one-half of the conduit entity's 1987 ACRS addition and adding one-half of the conduit entity's 1987 ACRS subtraction; (ii) For 1989, by subtracting one-quarter of the conduit entity's 1987 ACRS addition and adding one-quarter of the conduit entity's 1987 ACRS subtraction.

#### E. Short taxable year.

1. If there is more than one taxable year beginning on or after January 1, 1988, because of a taxable year of less than 12 months, the allowable portion of the subtraction shall be prorated between all taxable years which begin in the same calendar year. The proration will be based on the number of months in each taxable year divided by the total number of months in all taxable years beginning during the calendar year.

2. Example. XYZ, Inc. files on a calendar year basis. On December 21, 1987, XYZ, Inc. is acquired by Holding, Inc., which files its returns on the basis of a fiscal year ending on September 30. In order to be included in a consolidated return with Holding, Inc., XYZ, Inc. files two returns for taxable years beginning in 1988 - a short-year return for the period January 1, 1988 through September 30, 1988 (nine months) and a return for the period October 1, 1988 through September 30, 1989 (12 months). Because there are two taxable years beginning in 1988, which cover a

total of 21 months, the post-1987 ACRS subtraction for 1988 (10% of the outstanding balance of excess cost recovery) must be prorated between the nine-month taxable year and the 12-month taxable year as follows:

Taxable year 1/1/88-9/30/88:  $10\% \times 9/21 = 4.29\%$

Taxable year 10/1/88-9/30/89:  $10\% \times 12/21 = 5.71\%$

Total subtractions for 1988 = 10.00%

#### F. Former S individual.

1. If an S individual ceases to qualify as such and becomes taxable under subchapter C of the I.R.C., its post-1987 ACRS subtraction shall be the amount by which:

a. The total post-1987 ACRS subtractions for the current and all prior taxable years computed under § 3.C relating to corporations, exceeds

b. The total post-1987 ACRS subtractions which were actually passed through to beneficiaries, partners and shareholders by the former S individual or which were claimed by the individual after it ceased to qualify as an S individual.

#### § 5. Carryover of unused subtractions.

##### A. Individuals.

1. Any individual who has insufficient income to offset the full amount of the post-1987 ACRS subtraction shall add the amount not offset to the amount allowable for the following taxable year. No amount may be subtracted under this subdivision in any taxable year beginning on or after January 1, 1990. An individual who has not recovered the full amount of the outstanding balance of excess cost recovery under this section or under § 4 on his income tax returns filed for taxable years 1988 and 1989, may qualify to file an application for a refund under § 7 of this regulation.

2. The portion of any post-1987 ACRS subtraction available for carryover is the lesser of:

a. The amount by which Virginia taxable income is less than zero, or

b. The post-1987 ACRS subtraction for the taxable year including amounts carried over from a prior year under this section.

3. A taxpayer may not elect to claim less than the allowable post-1987 ACRS subtraction in any year in order to take advantage of a credit, or for any other reason.

4. Example.

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a. Taxpayer A, an individual filing on a calendar year, has an outstanding balance of excess cost recovery equal to \$9,000 after taxable year 1987. For calendar year 1988 he is single with federal adjusted gross income of \$12,350 and Virginia itemized deductions of \$7,250. For Virginia income tax purposes, he has no federal adjusted gross income and he has no subtractions from federal adjusted gross income other than his post-1987 ACRS subtraction. His carryover from taxable year 1988 to 1989 is \$1,700, which is computed in the following manner:

Federal Adjusted Gross Income	\$12,350
Va. Personal Exemption	- 800
Va. Itemized Deductions	- 7,250
Post-1987 ACRS Subtraction (\$9,000 x 2/3)	- 6,000
Va. Taxable Income	- 1,700

b. Taxpayer A would be allowed to carryover \$1,700 of his post-1987 ACRS subtraction for 1988 to 1989 and add it to the post-1987 ACRS subtraction (\$3,000) otherwise allowable as a subtraction in 1989. Therefore, in 1989 Taxpayer A will have a total post-1987 ACRS subtraction of \$4,700 (\$1,700 carryover from 1988 + \$3,000 for 1989).

c. Taxpayer A may not claim a post-1987 ACRS subtraction of less than \$6,000 in 1988 (increasing the amount carried over to 1989) in order to take advantage of an energy income tax credit carried over from 1987 (which cannot be carried over to 1989).

## B. Corporations.

1. Any corporation which has insufficient income to offset the full amount of the post-1987 ACRS subtraction shall add the amount not offset to the amount allowable for the following taxable year. No amount may be subtracted under this subdivision in any taxable year beginning on or after January 1, 1993. Any individual that has not recovered the full amount of the outstanding balance of excess cost recovery under § 4 or under this section on income tax returns filed for taxable years beginning on or after January 1, 1988, but before January 1, 1993 may qualify to file an application for a refund under § 7 of this regulation.

2. The amount of the post-1987 ACRS subtraction available for carryover is the lesser of:

a. The amount by which Virginia taxable income is less than zero, or

b. The post-1987 ACRS subtraction for the taxable year including amounts carried over from a prior year under this section.

3. Example. ABC, Inc. has an outstanding balance of excess cost recovery equal to \$120,000 after taxable year 1987. Under § 4 the allowable post-1987 ACRS subtraction is \$12,000 for 1988 and 1989, \$36,000 for 1990 and 1991, and \$24,000 for 1992. ABC has losses or income which are insufficient to absorb the full amount of the post-1987 ACRS subtractions in every year. The Virginia taxable income and carryover would be computed as follows:

Taxable year	1988	1989	1990	1991	1992
Taxable Income Before Post 1987 ACRS Subtraction:	10,000	-5,000	28,000	78,000	36,000
Post-1987 ACRS Subtractions for current year:	12,000	12,000	36,000	36,000	24,000
from prior year:	N/A	2,000	14,000	22,000	0
Taxable Income:	-2,000	-19,000	-22,000	20,000	12,000
Post-1987 ACRS Subtraction available for next year:	2,000	14,000	22,000	0	N/A

"N/A " means a carryover is not available to or from the taxable year.

## § 6. Final return.

1. When any taxpayer has filed a final federal return due to the death of an individual or the dissolution of a partnership, estate, trust, or individual, for a taxable year beginning on and after January 1, 1988, the taxpayer may claim the entire outstanding balance of excess cost recovery (less amounts already claimed as a post-1987 ACRS subtraction) on the final Virginia return. If the taxpayer has insufficient income to offset the entire amount allowable under this subdivision, an application for the refund of unrecovered taxes paid on the outstanding balance of excess cost recovery may be filed under § 7.

2. The fact that a taxpayer files a final Virginia return because an individual has moved from Virginia or a business has discontinued operations in Virginia shall not entitle the taxpayer to the immediate subtraction or refund allowed in § 7.A. 1.

## § 7. Application for refund.

### A. Generally.

1. Any taxpayer who can demonstrate that the entire

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outstanding balance of the excess cost recovery as computed in § 3 has not been recovered through post-1987 ACRS subtractions allowable under §§ 4 or 5 by such taxpayer or any other taxpayer may apply for a refund of unrecovered taxes paid on the outstanding balance of excess cost recovery.

2. When any taxpayer has filed a final federal return due to the death of an individual or the dissolution of a partnership, estate, trust, or individual, an application for the refund of unrecovered taxes paid on the outstanding balance of excess cost recovery may be filed by the person authorized to act on behalf of the deceased or dissolved taxpayer.

3. The fact that a taxpayer files a final Virginia return because an individual has moved from Virginia or a business has discontinued its operations in Virginia shall not entitle the taxpayer to apply for a refund under this section.

4. Estates, trusts, partnerships and S corporations shall not apply for a refund under this section except to the extent that the fiduciary of an estate or trust paid tax on accumulated income.

## B. Computation of the refund amount.

1. The refund shall be computed upon the amount of the outstanding balance of excess cost recovery which has not been recovered through post-1987 ACRS subtractions allowable under §§ 4 or 5. This amount shall be multiplied by 5.75% (0.0575) in the case of an individual or by 6.0% (0.06) in the case of a individual.

2. In no case shall the amount of refund allowed under this section exceed the amount of tax that was actually paid on the outstanding balance of excess cost recovery and not otherwise recovered through post-1987 ACRS subtractions. For the purpose of computing the tax actually paid on the outstanding balance of excess cost recovery:

a. A beneficiary may include tax paid by an estate or trust on accumulated income if such income was distributed to him on or before the last day of the last taxable year beginning before January 1, 1988 (December 31, 1987, in the case of an estate or trust reporting on a calendar year).

b. A shareholder of an S individual may include tax paid by the individual in years before it elected S individual status.

c. In the case of a net operating loss, a taxpayer may include either:

(1) Virginia income tax paid in the year of the loss (if any), or

(2) Virginia income tax paid in a year to which any portion of the loss year ACRS addition and ACRS subtraction may have been carried with a federal net operating loss deduction.

d. In the case of a individual required to allocate and apportion its income for any taxable year in which an ACRS addition was reported the Virginia income tax paid for such year shall be the tax attributable to the ACRS addition (net of any allowable ACRS subtraction) after apportionment.

## 3. Examples.

a. Newco, Inc. is incorporated in 1986 and dissolved in 1988 after incurring losses in each of the three taxable years. Newco reports ACRS additions of \$1,000 on its 1986 return and \$1,500 on its 1987 return. Newco's outstanding balance of excess cost recovery is \$2,500, none of which is recovered in 1988 because of the loss for the taxable year. Since it filed a final return in 1988 Newco is eligible to file an application for refund under § 7.A. However, no refund is allowable under § 7.B.2. because Newco has not paid any Virginia income tax attributable to the ACRS additions. On the other hand, if Newco has paid Virginia income tax of at least \$60 in 1986 and \$90 in 1987 then Newco would be eligible for a refund of \$150 ( $\$2,500 \times 0.06$ ) under § 7.B.1.

b. James Smith moved to Virginia in 1987 and was required to report an ACRS addition in the amount of \$6,000 on his 1987 return. His outstanding balance of excess cost recovery is \$6,000 which will be subtracted in 1988 and 1989. After filing his 1989 return, Mr. Smith still has \$4,000 of the outstanding balance of excess cost recovery which has not offset income and requests a refund in the amount of \$230 ( $\$4,000 \times 0.0575$ ). Mr. Smith's refund is limited to \$203, the amount of tax paid in 1987 attributable to ACRS additions, as shown below.

Taxable year	1987
Federal Adjusted Gross Income	\$9,000
Additions (other than ACRS)	0
Subtractions (other than ACRS)	0
Va. Personal Exemption	700
Va. Itemized Deductions	7,200
Taxable income before ACRS	1,100
ACRS Addition	6,000
ACRS Subtraction	0
Virginia taxable income	7,100
Tax without ACRS addition	22
Tax with ACRS addition	225



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Tax attributable to ACRS addition

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## C. When to file the application for refund.

1. The application for refund may be filed after filing final federal and Virginia income tax returns as provided in § 6 or after filing the income tax return for the last taxable year specified under § 4 for claiming a post-1987 ACRS subtraction.

2. An application for refund must be filed within three years of the applicable date.

a. In the case of a final federal and Virginia return due to the death or dissolution of a taxpayer, the applicable date is the later of July 1, 1988, for a final return for a period beginning before January 1, 1988, or the due date of the final return for a period beginning on or after January 1, 1988.

b. In the case of an application for refund of unrecovered taxes paid on the outstanding balance of excess cost recovery, the applicable date is the due date of the last return on which the taxpayer is entitled to claim a subtraction under §§ 4 or 5. A calendar year individual may file such application after filing the income tax return for 1989. A calendar year individual may file such application after filing the income tax return for 1992.

## D. Form of application.

Any application for refund of unrecovered taxes paid on the outstanding balance of excess cost recovery shall be filed by a letter to the Tax Commissioner requesting the refund or by amended return. The letter shall provide sufficient documentation to demonstrate that the amount of refund requested does not exceed the amount specified in § 7.B.2. (tax actually paid).

## E. Accelerated application for refund.

A individual which would be entitled to file an application for a refund under this section may apply to the Tax Commissioner for permission to claim the refund in an earlier taxable year. The Tax Commissioner shall have the authority, at his discretion, to allow the refund to be claimed in an earlier taxable year if the taxpayer has demonstrated to the satisfaction of the Tax Commissioner that:

1. The taxpayer has paid Virginia income tax with respect to its outstanding balance of excess cost recovery,
2. The taxpayer has not recovered any portion of the outstanding balance of excess cost recovery,
3. The taxpayer will be required to file a Virginia income tax return for each year in which a subtraction is allowable under §§ 4 and 5,

4. The taxpayer can reasonably expect never to have any federal taxable income or Virginia taxable income to offset the subtractions allowable under §§ 4 and 5, and

5. No other taxpayer may claim or has claimed a subtraction or a refund with respect to the taxpayer's outstanding balance of excess cost recovery by reason of § 8.A (Successor entities) or § 4.D (Conduit entities).

## F. Interest.

No interest shall be paid on refunds made under this section.

## § 8. Special rules.

### A. Successor entities.

In computing the outstanding balance of excess cost recovery a taxpayer may include ACRS additions and ACRS subtractions made by other taxpayers in the following situations:

1. A surviving spouse may include ACRS additions and ACRS subtractions made on a joint or combined Virginia return with the decedent.

2. A corporate taxpayer may include ACRS additions and ACRS subtractions made by another individual if there has been a merger or other form of reorganization under the following conditions:

a. The taxpayer would be allowed under federal law to claim a net operating loss deduction based upon a net operating loss incurred by the other individual, assuming such other individual incurred a net operating loss.

b. A statement shall be attached to the return setting forth:

(1) The name and taxpayer I.D. No. of such other individual,

(2) Details of the ACRS additions, ACRS subtractions and post-1987 ACRS subtractions claimed by such other individual,

(3) An explanation of the relationship between the taxpayer and such other individual, and

(4) A statement signed by the taxpayer to the effect that the post-1987 ACRS subtraction has not, and will not, be claimed by any other taxpayer on any other return, including the final return of such other individual.

3. A successor entity which elects to include ACRS additions and ACRS subtractions of another taxpayer

in its outstanding balance of excess cost recovery shall not be eligible to apply for a refund under § 7 due to the final federal and Virginia return of such other taxpayer.

**B. Multiple recovery prohibited.**

A taxpayer may not claim a subtraction under §§ 4 or 5 or a refund under § 7 with respect to any portion of the outstanding balance of excess cost recovery which such taxpayer or any other taxpayer has previously recovered.

**C. Net operating losses.**

1. In the case of net operating losses occurring in a taxable year beginning before January 1, 1988:

a. A federal net operating loss deduction with respect to such loss which is claimed in a taxable year beginning before January 1, 1988, shall carry with it the ACRS additions and ACRS subtractions as provided in § 1.B.5(iii) of VR 630-3-402 and § 4 of VR 630-2-311.1.

b. A federal net operating loss deduction with respect to such loss which is claimed in a taxable year beginning on and after January 1, 1988, shall not carry with it any ACRS additions or ACRS subtractions.

c. In computing the outstanding balance of excess cost recovery, the ACRS additions and ACRS subtractions for the loss year shall be included only once, for the year of the loss. Amounts carried to other years with the federal net operating loss deduction shall be ignored.

2. For net operating losses occurring in a taxable year beginning on and after January 1, 1988, a federal net operating loss deduction with respect to such loss shall not carry with it any portion of the subtraction allowable under §§ 4 and 5.

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**Title of Regulation:** VR 630-3-323.1. Corporation Income Tax: Excess Cost Recovery.

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

**Public Hearing Date:** January 9, 1989 - 9 a.m.  
(See Calendar of Events section for additional information)

**Summary:**

This regulation explains the new requirements for the return of the outstanding balance of excess cost recovery to taxpayers beginning in 1988. The "outstanding balance of excess cost recovery" is

defined as the difference between all ACRS additions reported on returns actually filed for 1982-1987 and all ACRS subtractions which would have been allowable for 1984-1987 whether or not a return was filed (see §§ 1 and 3). In most cases corporations may recover this "outstanding balance of excess cost recovery" through annual post-1987 subtractions over a five year period (see § 4).

Generally, if a taxpayer has insufficient income to benefit from a subtraction in a particular year, all or part of the subtraction may be carried over to the next year (see § 5). A taxpayer who files a final federal and Virginia return may claim an immediate subtraction for the unrecovered outstanding balance of excess cost recovery (see § 6). If, after filing a corporate return for 1992, or after filing a final federal and Virginia return, the taxpayer still has not recouped the outstanding balance of excess cost recovery, the taxpayer may file an application for a refund (see § 7).

VR 630-3-323.1. Corporation Income Tax: Excess Cost Recovery.

**§ 1. Definitions.**

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

"ACRS addition" means an excess cost recovery addition actually reported under § 58-151.013(b)(6) (prior to the recodification of Title 58), § 58.1-322.B.6. (for individuals) and § 58.1-402.B.3. (for corporations) of the Code of Virginia, on any return filed for a taxable year beginning between January 1, 1982 and December 31, 1987.

"ACRS subtraction" means an excess cost recovery subtraction allowable under § 58-151.013(c)(10) (prior to the recodification of Title 58), § 58.1-322.C.8. (for individuals) and § 58.1-402 C 9 (for corporations) of the Code of Virginia, for any taxable year beginning after December 31, 1983, but before January 1, 1988, regardless of whether or not a return was filed to claim the allowable subtraction.

"Corporation" means any person or entity subject to tax or required to file a return under Article 10, Chapter 3 (§ 58.1-400 et seq.) of Title 58.1 of the Code of Virginia.

"Individual" means any natural person, married or unmarried, who is subject to taxation or required to file a return under Article 2 of Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 of the Code of Virginia.

"Outstanding balance of excess cost recovery" means the amount equal to the difference between:

- 1. The sum of the ACRS additions actually reported

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on Virginia returns filed for taxable years beginning on and after January 1, 1982 and before January 1, 1988; and

2. The sum of the ACRS subtractions allowed or allowable on Virginia returns, regardless of whether or not a Virginia return was actually filed, for taxable years beginning on and after January 1, 1984 and before January 1, 1988.

"Post-1987 ACRS subtraction" means the portion of the outstanding balance of excess cost recovery which may be subtracted by individuals on returns for taxable years beginning on or after January 1, 1988 and before January 1, 1990, or by corporations on returns for taxable years beginning on or after January 1, 1988, and before January 1, 1993.

## § 2. Purpose.

### A. Generally.

The Virginia Tax Reform Act of 1987 added § 58.1-323.1 of the Code of Virginia which phases out the excess cost recovery program through the allowance of post-1987 subtractions effective for taxable years beginning on and after January 1, 1988. In 1988 § 58.1-323.1 was amended to permit a refund if a final federal and Virginia return was filed for a taxable year beginning prior to January 1, 1988. This regulation sets forth the rules applicable to both individual and corporate taxpayers. In most cases the outstanding balance of excess cost recovery may be recouped through annual post-1987 subtractions over a two year period for individual taxpayers and a five year period for corporate taxpayers (see § 4). Generally, if a taxpayer has insufficient income to benefit from a subtraction in a particular year, all or part of the subtraction may be carried over to the next year (see § 5). A taxpayer who files a final federal and Virginia return may claim an immediate subtraction for the unrecovered outstanding balance of excess cost recovery (see § 6). If at a conclusion of the applicable subtraction period (1989 for individuals and 1992 for corporations), or after filing a final federal and Virginia return, the taxpayer still has not recouped the outstanding balance of excess cost recovery, the taxpayer may qualify to file an application for a refund (see § 7)

### B. Exclusive method.

Effective for taxable years beginning on and after January 1, 1988, the post-1987 subtractions and refunds allowable under this regulation shall be the exclusive means of recovering the outstanding balance of excess cost recovery.

§ 3. Computation of the outstanding balance of excess cost recovery.

### A. Generally.

A taxpayer's outstanding balance of excess cost recovery is computed only with respect to ACRS additions attributable to federal ACRS deductions on property owned directly by the taxpayer or deemed to be owned by the taxpayer for federal income tax purposes, and ACRS subtractions attributable to such ACRS additions. For the treatment of ACRS additions and ACRS subtractions passed through from a conduit entity see § 4.D.

### B. Computation.

1. The outstanding balance of excess cost recovery includes the sum of ACRS additions actually reported on a Virginia return for taxable years beginning on and after January 1, 1982, and before January 1, 1988. If no Virginia return was filed for a taxable year then no ACRS addition with respect to such taxable year may be included in the outstanding balance of excess cost recovery.

2. For most taxpayers the information necessary to compute the "outstanding balance of excess cost recovery" can be found on the Form 302 included with the Virginia returns for taxable years 1986 and 1987.

a. The "ACRS additions" for taxable years 1982, 1983, 1984, and 1985 can be found in Column B of part II of the Form 302 attached to the 1986 and 1987 return.

b. The "ACRS additions" for taxable years 1986 and 1987 can be found in Part I of the Form 302 attached to the 1986 and 1987 return, respectively.

3. The outstanding balance of excess cost recovery is reduced by the sum of ACRS subtractions which would have been allowable with respect to each biennium's ACRS additions, whether or not a return was actually filed claiming an ACRS subtraction in each taxable year beginning on and after January 1, 1984 and before January 1, 1988.

a. The ACRS subtractions which would have been allowable with respect to the first biennium, 1982/1983, are the sum of the ACRS additions actually reported on a Virginia return for all taxable years beginning on and after January 1, 1982, and before January 1, 1984, multiplied by 80% (the percentage allowed or allowable in the four taxable years following the close of the 1982/1983 biennium, i.e., 20% x 4) or by 100% (see subdivision (2) of this subdivision).

(1) The number of taxable years included in the first biennium may be one, two, or more, depending upon when the taxpayer was required to file a Virginia return and whether short taxable years were filed during the period.

(2) If one or more returns for a short taxable year were filed for a period beginning after the close of the 1982/1983 biennium the percentage allowed or allowable may be 100% for the first biennium (20% x 5).

b. The ACRS subtractions which would have been allowable with respect to the second biennium, 1984/1985, are the sum of the ACRS additions actually reported on a Virginia return for the first two taxable years beginning on and after January 1, 1984, multiplied by 40% (the percentage allowed or allowable in the two taxable years following the close of the 1984/1985 biennium, i.e., 20% x 2).

(1) The number of taxable years included in the second biennium will be two unless the taxpayer did not file a return or only filed one Virginia return during the period beginning after January 1, 1984.

(2) The percentage allowed or allowable may be more or less than 40% if one or more returns for a short taxable year were filed for a period beginning on and after January 1, 1984, or if the taxpayer was not required to file a Virginia return for a period beginning before January 1, 1985.

(3) For example: If a calendar year taxpayer first became subject to Virginia income tax in 1985, there would be no ACRS subtractions with respect to the first biennium because no returns were filed in 1982 and 1983, therefore, no ACRS additions were reported; the ACRS subtractions with respect to the second biennium would be based on ACRS additions reported on the 1985 and 1986 Virginia returns multiplied by 20% (i.e., 20% x 1, the number of taxable years beginning after the close of the second biennium and before January 1, 1988).

c. The ACRS subtractions which would have been allowable with respect to the third biennium, 1986/1987, will be zero unless one or more returns for a short taxable year were filed for a period beginning on and after January 1, 1984.

## § 4. Post-1987 ACRS subtractions.

### A. Generally.

1. Except as otherwise provided in § 5, Carryover of unused subtractions; § 6, Final return; § 7, Application for refund; and § 8, Special rules, the outstanding balance of excess cost recovery as computed in § 3 shall be claimed as post-1987 ACRS subtractions on returns filed for taxable years beginning on and after January 1, 1988 as set forth in this section.

2. A taxpayer's post-1987 ACRS subtraction for a taxable year is the sum of:

a. The post-1987 ACRS subtraction computed as set forth in this section with respect to the outstanding balance of excess cost recovery attributable to federal ACRS deductions on property owned directly by the taxpayer or deemed to be owned by the taxpayer for federal income tax purposes, and

b. The post-1987 ACRS subtraction computed as set forth in this section with respect to the outstanding balance of excess cost recovery computed in accordance with § 3.B by a conduit entity and passed through to the taxpayer in accordance with § 4.D.

### B. Individuals.

1. 1988. For the taxable year beginning in 1988 the post-1987 ACRS subtraction is equal to two-thirds of the outstanding balance of excess cost recovery.

2. 1989. For the taxable year beginning in 1988 the post-1987 ACRS subtraction is equal to one-third of the outstanding balance of excess cost recovery.

### C. Corporations.

1. 1988. For the taxable year beginning in 1988 the post-1987 ACRS subtraction is equal to 10% of the outstanding balance of excess cost recovery.

2. 1989. For the taxable year beginning in 1989 the post-1987 ACRS subtraction is equal to 10% of the outstanding balance of excess cost recovery.

3. 1990. For the taxable year beginning in 1990 the post-1987 ACRS subtraction is equal to 30% of the outstanding balance of excess cost recovery.

4. 1991. For the taxable year beginning 1991 the post-1987 ACRS subtraction is equal to 30% of the outstanding balance of excess cost recovery.

5. 1992. For the taxable year beginning 1992 the post-1987 ACRS subtraction is equal to 20% of the outstanding balance of excess cost recovery.

### D. Conduit entities.

1. A conduit entity (estate, trust, partnership and S corporation) shall compute its outstanding balance of excess cost recovery in accordance with § 3.B.

2. In each taxable year beginning on and after January 1, 1988, and before January 1, 1990, a conduit entity shall compute the post-1987 ACRS subtraction in accordance with § 4.B relating to individuals without regard to whether or not the beneficiary, fiduciary, partner or shareholder is an individual, and shall provide each beneficiary, partner or shareholder with sufficient information to report the appropriate post-1987 ACRS subtraction.

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3. If a conduit entity files a short year return for the fiscal year ended December 31, 1987, in order to change its taxable year to a calendar year, each beneficiary, partner, or shareholder may, in certain circumstances, elect to spread the income from the conduit entity's short taxable year over four taxable years for federal income tax purposes. If such an election is made:

a. One-quarter of the conduit entity's Virginia modifications for the short taxable year (including the ACRS addition and ACRS subtraction) must be included in the 1987 Virginia taxable income of the beneficiary, partner, or shareholder;

b. One-quarter of the conduit entity's Virginia modifications for the short taxable year (excluding the ACRS addition and ACRS subtraction) must be included in the Virginia taxable income of the beneficiary, partner, or shareholder in each of the three following taxable years; and

c. The beneficiary, partner, or shareholder shall adjust the post-1987 ACRS subtraction passed through from the conduit entity in each taxable year as follows: (i) for 1988, by subtracting one-half of the conduit entity's 1987 ACRS addition and adding one-half of the conduit entity's 1987 ACRS subtraction; (ii) for 1989, by subtracting one-quarter of the conduit entity's 1987 ACRS addition and adding one-quarter of the conduit entity's 1987 ACRS subtraction.

## E. Short taxable year.

1. If there is more than one taxable year beginning on or after January 1, 1988, because of a taxable year of less than 12 months, the allowable portion of the subtraction shall be prorated between all taxable years which begin in the same calendar year. The proration will be based on the number of months in each taxable year divided by the total number of months in all taxable years beginning during the calendar year.

2. Example. XYZ, Inc. files on a calendar year basis. On December 21, 1987, XYZ, Inc. is acquired by Holding, Inc., which files its returns on the basis of a fiscal year ending on September 30. In order to be included in a consolidated return with Holding, Inc., XYZ, Inc. files two returns for taxable years beginning in 1988 - a short-year return for the period January 1, 1988 through September 30, 1988 (nine months) and a return for the period October 1, 1988 through September 30, 1989 (12 months). Because there are two taxable years beginning in 1988, which cover a total of 21 months, the post-1987 ACRS subtraction for 1988 (10% of the outstanding balance of excess cost recovery) must be prorated between the nine-month taxable year and the 12-month taxable year as follows:

Taxable year 1/1/88-9/30/88:  $10\% \times 9/21 = 4.29\%$

Taxable year 10/1/88-9/30/89:  $10\% \times 12/21 = 5.71\%$

Total subtractions for 1988 = 10.00%

## F. Former S corporation.

1. If an S corporation ceases to qualify as such and becomes taxable under subchapter C of the I.R.C., its post-1987 ACRS subtraction shall be the amount by which:

a. The total post-1987 ACRS subtractions for the current and all prior taxable years computed under § 3.C relating to corporations, exceeds

b. The total post-1987 ACRS subtractions which were actually passed through to beneficiaries, partners and shareholders by the former S corporation or which were claimed by the corporation after it ceased to qualify as an S corporation.

## § 5. Carryover of unused subtractions.

### A. Individuals.

1. Any individual who has insufficient income to offset the full amount of the post-1987 ACRS subtraction shall add the amount not offset to the amount allowable for the following taxable year. No amount may be subtracted under this subdivision in any taxable year beginning on or after January 1, 1990. An individual who has not recovered the full amount of the outstanding balance of excess cost recovery under this section or under § 4 on his income tax returns filed for taxable years 1988 and 1989, may qualify to file an application for a refund under § 7 of this regulation.

2. The portion of any post-1987 ACRS subtraction available for carryover is the lesser of:

a. The amount by which Virginia taxable income is less than zero, or

b. The post-1987 ACRS subtraction for the taxable year including amounts carried over from a prior year under this section.

3. A taxpayer may not elect to claim less than the allowable post-1987 ACRS subtraction in any year in order to take advantage of a credit, or for any other reason.

### 4. Example.

a. Taxpayer A, an individual filing on a calendar year, has an outstanding balance of excess cost recovery equal to \$9,000 after taxable year 1987. For calendar year 1988 he is single with federal

adjusted gross income of \$12,350 and Virginia itemized deductions of \$7,250. For Virginia income tax purposes, he has no federal adjusted gross income and he has no subtractions from federal adjusted gross income other than his post-1987 ACRS subtraction. His carryover from taxable year 1988 to 1989 is \$1,700, which is computed in the following manner:

Federal Adjusted Gross Income	\$12,350
Va. Personal Exemption	- 800
Va. Itemized Deductions	- 7,250
Post-1987 ACRS Subtraction (\$9,000 x 2/3)	- 6,000
Va. Taxable Income	- 1,700

b. Taxpayer A would be allowed to carryover \$1,700 of his post-1987 ACRS subtraction for 1988 to 1989 and add it to the post-1987 ACRS subtraction (\$3,000) otherwise allowable as a subtraction in 1989. Therefore, in 1989 Taxpayer A will have a total post-1987 ACRS subtraction of \$4,700 (\$1,700 carryover from 1988 + \$3,000 for 1989).

c. Taxpayer A may not claim a post-1987 ACRS subtraction of less than \$6,000 in 1988 (increasing the amount carried over to 1989) in order to take advantage of an energy income tax credit carried over from 1987 (which cannot be carried over to 1989).

## B. Corporations.

1. Any corporation which has insufficient income to offset the full amount of the post-1987 ACRS subtraction shall add the amount not offset to the amount allowable for the following taxable year. No amount may be subtracted under this subdivision in any taxable year beginning on or after January 1, 1993. Any corporation that has not recovered the full amount of the outstanding balance of excess cost recovery under § 4 or under this section on income tax returns filed for taxable years beginning on or after January 1, 1988, but before January 1, 1993 may qualify to file an application for a refund under § 7 of this regulation.

2. The amount of the post-1987 ACRS subtraction available for carryover is the lesser of:

a. The amount by which Virginia taxable income is less than zero, or

b. The post-1987 ACRS subtraction for the taxable year including amounts carried over from a prior year under this section.

3. Example. ABC, Inc. has an outstanding balance of excess cost recovery equal to \$120,000 after taxable year 1987. Under § 4 the allowable post-1987 ACRS subtraction is \$12,000 for 1988 and 1989, \$36,000 for 1990 and 1991, and \$24,000 for 1992. ABC has losses or income which are insufficient to absorb the full amount of the post-1987 ACRS subtractions in every year. The Virginia taxable income and carryover would be computed as follows:

Taxable year	1988	1989	1990	1991	1992
<b>Taxable Income</b>					
Before Post 1987 ACRS Subtraction:	10,000	-5,000	28,000	78,000	36,000
<b>Post-1987 ACRS Subtractions</b>					
for current year:	12,000	12,000	36,000	36,000	24,000
from prior year:	N/A	2,000	14,000	22,000	0
<b>Taxable Income:</b>	-2,000	-19,000	-22,000	20,000	12,000
<b>Post-1987 ACRS Subtraction available for next year:</b>					
	2,000	14,000	22,000	0	N/A

"N/A " means a carryover is not available to or from the taxable year.

## § 6. Final return.

1. When any taxpayer has filed a final federal return due to the death of an individual or the dissolution of a partnership, estate, trust, or corporation, for a taxable year beginning on and after January 1, 1988, the taxpayer may claim the entire outstanding balance of excess cost recovery (less amounts already claimed as a post-1987 ACRS subtraction) on the final Virginia return. If the taxpayer has insufficient income to offset the entire amount allowable under this subdivision, an application for the refund of unrecovered taxes paid on the outstanding balance of excess cost recovery may be filed under § 7.

2. The fact that a taxpayer files a final Virginia return because an individual has moved from Virginia or a business has discontinued operations in Virginia shall not entitle the taxpayer to the immediate subtraction or refund allowed in § 7.A. 1.

## § 7. Application for refund.

### A. Generally.

1. Any taxpayer who can demonstrate that the entire outstanding balance of the excess cost recovery as computed in § 3 has not been recovered through post-1987 ACRS subtractions allowable under §§ 4 or 5 by such taxpayer or any other taxpayer may apply

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for a refund of unrecovered taxes paid on the outstanding balance of excess cost recovery.

2. When any taxpayer has filed a final federal return due to the death of an individual or the dissolution of a partnership, estate, trust, or corporation, an application for the refund of unrecovered taxes paid on the outstanding balance of excess cost recovery may be filed by the person authorized to act on behalf of the deceased or dissolved taxpayer.

3. The fact that a taxpayer files a final Virginia return because an individual has moved from Virginia or a business has discontinued its operations in Virginia shall not entitle the taxpayer to apply for a refund under this section.

4. Estates, trusts, partnerships and S corporations shall not apply for a refund under this section except to the extent that the fiduciary of an estate or trust paid tax on accumulated income.

## B. Computation of the refund amount.

1. The refund shall be computed upon the amount of the outstanding balance of excess cost recovery which has not been recovered through post-1987 ACRS subtractions allowable under §§ 4 or 5. This amount shall be multiplied by 5.75% (0.0575) in the case of an individual or by 6.0% (0.06) in the case of a corporation.

2. In no case shall the amount of refund allowed under this section exceed the amount of tax that was actually paid on the outstanding balance of excess cost recovery and not otherwise recovered through post-1987 ACRS subtractions. For the purpose of computing the tax actually paid on the outstanding balance of excess cost recovery:

a. A beneficiary may include tax paid by an estate or trust on accumulated income if such income was distributed to him on or before the last day of the last taxable year beginning before January 1, 1988 (December 31, 1987, in the case of an estate or trust reporting on a calendar year).

b. A shareholder of an S corporation may include tax paid by the corporation in years before it elected S corporation status.

c. In the case of a net operating loss, a taxpayer may include either:

(1) Virginia income tax paid in the year of the loss (if any), or

(2) Virginia income tax paid in a year to which any portion of the loss year ACRS addition and ACRS subtraction may have been carried with a federal net operating loss deduction.

d. In the case of a corporation required to allocate and apportion its income for any taxable year in which an ACRS addition was reported the Virginia income tax paid for such year shall be the tax attributable to the ACRS addition (net of any allowable ACRS subtraction) after apportionment.

## 3. Examples.

a. Newco, Inc. is incorporated in 1986 and dissolved in 1988 after incurring losses in each of the three taxable years. Newco reports ACRS additions of \$1,000 on its 1986 return and \$1,500 on its 1987 return. Newco's outstanding balance of excess cost recovery is \$2,500, none of which is recovered in 1988 because of the loss for the taxable year. Since it filed a final return in 1988 Newco is eligible to file an application for refund under § 7.A. However, no refund is allowable under § 7.B.2. because Newco has not paid any Virginia income tax attributable to the ACRS additions. On the other hand, if Newco has paid Virginia income tax of at least \$60 in 1986 and \$90 in 1987 then Newco would be eligible for a refund of \$150 ( $\$2,500 \times 0.06$ ) under § 7.B.1.

b. James Smith moved to Virginia in 1987 and was required to report an ACRS addition in the amount of \$6,000 on his 1987 return. His outstanding balance of excess cost recovery is \$6,000 which will be subtracted in 1988 and 1989. After filing his 1989 return, Mr. Smith still has \$4,000 of the outstanding balance of excess cost recovery which has not offset income and requests a refund in the amount of \$230 ( $\$4,000 \times 0.0575$ ). Mr. Smith's refund is limited to \$203, the amount of tax paid in 1987 attributable to ACRS additions, as shown below.

Taxable year	1987
Federal Adjusted Gross Income	\$9,000
Additions (other than ACRS)	0
Subtractions (other than ACRS)	0
Va. Personal Exemption	700
Va. Itemized Deductions	7,200
Taxable income before ACRS	1,100
ACRS Addition	6,000
ACRS Subtraction	0
Virginia taxable income	7,100
Tax without ACRS addition	22
Tax with ACRS addition	225
Tax attributable to ACRS addition	203

C. When to file the application for refund.

1. The application for refund may be filed after filing final federal and Virginia income tax returns as provided in § 6 or after filing the income tax return for the last taxable year specified under § 4 for claiming a post-1987 ACRS subtraction.

2. An application for refund must be filed within three years of the applicable date.

a. In the case of a final federal and Virginia return due to the death or dissolution of a taxpayer, the applicable date is the later of July 1, 1988, for a final return for a period beginning before January 1, 1988, or the due date of the final return for a period beginning on or after January 1, 1988.

b. In the case of an application for refund of unrecovered taxes paid on the outstanding balance of excess cost recovery, the applicable date is the due date of the last return on which the taxpayer is entitled to claim a subtraction under §§ 4 or 5. A calendar year individual may file such application after filing the income tax return for 1989. A calendar year corporation may file such application after filing the income tax return for 1992.

#### D. Form of application.

Any application for refund of unrecovered taxes paid on the outstanding balance of excess cost recovery shall be filed by a letter to the Tax Commissioner requesting the refund or by amended return. The letter shall provide sufficient documentation to demonstrate that the amount of refund requested does not exceed the amount specified in § 7.B.2. (tax actually paid).

#### E. Accelerated application for refund.

A corporation which would be entitled to file an application for a refund under this section may apply to the Tax Commissioner for permission to claim the refund in an earlier taxable year. The Tax Commissioner shall have the authority, at his discretion, to allow the refund to be claimed in an earlier taxable year if the taxpayer has demonstrated to the satisfaction of the Tax Commissioner that:

1. The taxpayer has paid Virginia income tax with respect to its outstanding balance of excess cost recovery,

2. The taxpayer has not recovered any portion of the outstanding balance of excess cost recovery,

3. The taxpayer will be required to file a Virginia income tax return for each year in which a subtraction is allowable under §§ 4 and 5,

4. The taxpayer can reasonably expect never to have any federal taxable income or Virginia taxable income to offset the subtractions allowable under §§ 4 and 5,

and

5. No other taxpayer may claim or has claimed a subtraction or a refund with respect to the taxpayer's outstanding balance of excess cost recovery by reason of § 8.A (Successor entities) or § 4.D (Conduit entities).

#### F. Interest.

No interest shall be paid on refunds made under this section.

#### § 8. Special rules.

##### A. Successor entities.

In computing the outstanding balance of excess cost recovery a taxpayer may include ACRS additions and ACRS subtractions made by other taxpayers in the following situations:

1. A surviving spouse may include ACRS additions and ACRS subtractions made on a joint or combined Virginia return with the decedent.

2. A corporate taxpayer may include ACRS additions and ACRS subtractions made by another corporation if there has been a merger or other form of reorganization under the following conditions:

a. The taxpayer would be allowed under federal law to claim a net operating loss deduction based upon a net operating loss incurred by the other corporation, assuming such other corporation incurred a net operating loss.

b. A statement shall be attached to the return setting forth:

(1) The name and taxpayer I.D. No. of such other corporation,

(2) Details of the ACRS additions, ACRS subtractions and post-1987 ACRS subtractions claimed by such other corporation,

(3) An explanation of the relationship between the taxpayer and such other corporation, and

(4) A statement signed by the taxpayer to the effect that the post-1987 ACRS subtraction has not, and will not, be claimed by any other taxpayer on any other return, including the final return of such other corporation.

3. A successor entity which elects to include ACRS additions and ACRS subtractions of another taxpayer in its outstanding balance of excess cost recovery shall not be eligible to apply for a refund under § 7 due to the final federal and Virginia return of such



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other taxpayer.

## B. Multiple recovery prohibited.

A taxpayer may not claim a subtraction under §§ 4 or 5 or a refund under § 7 with respect to any portion of the outstanding balance of excess cost recovery which such taxpayer or any other taxpayer has previously recovered.

## C. Net operating losses.

1. In the case of net operating losses occurring in a taxable year beginning before January 1, 1988:

a. A federal net operating loss deduction with respect to such loss which is claimed in a taxable year beginning before January 1, 1988, shall carry with it the ACRS additions and ACRS subtractions as provided in § 1.B.5.(iii) of VR 630-3-402 and § 4 of VR 630-2-311.1.

b. A federal net operating loss deduction with respect to such loss which is claimed in a taxable year beginning on and after January 1, 1988, shall not carry with it any ACRS additions or ACRS subtractions.

c. In computing the outstanding balance of excess cost recovery, the ACRS additions and ACRS subtractions for the loss year shall be included only once, for the year of the loss. Amounts carried to other years with the federal net operating loss deduction shall be ignored.

2. For net operating losses occurring in a taxable year beginning on and after January 1, 1988, a federal net operating loss deduction with respect to such loss shall not carry with it any portion of the subtraction allowable under §§ 4 and 5.

## DEPARTMENT OF WASTE MANAGEMENT (BOARD OF)

**Title of Regulation:** VR 672-40-01. Infectious Waste Management Regulations.

**Statutory Authority:** § 10.1-1402 of the Code of Virginia.

### Public Hearing Dates:

December 12, 1988 - 10 a.m.

December 19, 1988 - 1 p.m.

December 21, 1988 - 10 a.m.

(See Calendar of Events section for additional information)

### Summary:

The regulations are constructed in 10 parts. In Part I, the definitions to be used in the succeeding parts are

listed. Part II states the purpose and authority for the regulations. The relationship to other state and local rules is established. Where there is no mutually exclusive conflict, both infectious waste management regulations and the other rules must be obeyed. The regulations will be effective on October 1, 1989.

Part III is devoted to defining infectious waste. A general descriptive definition of infectious waste is combined with a specific list of controlled infectious wastes. A list of activities are exempted from all or part of the regulations. A list of solid wastes are specifically excluded from consideration as infectious wastes, and a list of wastes that are infectious wastes are specifically excluded from application of the regulations.

Permits for storage, treatment and disposal of infectious wastes are required in Part IV. Qualifying on-site facilities may be considered to have a permit (by rule) without formal application procedures after their operators make a notification to the Department of Waste Management of their identity. Detailed rules for "double bagging" the waste are listed. For waste to be transported, additional rules describe boxing and labelling standards. Minimum standards for spill management, financial assurance, record keeping and closure are established. Infectious waste must be incinerated, sterilized with steam or disposed of in a sewer system.

Part V describes requirements for storage facilities, including refrigeration for periods longer than 72 hours and freezing for periods over seven days. Part VI describes requirements for transportation. Transporters are required to register with the department and to placard vehicles.

Part VII contains operational standards for incineration facilities. Part VIII contains operational standards for sterilization facilities. Part IX sets out the procedures for acquiring and holding a permit to store, treat or dispose of infectious waste. A detailed permit application submittal is specified. Part X provides procedures for acquiring and holding a special variance or exemption from the regulations. The executive director is empowered to grant variances and exemptions. The public may also petition the executive director to initiate special rulemaking.

VR 672-40-01. Infectious Waste Management Regulations.

## PART I. DEFINITIONS.

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

"Abandoned materials" means any material that is:

# Proposed Regulations

1. Disposed of;
2. Burned or incinerated; or
3. Accumulated, stored or treated before or in lieu of being abandoned by being disposed of, burned or incinerated.

"Act" or "regulations" means the federal or state law or regulation last cited in the context unless otherwise indicated.

"Active life" of a facility means the period from the initial receipt of waste at the facility until the executive director receives certification of final closure.

"Approved sanitary sewer system" means a network of sewers serving a facility which has been approved in writing by the Virginia Department of Health, including affiliated local health departments. Such sewer systems may be approved septic tank/drainfield systems and on-site treatment systems; or they may be a part of a collection system served by a NPDES permitted treatment works.

"Ash" means the residual waste material produced from an incineration process or any combustion.

"Authorized representative" means the manager, superintendent, or person of equivalent responsibility responsible for the overall operation of a facility or an operational unit (i.e., part of a facility).

"Autoclave tape" means tape which changes color or becomes striped when subjected to temperatures that will provide sterilization of materials during treatment in an autoclave or similar device.

"Board" means the Virginia Waste Management Board.

"Certification" means statement of professional opinion based on knowledge and belief.

"Clean Air Act" means 42 USC 1857 et seq. of 1963 as amended by PL 89-272, PL 89-675, PL 90-148, PL 91-604, PL 92-157, PL 93-319, PL 95-95 and PL 95-190.

"Closure" means the act of securing a waste management facility pursuant to the requirements of these regulations.

"Closure plan" means the plan for closure prepared in accordance with the requirements of these regulations.

"Commonwealth" means the Commonwealth of Virginia.

"Compliance schedule" means a time schedule of remedial measures to be employed on a solid waste management facility which will ultimately upgrade it to conform to these regulations.

"Container" means any portable enclosure in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activity; or the transfer of disease organisms, blood or other matter that may contain disease organisms from one material or object to another.

"Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in the event of a fire, explosion, or release of waste or waste constituents which could threaten human health or the environment.

"CWA" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act), Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576, 33 USC 1251 et seq.

"Department" means the Virginia Department of Waste Management.

"Discarded material" means a material which is abandoned, recycled, or considered inherently waste-like (as determined by the Executive Director on a case by case evaluation).

"Discharge" or "waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of waste into or on any land or state waters.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Disposal facility" means a facility or part of a facility at which waste is intentionally placed into or on any land or water, and at which the waste will remain after closure.

"Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

"Draft permit" means a document prepared under § 9.18 of these regulations indicating the executive director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit.

"Emergency permit" means a permit issued where an imminent and substantial endangerment to human health or the environment is determined to exist by the executive director.

"EPA" means the U.S. Environmental Protection Agency.

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*"Etiologic agents" means organisms defined to be etiologic agents in Title 49 of the U.S. Code of Federal Regulations at § 173.386.*

*"Executive director" means the executive director of the Department of Waste Management.*

*"Facility (activity)" means waste management facility as defined.*

*"Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency, or establishment of the federal government including any government corporation and the Government Printing Office.*

*"Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.*

*"Generator" means any person, by site location, whose act or process produces waste identified or listed in Part III of these regulations or whose act first causes a waste to become subject to these regulations.*

*"Hazardous material" means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated under 49 CFR 171 and 173.*

*"Hazardous waste" means any solid waste defined as a "hazardous waste" by the Virginia Hazardous Waste Management Regulations.*

*"Incinerator" means any enclosed device using controlled flame combustion.*

*"Infectious waste" means solid wastes defined to be infectious wastes in Part III of these regulations.*

*"Inherently waste like" means having one or more characteristics that are associated with waste materials and determined by the executive director to be a solid waste.*

*"In operation" means facilities that are treating, storing, or disposing of waste.*

*"Landfill" means a disposal facility or part of a facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.*

*"Mode (of transportation)" means any of the following transportation methods: rail, highway, air, or water.*

*"Monitoring" means all procedures used to systematically inspect and collect data on operational parameters of the facility or on the quality of the air,*

*ground water, surface water, or soils.*

*"Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and used in transportation or designed for such use.*

*"NPDES (National Pollutant Discharge Elimination System)" means the national program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits pursuant to §§ 402, 318, and 405 of CWA. The term includes any state or interstate program which has been approved by the administrator.*

*"Off-site" means any site that does not meet the definition of on-site as defined in this part.*

*"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along, the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.*

*"Operator" means the person responsible for the overall operation of a waste management facility.*

*"Owner" means the person who owns a waste management facility or part of a waste management facility.*

*"Package" or "outside package" means a packaging plus its contents.*

*"Packaging" means the assembly of one or more containers and any other components necessary to assure compliance with minimum packaging requirements under VRGTHM and these regulations.*

*"Pathological waste" means a solid waste that is human tissues, organs, body parts, fetuses, placentas, effluences or similar material; animal tissue, organs, body parts, fetuses, placentas, effluence or similar material from animals exposed to human pathogens for the purposes of testing or experimentation.*

*"Permit" means a control document issued by the Commonwealth pursuant to these regulations. The term "permit" includes any functional equivalent such as an authorization, license, or permit by rule.*

*"Permit by rule" means provisions of these regulations stating that a facility or activity is deemed to have a permit if it meets the requirements of the provision.*

*"Permitted waste management facility (or permitted facility)" means a waste treatment, storage, or disposal facility that has received a permit in accordance with the*

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requirements of the department.

"Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, any interstate body, or federal government agency.

"Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a waste management facility, and whose actions or failure to act may result in noncompliance with the requirements of these regulations.

"Physical construction" means excavation, movement of earth, erection of forms or structures, the purchase of equipment, or any other activity involving the actual preparation of the waste management facility.

"Principal corporate officer" means either:

1. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy, or decision making function for the corporation, or

2. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

"Principal executive officer" means for the purposes of these regulations, a principal executive officer is defined as:

1. For a federal agency:

- a. The chief executive officer of the agency; or

- b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrators of EPA).

2. For a state agency: The chief executive officer of a department, board, commission, hospital, educational institution, or an authority.

3. For a municipality: The chief executive officer of a county, city, or town.

"Processing" means preparation, treatment, or conversion of waste by a series of actions, changes, or functions that bring about a decided result.

"Publicly owned treatment works (POTW)" means any device or system used in the treatment (including

recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality as defined by § 502(4) of the CWA.

"Putrescible waste" means solid waste which contains material capable of being decomposed by microorganisms.

"RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

"Recycled material" means a material which is reused or reclaimed.

"Regulation" means the control, direction and governance of solid and waste activities by means of the adoption and enforcement of laws, ordinances, rules and regulations.

"Sanitary sewer system" means an approved sanitary sewer system.

"Secondary container" means a storage device into which a container can be placed for the purpose of containing any leakage of waste from such emplaced container.

"Section" means a subpart of these regulations and when referred to all portions of that part apply.

"Sharps" means needles, scalpels, knives, broken glass, syringes, pasteur pipettes and similar items having a point or sharp edge.

"Shipment" means the movement or quantity conveyed by a transporter of a waste between a generator and a designated facility or a subsequent transporter.

"Signature" means the name of a person written with his own hand.

"Site" means the land or water area upon which a facility or activity is physically located or conducted, including but not limited to adjacent land used for utility systems such as repair, storage, shipping, or processing areas, or other areas incident to the controlled facility or activity.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

"Solid waste" means any discarded material that is not exempted by these regulations elsewhere or that is not excluded by variance granted by the executive director.

"Solid waste management" means the systematic administration of activities which provide for the collection, source separation, storage, transportation,

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transfer, processing, treatment, and disposal of solid wastes whether or not such facility is associated with facilities generating such wastes or otherwise.

"Spill" means any accidental or unpermitted spilling, leaking, pumping, pouring, emitting, or dumping of wastes or materials which, when spilled, become wastes.

"Storage" means the holding, including during transportation, of waste, at the end of which the waste is treated, disposed, or stored elsewhere.

"SW-846" means test methods for evaluating solid waste, physical/chemical methods, EPA publication SW-846.

"Training" means formal instruction, supplementing an employee's existing job knowledge, designed to protect human health and the environment via attendance and successful completion of a course of instruction in waste management procedures, including contingency plan implementation, relevant to those operations connected with the employee's position at the facility.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of waste are held during the normal course of transportation.

"Transportation" means the movement of waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of waste by air, rail, highway, or water.

"Transport vehicle" means a motor vehicle, or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste, as to recover energy or material resources from such wastes; so as to render such waste safe for transport or disposal, amenable for recovery, amenable for storage or reduced in volume.

"Vector" means a living animal, insect or other arthropod which transmits an infectious disease from one organism to another.

"VRGTHM" means Virginia Regulations Governing the Transportation of Hazardous Materials promulgated by the Department of Waste Management Board as authorized by §§ 10.1-1450 through 10.1-1454 of the Code of Virginia.

"Waste generation" means the act or process of producing a waste.

"Waste management" means the systematic control of the generation, collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of wastes.

"Waste management facility" means all contiguous land and structures, other appurtenances, and improvements thereon used for treating, storing, and disposing of waste.

"Waste Management Unit" means any unit at a treatment, storage or disposal facility which is seeking or possesses a permit, which has received solid waste (as defined in these regulations) at any time, including units that are not currently active.

## PART II.

### LEGISLATIVE AUTHORITY AND GENERAL INFORMATION.

#### § 2.1. Authority for regulations.

These regulations are promulgated pursuant to the Virginia Waste Management Act, Chapter 14, Title 10.1 of the Code of Virginia (hereinafter Code) which authorizes the Virginia Waste Management Board to promulgate and enforce such regulations as may be necessary to carry out its duties and powers and the intent of that chapter the Virginia Waste Management Act and the federal acts.

#### § 2.2. Purpose of regulations.

The purpose of these regulations is to establish standards and procedures pertaining to infectious waste management in this Commonwealth; in order to protect the public health and public safety, and to enhance the environment and natural resources.

#### § 2.3. Administration of regulations.

A. The Virginia Waste Management Board promulgates and enforces regulations that it deems necessary to protect the public health and safety, the environment, and natural resources.

B. The executive director is authorized to issue orders to require any person to comply with these regulations or to require such steps as he deems necessary to bring about compliance. Orders shall be issued in writing through certified mail and shall be issued in accordance with provisions of the Administrative Process Act, Title 9, Chapter 1.1:1, Code of Virginia. The executive director is directed to administer these regulations in accordance with the Virginia Waste Management Act.

#### § 2.4. Applicability of regulations.

A. These regulations apply to all persons who generate infectious waste; own or operate infectious waste management facilities or allow infectious waste management facilities to be operated on their property in this Commonwealth; to those who intend to engage in

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these activities and to all persons who manage infectious wastes; except those specifically exempted or excluded elsewhere in these regulations.

B. All existing infectious waste management facilities, including those operating under a permit on the effective date of these regulations, shall comply with these regulations. If the executive director determines that an existing permit is in conflict with these regulations, the permit will be amended to fully comply with these regulations.

## § 2.5. Severability.

A. If any provision or part of these regulations is held invalid, unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of these regulations and their application.

B. These regulations supersede and replace all previous regulations of the Department of Waste Management to the extent that those prior regulations conflict with the regulations presented herein. Where there does not exist a conflict between the prior regulations and those presented herein, no replacement shall be deemed to occur and the prior regulations shall remain.

C. These regulations shall remain in effect until the Virginia Waste Management Board, in subsequent formal action, shall amend, rescind or otherwise alter them. Such an action will be specific in its detail and cite these regulations by their title. Where there appears to be a conflict with these regulations and regulations adopted at a future date, and such future regulations do not specifically clarify these regulations, these regulations shall be superior except for the exemption of hazardous waste noted in Part III.

D. These regulations are completely separate from all federal or local governmental regulations.

## § 2.6. Relationship to other bodies of regulation.

### A. Solid Waste Management Regulations.

These regulations are solid waste management regulations that address special needs for infectious waste management. Any infectious waste management facility shall also conform to general solid waste management regulations issued by the department and any special solid waste management regulations such as those defining financial assurance requirements. If there is a mutually exclusive conflict between the details of regulations herein and the others, these regulations are superior.

### B. Hazardous Waste Management Regulations.

Any infectious waste management facility shall also comply with any applicable sections of the hazardous waste management regulations issued by the department.

If there is a mutually exclusive conflict between the details of regulations herein and the hazardous waste management regulations, the later regulations are superior.

### C. Hazardous Materials Transportation Regulations.

Intrastate shipment of hazardous materials are subject to regulations of the department. If there is a mutually exclusive conflict between the details of regulations herein and the hazardous materials transportation regulations, the later are superior.

### D. Regulations of other agencies.

If there is a mutually exclusive conflict between the regulations herein and adopted regulations of another agency of the Commonwealth, the provisions of these regulations are set aside to the extent necessary to allow compliance with the regulations of the other agency.

### E. Local government ordinances.

The department will notify local governing bodies of disposal facilities for infectious waste management that are proposed within their jurisdiction. The department is prevented from issuing permits for facilities for which it has not received a notice or waiver from the local governing body described in Title 10.1, § 10.1-1408.1 of the Code of Virginia. In general, local governing bodies operate under varying powers and adopt ordinances they deem appropriate. Nothing herein either precludes or enables a local governing body to adopt ordinances. While the department has the previously noted duty to defer to local governing body authority related to the zoning of a site, its technical and administrative regulations set out herein are completely independent of local government ordinances. Compliance with one body of regulation does not insure compliance with the other; and, normally, both bodies of regulation must be complied with fully. If compliance with any local government's ordinance would prevent compliance with a regulation of the Commonwealth contained herein, that local government's ordinance is preempted to the extent, and only to the extent, that the Commonwealth's regulations can be complied with fully.

## § 2.7. Effective date of regulations.

The effective date of these regulations is October 1, 1989.

## PART III. IDENTIFICATION AND LISTING OF INFECTIOUS WASTES.

### § 3.1. General.

#### A. Purpose and scope.

1. Wastes identified in Part III are infectious wastes

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which are subject to Virginia Infectious Waste Management Regulations.

2. The basic definition of solid waste appears in Part I along with other pertinent definitions and shall be referred to for the exact meaning of the terms used. Additional detailed descriptions of solid wastes, exclusions and listings required to arrive at the proper classification of wastes are the subject of this part.

3. Inherently waste-like materials. The executive director may rule that a specific material is inherently waste-like for the purposes of these regulations. Any person may petition the executive director for a ruling or the executive director may issue a rule without receiving a petition. In making a ruling, the executive director will consider the generation of the material, its use and the possible impact of the ruling on health and the environment.

## B. Materials rendered noninfectious.

Wastes that were once infectious and were managed in accord with these regulations; and which, because of treatment, are exempted under § 3.2 or are excluded under § 3.3 are no longer infectious wastes and shall be managed in accordance with such other regulations of the department that apply.

1. Packaging. Exempt or excluded waste shall not be packaged as infectious waste or, if the waste was once infectious, it shall bear a label clearly indicating that it is not infectious and an explanation why it is no longer infectious. Waste packaged as infectious waste and not in compliance with this section are infectious waste.

2. Recordkeeping. If the waste is no longer infectious because of treatment, the generator or permitted facility shall maintain a record of the treatment for three years afterward to include the date and type of treatment, type and amount of waste treated, and the individual operating the treatment. Records for on-site treatment and shipping papers for off-site treatment shall be maintained by the generator. Records for off-site treatment and shipping papers for off-site treatment shall be maintained by all permitted facilities. Generators or permitted facilities with more than one unit may maintain a centralized system of recordkeeping. All records shall be available for review upon request.

## C. Recycled materials.

1. Infectious wastes shall not be recycled.

2. Bed linen, instruments, equipment and other materials that are routinely reused for their original purpose are not subject to these regulations until they are discarded and are a solid waste. Handling of such

reusable materials should follow the Center For Disease Control's "Guideline For Hospital Environmental Control: Cleaning, Disinfection, and Sterilization of Hospital Equipment," and "Guideline for Hospital Environmental Control: Laundry Services."

D. Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation.

Respondents in actions to enforce these regulations who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, shall demonstrate that they meet the terms of the exclusion or exemption. In doing so, they shall provide appropriate documentation to demonstrate that the material is not a waste, or is exempt from regulation.

## § 3.2. Exemptions to the regulations.

Exemptions to these regulations include:

1. Composting of sewage sludge at the sewage treatment plant of generation and not involving other solid wastes.

2. Land application of wastes regulated by the State Board of Health, the State Water Control Board, or any other state agency with such authority.

3. Wastewater treatment or pretreatment facilities permitted by the State Water Control Board by a NPDES permit.

4. Management of hazardous waste as defined and controlled by the Virginia Hazardous Waste Management Regulations to the extent that any requirement of those regulations is in conflict with regulations herein.

5. Health care professionals may accumulate and transport infectious waste generated in the provision of home health care services; if the total accumulated waste amount is less than 32 gallons, the waste is packaged and labelled in accord with § 4.3, the waste is delivered within 24 hours to permitted infectious waste management facility, and security and sanitary conditions are maintained in the transport vehicle. Such wastes are exempted from compliance with Part VI, Part IX and § 4.3.B.4 of these regulations.

6. Health care professionals may accumulate and transport infectious waste generated in the provision of health care services in their own office; if the total accumulated waste amount is less than 32 gallons, the waste is packaged and labelled in accord with § 4.3, the waste is delivered within 24 hours to permitted infectious waste management facility, and security and sanitary conditions are maintained in the transport vehicle. Such wastes are exempted from compliance with Part VI, Part IX and § 4.3.B.4 of

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these regulations.

## § 3.3. Exclusions.

A. The following materials are not solid wastes for the purposes of this Part III:

1. Domestic sewage, including wastes that are not stored and are disposed of in a sanitary sewer system with or without grinding;
2. Any mixture of domestic sewage and other wastes that pass through a sewer system to a wastewater treatment works permitted by the State Water Control Board or the State Department of Health;
3. Human remains under the control of a licensed physician or dentist, when the remains are being used or examined for medical purposes and are not abandoned materials; and
4. Human remains properly interred in a cemetery or in preparation by a licensed mortician for such interment or cremation.

B. The following solid wastes are not infectious wastes:

1. Wastes contaminated only with organisms which are not generally recognized as pathogenic to humans, even if those organisms cause disease in other animals or plants; and which are managed in complete accord with all regulations of the U.S. Department of Agriculture and the Virginia Department of Agriculture and Consumer Services.
2. Meat or other food items being discarded because of spoilage or contamination, and not included in § 3.5.
3. Garbage, trash and sanitary waste from septic tanks from single or multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campground, picnic grounds and day-use recreation areas; except for waste generated by the provision of professional health care services on the premises.

C. The following infectious wastes are not subject to the requirements of these regulations:

1. Used products for personal hygiene, such as diapers, facial tissues and sanitary napkins, unless the waste is quarantine waste.
2. Absorbent material, not including quarantine wastes, containing extremely small amounts of blood or body fluids, and no free flowing or unabsorbed liquid.

## § 3.4. Characteristics of infectious waste.

A. Any solid waste, as defined in these regulations and

which is not excluded from regulation is an infectious waste if it is capable of producing an infectious disease in humans, is one of the controlled infectious wastes listed in § 3.5 or is identified as infectious by a licensed physician or registered nurse. A waste shall be considered to be capable of producing an infectious disease if it has been or may have been contaminated by an organism that may be pathogenic to humans, such organism is not routinely and freely available in the community and if such organism has a significant probability of being present in sufficient quantities and with sufficient virulence to transmit disease.

B. If the exact cause of a disease is unknown, but the health care professional in charge suspects the presence of a pathogen is the cause, wastes shall be managed the same as if the pathogen were identified.

## § 3.5. Lists of controlled infectious wastes.

In addition to wastes described by the characteristics set forth in § 3.4, each waste or waste stream on the following lists is subject to these regulations.

### A. Quarantine wastes.

Waste resulting from the housing, treatment and management of a patient who is segregated and whose visitation is restricted because he is believed to have a highly contagious disease is infectious waste, including protective clothing and other items resulting from visitation to the patient. The federal Center For Disease Control, Center for Infectious Diseases, Hospital Infections Program has published "Guidelines for Isolation Precautions in Hospitals" (1983) which recommends which materials to consider infective based on the specific organism of concern. When the organism of concern is known, quarantine wastes that the guidelines recommends be considered infective materials are infectious wastes and other wastes may be considered not to be infectious waste.

### B. Cultures and stock of microorganisms and biologicals.

Discarded cultures, stocks, specimens, vaccines and associated items that may have been contaminated by them are infectious wastes if they may contain organisms that may be pathogenic to humans. Discarded etiologic agents are infectious waste. Wastes from the production of biologicals and antibiotics that may have been contaminated by organisms that may be pathogenic to humans are infectious wastes.

### C. Blood and blood products.

Wastes consisting of human blood, human blood products (includes serum, plasma, etc.) and items contaminated by human blood are infectious waste.

### D. Pathological wastes.



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All pathological wastes and all wastes that are human tissues, organs, body parts, or body fluids are infectious waste.

## E. Sharps.

Used hypodermic needles, syringes, scalpel blades, pasteur pipettes, broken glass and similar devices that may be contaminated with organisms that are pathogenic to humans and all sharps used in patient care are infectious wastes.

F. Animal carcasses, body parts, bedding and related wastes.

When animals are exposed to organisms that may be pathogenic to humans for the purposes of research, in vivo testing, production of biological materials or any other reason; the animal carcasses, body parts, bedding material and all other wastes that may have been contaminated are infectious wastes when discarded, disposed of or placed in accumulated storage.

G. Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of any infectious waste.

H. Any waste contaminated by or mixed with infectious waste.

## PART IV. GENERAL REQUIREMENTS.

### § 4.1. Permits and permits by rule.

No person, who is subject to these regulations, shall treat, store, or dispose of infectious waste without a permit from the department to engage in those activities.

#### A. Persons required to have a permit.

Any person required to have a permit for activities in management of infectious waste shall apply for and receive a permit in accord with Part IX of these regulations; except that certain facilities may be deemed to have a permit by rule in accord with § 4.1.B of these regulations.

#### B. Person qualifying for a permit by rule.

Qualifying facilities are deemed to operate under a permit for infectious waste management activities and their owners or operators are not required to comply with the permit issuance procedures of Part IX of these regulations. While persons who own or operate qualifying facilities are not subject to Part IX or required to have a written permit from the department for those qualifying facilities, they are subject to these regulations and all other parts thereof. If a person owns or operates an infectious waste management facility that does not qualify for a permit by rule, that person must comply with Part

IX and all other parts of these regulations for those facilities, without regard to the presence of any other facilities on the site that are operated under a permit by rule. Only those facilities that are in complete compliance with all the following conditions are qualified and considered to be under a permit by rule for their operation, and the permit by rule shall be immediately terminated when the facility fails to fulfill any of the following conditions:

1. The facility and all infectious waste activities are in compliance with all parts of these regulations except Part IX.

2. More than 75% (by weight, in a calendar year) of all infectious waste that is stored, treated or disposed of by the facility is generated on-site.

3. Infectious wastes are not transported more than 10 travel miles by motor vehicle on roads or highways of the Commonwealth, and no infectious waste is transported or received by the facility without being properly packaged and labelled in accordance with these regulations.

4. The activities at the facility do not involve the placing of infectious waste directly into or on the land.

5. The owner or operator of the facility has notified the executive director in writing that the facility is operating under a permit by rule. The notice shall give the name of the facility; the mailing address of the facility; the location address of the facility; the type of business the facility serves; the type of facilities (treatment, storage, transportation, disposal) involving infectious waste; and the name, address and telephone number of the principal corporate officer.

#### C. Application to existing permitted facilities.

On the date these regulations become effective, they shall apply in full to infectious waste facilities that are operating on that date. Permits issued by the department prior to the effective date of these regulations shall be deemed to be amended such that any conditions contained in the permits that conflict with these regulations shall be void.

### § 4.2. Financial assurance requirements.

The department has adopted and will maintain separate regulation, Financial Assurance Regulations For Solid Waste Facilities, which are applicable in all parts to infectious waste management facilities. Nothing in these regulations governing infectious waste management shall be considered to delete or alter any requirements of the department as set out in Financial Assurance Regulations For Solid Waste Facilities.

### § 4.3. Packaging and labeling requirements for infectious

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waste.

## A. Responsibility for packaging and labeling.

1. The generator of infectious waste is responsible for the packaging and labeling of infectious wastes. As a bag or other container becomes full, it shall be sealed, packaged, labeled and managed as described in these regulations. Contractors or other agents may provide services to the generator, including packaging and labeling of infectious waste; however, no contract or other relationship shall relieve the generator of the responsibility for packaging and labeling the infectious waste as required by these regulations.

2. No person shall receive for transportation, storage, treatment or disposal any infectious waste that is not packaged in accord with these regulations. Contractors or other agents may package or repackage infectious wastes to comply with these regulations, if the packaging or repackaging is performed on-site where the infectious waste was generated and no transportation, storage, treatment or disposal occurs prior to the packaging or repackaging. Nothing in this section shall prevent the proper repackaging and further transportation of infectious waste that has spilled during transportation.

## B. Packaging prior to storage, treatment, transport or disposal.

All infectious waste shall be packaged as follows before it is stored, treated, transported or disposed of:

1. Infectious wastes shall be contained in two (one bag inside the other) impermeable, plastic bags each capable of passing the ASTM 125 pound drop weight test and each sealed separately.

2. All bags containing infectious waste shall be red in color, except that infectious waste that is to be sterilized shall be contained in orange bags and marked with autoclave tape. Waste contained in red bags shall be considered infectious waste and managed as infectious waste. Wastes in orange bags shall be managed as infectious wastes prior to sterilization and as solid waste after sterilization. Waste in orange bags shall be sterilized before disposal and shall not be treated or disposed of by incineration, landfilling or any other method prior to sterilization.

3. Bags shall be sealed by lapping the gathered open end and binding with tape or closing device such that no liquid can leak.

4. In addition to the plastic bag containers described in this section, all infectious wastes shall be enclosed in a double-wall corrugated fiberboard box or equivalent rigid container before it is transported off-site or in a motor vehicle on a street or highway.

The box or container must meet the standards of 49 CFR 178.210 for a classified strength of at least 275 pound test and be class DOT-12A80 or DOT-12A50.

## C. Labeling requirements.

All infectious waste shall be labeled immediately after packaging. The label shall be securely attached to the outer layer of packaging and be clearly legible. The label may be a tag securely affixed to the package. Indelible ink shall be used to complete the information on the label, and the label shall be at least three inches by five inches in size. The following information shall be included:

1. The name, address and business telephone number of the generator.

2. "Infectious Waste" in large print.

3. "Pathological Waste," if pathological waste is included in the contents.

4. The name, address and business telephone number of all haulers or other persons to whose control the infectious waste was transferred.

5. The Biological Hazard Symbol.

## D. Etiological agents.

All etiological agents, as defined in 49 CFR 173.386, that are transported shall be packaged as described in 49 CFR 173.387 and labeled as described in 49 CFR 173.388, even when that transport is wholly within the boundaries of the Commonwealth.

## E. Sharps.

Sharps shall be placed directly into rigid and puncture-resistant containers.

## F. Protection of packagers.

Persons packaging infectious waste shall wear heavy gloves of neoprene or equivalent materials and other appropriate items of personal protection equipment. As a minimum, other appropriate equipment shall include that recommended in "CDC Guidelines for Isolation Precautions In Hospitals" (1983) by the Center for Disease Control, Hospital Infections Program, Center for Infectious Diseases.

## § 4.4. Management of spills of infectious waste.

### A. Spill containment and cleanup kit.

All infectious waste management facilities are required to keep a spill containment and cleanup kit within the vicinity of any area where infectious wastes are managed, and the location of the kit shall provide for rapid and efficient cleanup of spills anywhere within the area. All

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vehicles transporting infectious wastes are required to carry a spill containment and cleanup kit in the vehicle whenever infectious wastes are conveyed. The kit shall consist of at least the following items:

1. Material designed to absorb spilled liquids. The amount of absorbent material shall be that having a rated capacity one gallon of liquid for every cubic foot of infectious waste that is normally managed in the area for which the kit is provided or 10 gallons, whichever is less.

2. One gallon of hospital grade disinfectant in a sprayer capable of dispersing its charge in a mist and in a stream at a distance. The disinfectant should be hospital grade and effective against mycobacteria.

3. Fifty red plastic bags that meet the ASTM 125 pound drop weight test and are accompanied by sealing tape (or devices) and labels (or tags). These bags shall be large enough to overpack any box or other container normally used for infectious waste management by that facility.

4. Two new sets of liquid impermeable and disposable overalls, gloves, boots, caps and protective breathing devices. Overalls, boots and caps shall be oversized or fitted to infectious waste workers and be made of Tyvek ® or equivalent material. Boots may be of thick rubber and gloves shall be of heavy neoprene or equivalent (these items - boots, gloves and breathing devices - may be reused if fully disinfected between uses). Protection breathing devices shall be surgical masks or superior in filtering particulates and mists. Tape for sealing wrists and ankles shall also be in the kit.

5. A first aid kit, fire extinguisher, boundary marking tape, lights and other appropriate safety equipment.

## B. Containment and cleanup procedures.

Following a spill of infectious waste or its discovery, the following procedures shall be implemented:

1. The cleanup crew will don the cleanup outfits described in § 4.4.A.4 and secure the spill area.

2. Spray the broken containers of infectious waste with disinfectant.

3. Place broken containers and spillage inside overpack bags in the kit, minimizing exposure.

4. Disinfect the area and take other cleanup steps deemed appropriate.

5. Clean and disinfect nondisposable items.

6. Clean and disinfect cleanup outfits before removing.

7. Remove cleanup outfits and place disposable items in cleanup bag.

8. Take necessary steps to replenish containment and cleanup kit with items used.

C. When a spill involves only a single container of waste whose volume is less than 32 gallons and spilled liquid whose volume is less than one quart, the individual responsible for the cleanup may elect to use alternate appropriate dress and procedures than those described in §§ 4.4.A and 4.4.B. Such alternate dress or procedures shall provide an equal protection of the health of workers and the public.

## § 4.5. Closure requirements.

When a facility that has been used for infectious waste management is to cease operations involving infectious wastes, it shall be thoroughly cleaned and disinfected. All waste shall be disposed of in accord with these regulations, and items of equipment shall be disinfected. (NOTE: The department maintains other regulations that define requirements for the closure of solid waste management facilities, these regulations shall be reviewed and complied with in the closure of infectious waste management facilities.)

## § 4.6. Methods of treatment and disposal.

A. All infectious waste shall be either incinerated or sterilized by steam. Gas sterilization, thermal inactivation, irradiation and chemical treatment will not be approved except under special approval of the executive director as experimental facilities. (NOTE: Bed linen, instruments, equipment and other reusable items are not wastes until they are discarded. This section and these regulations, as a whole, apply only to wastes, and they do not include the sterilization or disinfection of items that are reused for their original purpose. Therefore, the method of sterilization or disinfection of items prior to reuse is not limited. When reusable items are no longer serviceable and are discarded, they are wastes and subject to regulation at that time and must be sterilized by steam or incinerated if contaminated.)

B. No infectious waste shall be disposed of in a solid waste landfill or other solid waste management facility. Upon sterilization or steam incineration in accord with these regulations, the waste or its ash is not infectious waste and may be disposed of at any landfill or other solid waste management facility permitted to receive putrescible waste or garbage.

C. All pathological waste shall be incinerated; other disposal methods are not acceptable for this type of waste. However, this requirement does not prohibit the disposal, without storage and with or without grinding, of wastes in a sanitary sewer system.

D. Infectious waste shall not be compacted or subjected

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to violent mechanical stress; however, after it is fully sterilized and it is no longer infectious waste, it may be compacted in a closed container. Nothing in this section shall prevent the puncturing of containers or packaging immediately prior to steam sterilization so that steam may penetrate into the waste mass, provided the puncturing is performed in a safe and sanitary method.

## § 4.7. Approved test method.

The following test methods shall be used for analysis or determinations under these regulations:

A. "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Publication SW-846, U.S. Environmental Protection Agency (available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3228).

B. "Guideline for Handwashing and Hospital Environmental Control," U.S. Center for Disease Control, Atlanta, Georgia.

## § 4.8. Recordkeeping requirements.

All generators and waste management facilities that manage infectious waste shall maintain the following records and assure that they are accurate and current:

1. A list of the members of the ad hoc committee for the management of infection control for the facility, their address, their phone numbers and the period of their membership.
2. The date, persons involved and short description of events in each spill of infectious wastes involving more than 32 gallons of waste or one quart of free liquid.
3. A notebook or file containing the adopted policies and procedures of the facilities for dealing with infectious wastes.
4. A log of all special training received by persons involved in infectious waste management.
5. A log of infectious waste received from off-site, the generator, the amount and its generation and receipt dates. Records shall be maintained for a period of three years and be available for review

## PART V. SPECIAL REQUIREMENTS FOR STORAGE FACILITIES.

### § 5.1. Application of Part V.

The requirements of this part apply only to areas of storage where more than 32 gallons of waste are accumulated. The requirements of this part apply to storage of infectious waste during transportation and at

incinerator, sterilization and other treatment and disposal facilities.

### § 5.2. Sanitation.

All areas used to store infectious waste shall be clean and impermeable to liquids. Carpets and floor coverings with seams shall not be used in storage area. Vermin and insects shall be controlled.

### § 5.3. Access.

All areas used to store infectious waste shall have access control that limits access to those persons specifically designated to manage infectious waste.

### § 5.4. Temperature control and storage period.

Any infectious waste stored for more than 72 hours after generation shall be refrigerated, stored in an ambient temperature between 35°F and 45°F (2°C and 7°C). No infectious waste shall be stored for more than seven consecutive days after its generation, unless it is frozen within 72 hours of its generation and maintained frozen during the entire remaining period of storage. No infectious waste shall be stored for more than 30 days, even if frozen.

### § 5.5. Drainage and ventilation.

All floor drains shall discharge directly to an approved sanitary sewer system. All ventilation shall discharge so as to minimize human exposure to the effluent.

## PART VI. SPECIAL REQUIREMENTS FOR TRANSPORTATION.

### § 6.1. Application of Part VI.

The requirements of this part apply to all transportation of infectious waste over roads or highways, by railroad or by water conveyance. It specifically includes all motor vehicle transportation.

### § 6.2. Sanitation.

Areas of equipment used to transport infectious waste must be clean and impermeable to liquids, if those areas are involved with the management of the waste. Carpets and floor coverings with seams shall not be used. Vermin and insects shall be controlled. All trucks and equipment used to transport infectious waste shall be thoroughly cleaned and disinfected before being used for any other purpose, at the end of each business day or 24-hour period of use and prior to any transfer of ownership.

### § 6.3. Access.

All vehicles, equipment and service or parking areas used in the transportation of infectious waste shall have access control that limits access to those persons

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*specifically designated to manage infectious waste.*

## § 6.4. Temperature control and storage period.

*Any infectious waste transported more than 72 hours after generation shall be refrigerated, maintained in an ambient temperature between 35°F and 45°F (2°C and 5°C), during transport and during any storage following transport. No infectious waste shall be stored for more than seven consecutive days after its generation, unless it is frozen within 72 hours of the time of its generation and maintained frozen during the entire remaining period of storage. No infectious waste shall be stored for more than 30 days, even if frozen. Time in transport shall be accounted as time in storage.*

## § 6.5. Drainage.

*All drainage shall discharge directly or through a holding tank to a permitted sanitary sewer system.*

## § 6.6. Packaging, labeling and placards.

*A. No person shall transport or receive for transport any infectious waste that is not packaged and labeled in accord with § 4.3 of these regulations.*

*B. The access doors to any area holding infectious waste in transport shall have a warning sign in bold and large letters that indicates the cargo is infectious waste.*

*C. Transportation vehicles shall bear placards depicting the international symbol for biologically hazardous materials. Placards shall conform to standards of the Department of Transportation specified in 49 CFR 172 Subpart F regarding size, placement, color and detail.*

## § 6.7. Management of spills of infectious waste.

### A. Spill containment and cleanup kit.

*All vehicles transporting infectious wastes are required to carry a spill containment and cleanup kit in the vehicle whenever infectious wastes are conveyed. The kit shall consist of at least the following items:*

- 1. Material designed to absorb spilled liquids. The amount of absorbent material shall be rated to absorb 10 gallons.*
- 2. One gallon of hospital grade disinfectant in a sprayer capable of dispersing its charge in a mist and in a stream at a distance. The disinfectant should be hospital grade and effective against mycobacteria.*
- 3. Fifty red plastic bags that meet the ASTM 125 pound drop weight test and are accompanied by seals and labels. These bags shall be large enough to overpack any box or other container normally used for infectious waste management.*

*4. Two new sets of impermeable and disposable overalls, gloves, boots, caps and breathing protective devices. Overalls, boots and caps shall be oversized or fitted to infectious waste workers and be made of Tyvek ® or equivalent material. Boots may be of thick rubber and gloves shall be of heavy neoprene or equivalent (these items - boots, gloves and breathing devices - may be reused if fully disinfected between uses). Breathing protection devices shall be surgical masks or superior in filtering particulates and mists. Tape for sealing wrists and ankles shall also be in the kit.*

*5. A first aid kit, fire extinguisher, boundary marking tape, lights and other appropriate safety equipment.*

### B. Containment and clean up procedures.

*Following a spill of infectious waste or its discovery, the following procedures shall be implemented:*

- 1. The cleanup crew will don the cleanup outfits described in § 6.7.A.4 and secure the spill area.*
- 2. Spray the broken containers of infectious waste with disinfectant.*
- 3. Place broken containers and spillage inside the overpack bags in the kit, minimizing exposure.*
- 4. Disinfect the area and take other cleanup steps deemed appropriate.*
- 5. Clean and disinfect cleanup outfits before removing.*
- 6. Clean and disinfect nondisposable items.*
- 7. Remove cleanup outfits and place disposal items in cleanup bag.*
- 8. Take necessary steps to replenish containment and cleanup kit with items used.*

*C. When a spill involves only a single container of waste whose volume is less than 32 gallons and spilled liquid whose volume is less than one quart, the individual responsible for the cleanup may elect to use alternate appropriate dress and procedures. Such alternate dress or procedures shall provide an equal protection of the health of workers and the public.*

## § 6.8. Loading and unloading.

*Persons loading and unloading transportation vehicles with infectious waste shall wear disinfected, heavy neoprene (or equivalent) gloves and clean coveralls.*

## § 6.9. Registration of transporters.

*A. At least 30 days prior to transporting any infectious waste within the Commonwealth, all transporters shall*

register with the Department of Waste Management. Registration shall consist filing the data specified in § 6.9.B in written form, and the department will issue a registration number to the transporter. No infectious waste shall be transported until the registration number is issued. Transporters shall notify the generator of the waste of his registration number when he collects the waste.

B. Data to be submitted by persons wishing to register as transporters of infectious waste shall be as follows:

1. Name of the person or firm.
2. Business address and telephone number of person or firm. Include headquarters and local office.
3. Make, model and license number of each vehicle to be used to transport infectious waste within the Commonwealth.
4. Name, business address and telephone number of each driver who will operate in the Commonwealth.
5. Areas (counties and cities) of the Commonwealth in which the transporter will operate.
6. Any name other than reported in § 6.9.B.1 that is associated with the registering firm, including any who using any of the same vehicles and operators.

C. Within 30 days following the change of any data in § 6.9.B, the transport shall notify the department of that change. Failure to notify the department nullifies the registration and invalidates the registration number.

D. Use of a false or invalid registration number is prohibited. (NOTE: All filing of data, request for registration number and issuance of a registration number shall be in writing.)

## PART VII.

### SPECIAL REQUIREMENTS FOR INCINERATION.

#### § 7.1. Application of Part VII.

The requirements of this part apply to all facilities that incinerate infectious waste.

#### § 7.2. Performance standards.

All incinerators for infectious waste shall maintain the following level of operational performance at all times:

##### A. Operational temperature and retention time.

Whenever infectious wastes are introduced into an incinerator, all the waste shall be subjected to a burn temperature of not less than 1400°F (760°C) (Note: this is the process control set point, the standard deviation shall be no more than 50°F (27°C)) for a period not less than

one hour. Gases generated by the combustion shall be subjected to a temperature of not less than 1800°F (982°C) for a period of one second or more. Interlocks or other process control devices shall prevent operation of the incinerator until these conditions can be achieved.

##### B. Loading and operating controls.

The incinerator shall have interlocks or other process control devices to prevent operation of the incinerator until the conditions in § 7.2.A can be achieved. In the event low temperatures occur, facilities shall have automatic auxiliary burners which are capable, excluding the heat content of the wastes, of independently maintaining the secondary chamber temperature at the minimum of 1800°F.

##### C. Monitoring.

There shall be continuous monitoring and recording of primary and secondary chamber temperatures. Monitoring data shall be maintained for a period of three years.

##### D. Waste destruction efficiency.

All nonmetal waste shall be converted by the incineration process into ash that is not recognizable as to its former character.

E. The incinerator shall be permitted by the State Air Pollution Control Board and be in compliance with the regulations of that agency.

#### § 7.3. Analysis and management of the ash product.

##### A. Procedure.

Once every eight hours of operation of a continuously fed incinerator and once every batch or 24 hours of operation of a batch fed incinerator, a representative sample of 250 milliliters of the ash shall be collected from the ash discharge or the ash discharge conveyer. Samples collected during 1000 hours of operation or quarterly, whichever is more often, shall be thoroughly mixed and seven random portions of equal volume shall be composited into one sample for laboratory analysis. This sample shall be tested in accord with the methods established by the Virginia Hazardous Waste Management Regulations for determining if a waste is a hazardous waste. Also, the sample shall be tested for total organic carbon content.

##### B. Results and records.

A log shall document the ash sampling, to include the date and time of each sample collected; the date, time and identification number of each composite sample; and the results of the analyses, including laboratory identification. Results of analyses shall be returned from the laboratory and recorded within four weeks following collection of the composite sample. The results and

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records described in this part shall be maintained for a period of three years, and shall be available for review.

## C. Disposition of ash.

If a waste ash is found to be hazardous waste (based on a sample and a confirmation sample) the waste shall be disposed of as a hazardous waste in accord with the Virginia Hazardous Waste Management Regulations. If ash is found not to be hazardous waste by analysis, it may be disposed of in a solid waste landfill that is permitted by the department to accept garbage, putrescible waste or incinerator ash. If the ash is found to be hazardous, the operator shall notify the executive director of the Department of Waste Management within 24 hours, the incinerator unit shall cease operation and shall not operate until the operator has received the written approval of the executive director to continue. No later than 15 days following, the permittee shall submit a plan for treating and disposing of the waste on hand at the facility and all unsatisfactorily treated waste that has left the facility. The permittee may include with the plan a petition to restart operation of the facility that describes the corrective actions to be taken to prevent further unsatisfactory performance. The executive director will notify the petitioner within 15 days of receipt of the petition of the decision rendered.

## § 7.4. Compliance with other parts of these regulations.

In general, incinerator facilities shall comply with all other parts of these regulation. The site of the incinerator facility is a storage facility and shall comply with Part V of these regulations. Spills or the opening in an emergency of any infectious waste package, shall comply with § 4.4 of these regulations.

## § 7.5. Unloading operations.

Persons required to handle packages of waste shall wear freshly laundered or new overalls and heavy neoprene, or equivalent, gloves.

## PART VIII. SPECIAL REQUIREMENTS FOR STERILIZATION.

### § 8.1. Application of Part VIII.

The requirements of this part apply to all steam sterilizers (autoclaves) that sterilize infectious waste. Steam sterilization is the only method of sterilization approved for the treatment of infectious waste.

### § 8.2. Performance standards.

All sterilizers for infectious waste shall maintain the following level of operational performance at all times:

#### A. Operational temperature and detention.

Whenever infectious wastes are treated in a steam

sterilizer, all the waste shall be subjected to the following operational standards:

1. Temperature of not less than 250°F for 90 minutes at 15 pounds per square inch of gauge pressure, or

2. Temperatures of not less than 272°F for 45 minutes at 27 pounds per square inch of gauge pressure. Other combinations of operational temperatures, pressure and time may be approved by the department if the installed equipment has been proved to achieve a reliable and complete kill of all microorganisms in waste at design capacity. Complete and thorough testing shall be fully documented, including tests of the capacity to kill *B. stearothermophilus*.

#### B. Operational controls and records.

1. Each package of waste to be sterilized shall have a tape attached that will indicate if the sterilization temperature has been reached and waste will not be considered satisfactorily sterilized if the indicator fails to indicate that temperature was reached during the process.

2. Sterilization units shall be evaluated under full loading for effectiveness with spores of *B. stearothermophilus* no less than once per month.

3. A log shall be kept at each sterilization unit that is complete for the preceding three-year period. The log shall record the date, time and operator of each usage; the type and approximate amount of waste treated; the post-sterilization reading of the temperature sensitive tape; the dates and results of calibration; and the results of effective testing described in § 8.2.B.2. Where multiple sterilization units are used, a working log can be maintained at each unit and such logs periodically consolidated at a central location. The consolidated logs shall be retained for three years and be available for review.

4. Infectious waste shall not be compacted or subjected to violent mechanical stress before sterilization; however, after it is fully sterilized it may be compacted in a closed container.

### § 8.3. Compliance with other parts of these regulations.

In general, sterilizer facilities shall comply with all other parts of these regulations. The site of the sterilizer facility is a storage facility and shall comply with Part V of these regulations. Spills or the opening in an emergency of any infectious waste package, shall comply with § 4.4 of these regulations.

## PART IX. PERMIT APPLICATION AND ISSUANCE PROCEDURES.

## § 9.1. Scope of Part IX.

This part of the regulations requires a permit for the treatment, storage or disposal of any infectious waste unless specifically excluded by these regulations or under a permit by rule as defined in § 4.1 of these regulations. Owners and operators of infectious waste management units shall have permits during the active life (including the closure periods) of the unit. The executive director may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility.

## § 9.2. Application for permit.

### A. Permit application.

Any person who is required to have a permit, including new applicants and permittees with expiring permits, shall complete, sign, and submit an application to the executive director, including the form contained in the appendix. Persons covered by permits by rule need not apply, but must notify the department in accord with Part IV. Procedures for application, issuance and administration of emergency permits are found exclusively in § 9.7.A. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in § 9.7.D.

B. When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit; however, the owner shall also sign the permit application.

### C. Completeness of application.

1. The executive director shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit contained in § 9.3 and the signature requirements of § 9.6.

2. The executive director shall not issue a permit before receiving a complete application except permits by rule or emergency permits. An application for a permit is complete when the executive director receives an application form and any supplemental information which are completed to his satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

3. All applicants for infectious waste management permits shall provide information set forth in § 9.3 and applicable portions of § 9.4 to the executive director.

### D. Existing facilities qualifications.

Owners and operators of existing and permitted

infectious waste management facilities are not required to submit an application for a new permit at the time these regulations become effective. Existing permits will remain valid, except that conditions or waivers in existing permits in conflict with these regulations are void and operators of existing facilities are required to comply with these regulations.

### E. New facilities.

No person shall begin physical construction of a new facility without having submitted the permit application and having received a final effective permit.

## § 9.3. Contents of the application.

The application shall include the following information:

1. The activities conducted by the applicant which require him to obtain a permit.
2. Name, mailing address, and location of the facility for which the application is submitted.
3. The latitude and longitude of the facility.
4. The name, address and telephone number of the owner or the facility.
5. An indication of whether the facility is new or existing.
6. For existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas.
7. For existing facilities, photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas.
8. The operator's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity.
9. A listing of all permits or construction approvals received or applied for under any of the following programs and their counterpart programs administered by the Commonwealth:
  - a. Hazardous waste management program under RCRA;
  - b. NPDES program under CWA;
  - c. Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
  - d. Nonattainment program under the Clean Air Act;
  - e. Other relevant environmental permits, including



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local permits.

10. A topographic map, or other map if a topographic map is unavailable, extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its infectious waste treatment, storage, or disposal facilities; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within the quarter-mile of the facility property boundary.

11. A brief description of the nature of the business.

12. A description of the processes to be used for treating, storing, transporting and disposing of infectious waste, and the design capacity of these items;

13. A description of the type of the infectious wastes to be treated, stored, transported or disposed at the facility, an estimate of the quantity of such wastes to be treated, stored, transported or disposed annually.

## § 9.4. Detailed submittal.

The following information is required for all facilities; however, its submittal may be delayed pending a preliminary evaluation by the department of the concept of the application based on the information above.

### A. Conceptual review.

The applicant may request in writing that the department perform a conceptual review. The evaluation of the concept is not a commitment on the part of the department to issue a permit, nor is it a commitment by the applicant to proceed with the permitting process.

### B. Final review.

No final permit will be considered or issued until the following information is submitted and is complete. (NOTE: If owners and operators of facilities can demonstrate that the information prescribed cannot be provided to the extent required, the executive director may take allowance for submission of such information on a case by case basis.)

1. A description of procedures, structures, or equipment used at the facility to:

a. Prevent hazards in unloading operations.

b. Prevent run-off from infectious waste handling areas to other areas of the facility or environment.

c. Prevent contamination of water supplies.

d. Mitigate effects of equipment failure and power

outages.

e. Prevent exposure of personnel to infectious waste.

2. Traffic pattern, estimated volume (number, types of vehicles) and control; described access road surfacing and load bearing capacity; show traffic control signals.

3. Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year flood plain. This identification shall indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where a FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) which shall be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.

4. An outline of both the introductory and continuing training programs by owners and operators to prepare persons to operate or maintain the facility in a safe manner as required. A brief description of how training will be designed to meet actual job tasks.

5. A copy of the closure plan.

6. Closure cost documentation. The most recent closure cost and post-closure cost estimates for the facility and a copy of the documentation required to demonstrate financial assurance under.

7. A topographic map showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours shall be shown on the map. The contour interval shall be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet) or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of facilities located in mountainous areas should use larger contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

a. Map scale and date.

b. 100-year flood plain area.

c. Surface waters including intermittent streams.

d. Surrounding land uses (residential, commercial, agricultural, recreational).

- e. A wind rose (i.e., prevailing wind speed and direction).*
- f. Orientation of the map (north arrow).*
- g. Legal boundaries of the facility site.*
- h. Access control (fences, gates).*
- i. Injection and withdrawal wells both on-site and off-site.*
- j. Buildings; treatment, storage, or disposal operations; or other structures (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.).*
- k. Barriers for drainage or flood control.*
- l. Location of operational units within the facility site, where infectious waste is (or will be) treated, stored, or disposed (including equipment cleanup areas).*
- m. Applicants may be required to submit such information as may be necessary to enable the executive director to carry out his duties as required.*
- 8. From owners or operators of facilities that are used or to be used for storage or treatment, a description of the containment and refrigeration system.*
- 9. For facilities that incinerate infectious waste.*
- a. An analysis of each waste or mixture of wastes to be burned.*
- b. Estimated heat value of the waste in the form and composition in which it will be burned.*
- c. A detailed engineering description of the incinerator, including:*
- (1) Manufacturer's name and model number of incinerator.*
  - (2) Type of incinerator.*
  - (3) Linear dimension of incinerator unit including cross sectional area of combustion chamber.*
  - (4) Description of auxiliary fuel system (type/feed).*
  - (5) Capacity of prime mover.*
  - (6) Description of automatic waste feed cutoff system(s).*
  - (7) Stack gas monitoring and pollution control monitoring system.*
  - (8) Nozzle and burner design.*
  - (9) Construction materials.*
  - (10) Location and description of temperature, pressure, flow indication and control devices.*
  - (11) Feed-minimum temperature interlock system.*
- d. The expected incinerator operation information, including:*
- (a) Gas zone temperatures and detention time;*
  - (b) Waste feed rate;*
  - (c) Combustion zone temperature;*
  - (d) Indication of combustion gas velocity;*
  - (e) Expected stack gas volume, flow rate, and temperature;*
  - (f) Computed residence time for waste in the combustion zone;*
  - (g) Proposed waste feed cutoff limits based on the identification significant operating parameters.*
  - (h) Operation of feed-temperature maintenance interlock system.*
- e. Such supplemental information as the executive director finds necessary to achieve the purposes of this paragraph.*
- § 9.5. Recordkeeping.**
- Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted for a period of at least three years from the date the application is signed.*
- § 9.6. Signatories to permit applications and reports.**
- A. Applications.**
- All permit applications shall be signed as follows:*
- 1. For a corporation: By a principal corporate officer as defined in Part I.*
  - 2. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or*
  - 3. For a municipality, state, federal, or other public agency: By either a principal executive officer (see Part I) or ranking elected official.*

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## *B. Reports.*

All reports required by permits and other information requested by the executive director shall be signed by a person described in § 9.6.A above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described in § 9.6.A;
2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
3. The written authorization is submitted to the executive director.

## *C. Changes to authorization.*

If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements shall be submitted to the executive director prior to or together with any reports, information or applications to be signed by an authorized representative.

## *D. Certification.*

Any person signing a document under § 9.6.A or § 9.6.B shall make the following certification:

"I certify under penalty of law that this document and all attachments are prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

## *§ 9.7. Special infectious waste management permits.*

### *A. Emergency permits.*

Notwithstanding any other provision of Part IX, in the event the executive director finds an imminent and substantial endangerment to human health or the environment, the executive director may issue a temporary emergency permit to a facility to allow treatment, storage, transportation or disposal of infectious waste for a nonpermitted facility or infectious waste not covered by the permit for a facility with an effective permit. Such permits:

1. May be oral or written. If oral, it shall be followed within five days by a written emergency permit;
2. Shall not exceed 90 days in duration;
3. Shall clearly specify the infectious wastes to be received, and the manner and location of their treatment, storage, transportation or disposal;
4. May be terminated by the executive director at any time without process if it is determined that termination is appropriate to protect human health or the environment; and
5. Shall be accompanied by a public notice as required by the Virginia Administrative Process Act, including:
  - a. Name and address of the office granting the emergency authorization;
  - b. Name and location of the permitted facility;
  - c. A brief description of the wastes involved;
  - d. A brief description of the action authorized and reasons for authorizing it;
  - e. Duration of the emergency permit; and
6. Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of these regulations.

### *B. Research, development and demonstration permits.*

1. The executive director may issue a research, development and demonstration permit for any infectious waste treatment facility which proposes to utilize an innovative and experimental infectious waste treatment technology or process for which permit standards for such experimental activity have not been promulgated. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:
  - a. Shall provide for the construction of such facilities as necessary, and for operation of the facility for no longer than one year unless renewed as provided in § 9.7.D.4, and
  - b. Shall provide for the receipt and treatment by the facility of only those types and quantities of infectious waste which the executive director deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and
  - c. Shall include such requirements as the executive director deems necessary to protect human health.

and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure and remedial action), and such requirements as the executive director deems necessary regarding testing and providing of information to the executive director with respect to the operation of the facility.

2. For the purpose of expediting review and issuance of permits under this section, the executive director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in Part IX.

3. The executive director may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

4. Any permit issued under § 9.7.B may be renewed not more than three times. Each such renewal shall be for a period of not more than one year.

## § 9.8. Conditions applicable to all permits.

The following conditions apply to all infectious waste management permits. All conditions applicable to all permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations shall be given in the permit.

### A. Duty to comply.

The permittee shall comply with all conditions of the permit, except that permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit (see § 9.7.A). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of Title 10.1, Code of Virginia, and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

### B. Duty to reapply.

If the permittee wishes to continue a regulated activity after the expiration date of his permit, he shall apply for and obtain a new permit.

### C. Need to halt or reduce activity not a defense.

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

### D. Duty to mitigate.

In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.

### E. Proper operation and maintenance.

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with permit conditions.

### F. Permit actions.

The permit may be modified, revoked, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation, and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

### G. Property rights.

The permit does not convey any property rights of any sort, or any exclusive privilege. Possession of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of Commonwealth or local law or regulations.

### H. Duty to provide information.

The permittee shall furnish to the Commonwealth within a reasonable time, any pertinent information which the executive director may request to determine whether cause exists for modifying, revoking, and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the executive director, upon request, copies of records required to be kept by the permit.

### I. Inspection and entry.

The permittee shall allow the executive director or an authorized representative, upon the presentation of credential and other documents as may be required by law, to:

1. Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of the permit;

2. Have access to and copy, at reasonable times, any

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records that shall be kept under the conditions of the permit;

3. Inspect at reasonable times any facilities, equipment practices, or operations regulated or required under the permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the regulations, any substances or parameters at any location.

## J. Monitoring and records.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The permittee shall retain records of all monitoring information, including all calibrations and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, certification or application. This period may be extended by request of the executive director at any time.

3. Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

## K. Signatory requirement.

All applications, reports, or information submitted to the executive director shall be signed and certified as specified in § 9.6.

## L. Reporting requirements.

1. *Planned changes.* The permittee shall give written notice to the executive director as soon as possible of any planned physical alterations or conditions to the permitted facility.

2. *Anticipated noncompliance.* The permittee shall give advance written notice to the executive director of any planned changes in the permitted facility or activity which may result in noncompliance with

permit requirements. For a new facility, the permittee may not commence treatment, storage or disposal of infectious waste; and for a facility being modified the permittee may not treat, store or dispose of infectious waste in the modified portion of the facility, until:

a. The permittee has submitted to the executive director by certified mail or hand delivery a letter signed by the permittee stating that the facility has been constructed or modified in compliance with the permit; and

b. The executive director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit.

3. *Transfers.* This permit is not transferable to any person except with the approval of the executive director. The executive director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary. If the executive director finds that a name change is a minor modification, the requirements of § 9.17 will apply.

4. *Monitoring reports.* Monitoring results shall be reported at the intervals specified in the permit or these regulations.

5. *Compliance schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

6. *Twenty-four hour reporting.*

a. The permittee shall report to the department any noncompliance which may endanger health or environment. Any information shall be provided orally within 24-hours from the time the permittee becomes aware of the circumstances.

b. The following shall be included as information which shall be reported orally within 24-hours:

(1) Information concerning release of any infectious waste that may cause an endangerment to public health.

(2) Any information of a release or discharge of infectious waste, or of a fire or explosion from a facility, which could threaten the environment or human health outside the facility. The description of the occurrence and its cause shall include:

(a) Name, address and telephone number of the owner or operator;

(b) Name, address and telephone number of the

facility;

(c) Date, time and type of incident;

(d) Name and quantity of material(s) involved;

(e) The extent of injuries, if any;

(f) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(g) Estimated quantity and disposition of recovered material that resulted from the incident.

c. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance. The executive director may waive the five-day notice requirement in favor of a written report within 15 days.

7. Other information where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the executive director, he shall promptly submit such facts or information.

## § 9.9. Establishing permit conditions.

### A. General.

In addition to conditions required in all permits, the executive director shall establish conditions as required on a case-by-case basis, for the duration of permits, schedules of compliance, monitoring, and to provide for and assure compliance with all applicable requirements of these regulations.

Each permit issued under Part IX shall contain terms and conditions as the executive director determines necessary to protect human health and the environment.

B. An applicable requirement is a Commonwealth statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit.

An applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in § 9.15.

C. New or reissued permits, and to the extent allowed under § 9.15, modified or revoked and reissued permits,

shall incorporate each of the applicable requirements in these regulations.

### D. Incorporation.

All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements shall be given in the permit.

## § 9.10. Duration of permits and renewal of permits.

A. Infectious waste management permit shall be effective for a fixed term not to exceed 10 years.

B. The term of a permit shall not be extended by modification beyond the maximum duration specified in this part.

C. The executive director may issue any permit for a duration that is less than the full allowable term under this part.

D. If the holder of a valid permit for an infectious waste management facility files with the executive director a request to renew or extend the permit at least 180 days prior to the expiration of that permit, the executive director will cause an audit to be conducted of the facilities past operation, its current condition and the records held by the department concerning the facility. Within 60 days of receipt of a proper request, the department will report the applicant the results of the audit and those items of correction or information required before renewal will be considered. At the time of filing, the applicant shall provide all information known to him that is changed or new since the original permit application and which he has not previously provided to the department. If the applicant files for renewal or extension less than 180 days prior to the expiration of the original permit or files an improper application the executive director shall deny the application for renewal. If an application for renewal has been denied for a facility, any further applications and submittals shall be identical to those for a new facility.

E. The executive director may refuse to renew a permit or issue a new permit for a facility if the facility has had a record of violations of the permit or regulations of the department, as evidenced by notices and other enforcement actions of the department; if the executive director believes current facilities may pose a threat to the health or environment or the facility will not comply with current regulations for design, siting and other physical characteristics which apply to new facilities.

## § 9.11. Effect of a permit.

A. Compliance with a valid permit during its term constitutes compliance for purposes of enforcement, with the Virginia Solid Waste Management Act. However, a permit may be modified, revoked and reissued, or

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terminated during its term for cause as set forth in these regulations.

B. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

C. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of Commonwealth or local law or regulations.

## § 9.12. Transfer of permits.

A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary.

## § 9.13. Schedule of compliance.

A. The permit may, when appropriate, specify a schedule of compliance leading to compliance with these regulations.

1. Any schedules of compliance under this part shall require compliance as soon as possible.

2. Except as otherwise provided, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

a. The time between interim dates shall not exceed one year;

b. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages of completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. The permit shall be written to require that no later than 14 days following each interim date and the final date of compliance, a permittee shall notify the executive director, in writing, of his compliance or noncompliance with the interim or final requirements.

## § 9.14. Modification, revocation and reissuance, or termination of permits.

A. If the executive director tentatively decides to modify or revoke and reissue a permit, he shall prepare a draft permit incorporating the proposed changes. The executive director may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the executive director shall require the

submission of a new application.

1. In a permit modification under this part, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this part, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

2. Minor modifications as specified in § 9.17 are not subject to the above requirements.

B. If the executive director tentatively decides to terminate a permit, he shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under § 9.18.

## § 9.15. Modification or revocation and reissuance of permits.

When the executive director receives any information, he may determine whether one or more of the causes listed for modification or revocation and reissuance or both exist. If cause exists, the executive director may modify or revoke and reissue the permit according to subject to the limitations of § 9.15.C, and may request a updated application if necessary. If cause does not exist under this section or § 9.17, the executive director shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in § 9.17 for minor modifications, the permit may be modified without a draft permit or public review. Otherwise, a draft permit shall be prepared and other appropriate procedures followed.

### A. Causes for modification.

The following are causes for modification but not revocation and reissuance of permits.

1. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

2. If the executive director has received information pertaining to circumstances or conditions existing at the time the permit was issued that was not included in the administrative record and would have justified the application of different permit conditions, the permit may be modified accordingly if in the judgment of the executive director such modification is necessary to prevent significant adverse effects on public health or the environment.

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3. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

a. For promulgation of amended standards or regulations, when:

(1) The permit condition requested to be modified was based on a promulgated infectious waste regulation;

(2) The Commonwealth has revised, withdrawn or modified that portion of the regulation on which the permit condition was based; and

(3) A permittee requests modification within 90 days after notice of the action on which the request is based.

b. For judicial decision, a court of competent jurisdiction has remanded and stayed Commonwealth regulations, if the remanded and stay concern that portion of the regulations on which the permit condition was based and a request is filed by the permittee within 90 days of judicial remand.

4. The executive director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or material shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

5. The executive director may modify a permit:

a. After the executive director receives the notification of expected closure, when he determines that extension of the 90 or 180 day periods under that part, modification of the 30-year post-closure period, continuation of the security requirements, or permission to disturb the integrity of the containment system under are unwarranted;

b. When the permittee has filed a request for a variance to the level of financial responsibility or when the executive director demonstrates that an upward adjustment of the level of financial responsibility is required.

c. To include conditions applicable to units at a facility that were not previously included in the facility's permit.

B. Cause for modification or revocation and reissuance.

The following are causes to modify or, alternatively, revoke and reissue a permit:

1. Cause exists for termination under § 9.16, and the executive director determines that a modification or revocation and reissuance is appropriate.

2. The executive director has received notification of a proposed transfer of an existing permit.

C. Facility siting.

The suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that an endangerment to human health or the environment exists which was unknown at the time of permit issuance.

§ 9.16. Termination of permits.

A. The following are causes for terminating a permit during its term, or for denying a permit renewal application:

1. Noncompliance by the permittee with any condition of the permit;

2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

3. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

B. The executive director shall follow the applicable procedures of the Virginia Administrative Process Act in terminating any permit under this part.

§ 9.17. Minor modification of permits.

Upon the consent of the permittee, the executive director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this part, without following the required procedures for major modification, including those concerning public notice and public hearing. Any permit modification not processed as a minor modification under this part shall be made for cause and with draft permit and public notice as required. Minor modifications may only:

1. Correct typographical error;

2. Require more frequent monitoring or reporting by the permittee;

3. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;



# Proposed Regulations

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4. Allow for a change in ownership or operational control of a facility where the director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the director. Changes in the ownership or operational control of a facility may be made without further proceeding if the new owner or operator submits a revised permit application no later than 60 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of any financial assurance regulations, until the new owner or operator has demonstrated to the director that he is complying with the requirement. The new owner or operator shall demonstrate compliance with the requirements within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the director by the new owner or operator of compliance, the director shall notify the old owner or operator in writing that he no longer needs to comply with § 9.7 as of the date of demonstration.

5. Change the lists of facility personnel or equipment in the permit's contingency plan.

## § 9.18. Draft permits.

A. Once an application is complete, the executive director shall tentatively decide whether to prepare a draft permit or to deny the application.

B. If the executive director tentatively decides to deny the permit application, he shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this part. If the executive director's final decision is that the tentative decision to deny the permit was incorrect, he shall withdraw the notice of intent to deny and proceed to prepare a draft permit.

C. If the executive director decides to prepare a draft permit, he shall prepare a draft permit that contains the following information:

1. All conditions under §§ 9.8 and 9.9;
2. All compliance schedules under § 9.13.

## § 9.19. Public notice of permit actions and public comment period.

### A. Scope.

The executive director shall give public notice that the following actions have occurred:

1. A draft permit has been prepared; or
2. A hearing has been scheduled.

### B. Timing.

1. Public notice of the preparation of a draft permit or the intent to deny a permit application shall allow at least 45 days for public comment;
2. Public notice of a public hearing shall be given at least 30 days before the hearing.

### C. Methods.

Public notice of activities described in this part shall be given by the following methods:

1. By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his rights to receive notice for any classes and categories of permits):

a. The applicant;

b. Any other agency which the executive director knows has issued or is required to issue a permit for the same facility or activity; and to each state agency having any authority under the state law with respect to the construction or operation of such facility, including the State Air Pollution Control Board for incinerator facilities;

c. Any unit of local government having jurisdiction over the area where the facility is proposed to be located and the appropriate regional solid waste planning agency;

2. Publication of a notice in a daily or weekly major local newspaper of general circulation.

### D. Contents.

1. All public notices issued under this part shall contain the following minimum information;

a. Name and address of the office processing the permit action for which notice is being given;

b. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

c. A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

d. The name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft

permit or fact sheet, and the application; and

e. A brief description of the comment procedures required and the time and place of any hearing that will be held, including a statement of procedures to request a hearing unless already scheduled, and other procedures by which the public may participate in the final permit decision.

2. In addition to the general public notice described in § 9.19.D.1, the public notice of a hearing shall contain the following information:

a. Reference to the date of previous public notices relating to the permit;

b. Date, time, and place of the hearing; and

c. A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

## § 9.20. Public comments and requests for public hearings.

During the public comment period provided, any interested person may submit written comments on the draft permit and may request a public hearing if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in § 9.23.

## § 9.21. Public hearings.

A. The executive director shall hold a public hearing whenever he receives written notice of opposition to a draft permit and a request for a hearing during the public comment period specified in § 9.19.B.1.

B. In addition to hearings required in § 9.21.A, the executive director may hold a public hearing at his discretion, whenever, for instance, such a hearing might clarify one or more issues involved in permit decision.

C. Whenever a public hearing is scheduled:

1. Public notice of the hearing shall be given as specified in § 9.19.B; and

2. Shall be held in the locality convenient to the nearest population center to the proposed facility.

## § 9.22. Obligation to raise issues and provide information during the public comment period.

All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the executive director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, shall raise all reasonably ascertainable

issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period. All supporting materials shall be included in full and not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of Commonwealth or federal statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to the Commonwealth as directed by the executive director.

## § 9.23. Response to comments.

A. Any time that any final permit decision is issued, the executive director shall issue a response to comments, when a final permit is issued. This response shall:

1. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

2. Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

B. The response to comments shall be available to the public.

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VIRGINIA DEPARTMENT OF WASTE MANAGEMENT  
 INFECTIOUS WASTE MANAGEMENT REGULATIONS

PAGE 83 OF 80

COMMONWEALTH OF VIRGINIA  
**DEPARTMENT OF WASTE MANAGEMENT**

<b>APPLICATION FOR A PERMIT FOR AN INFECTIOUS WASTE MANAGEMENT FACILITY</b>	
NAME OF APPLICANT _____ ADDRESS _____ _____ _____	
LOCATION OF SITE (Describe and attach map showing exact location) _____ _____	
SIZE OF SITE _____ Acres WASTE MANAGEMENT RATE (Estimated) _____ Tons Per Day	
OPERATOR (If Different From Applicant) _____ OPERATOR ADDRESS _____ _____ _____	
<b>TYPE OF FACILITY FOR WHICH APPLICATION IS MADE</b>	
Storage of Infectious Waste	<input type="checkbox"/>
Transportation of Infectious Waste	<input type="checkbox"/>
Incineration of Infectious Waste	<input type="checkbox"/>
Steam Sterilization of Infectious Waste	<input type="checkbox"/>
Experimental Treatment Method for Infectious Waste	<input type="checkbox"/>
<b>TYPES OF WASTE EXPECTED (Check all those for which permit is sought)</b>	
Pathological	<input type="checkbox"/>
Hospital	<input type="checkbox"/>
Non-hospital Medical Care	<input type="checkbox"/>
Mortuary	<input type="checkbox"/>
Laboratory	<input type="checkbox"/>
Etiological Agents	<input type="checkbox"/>
Industrial Biological	<input type="checkbox"/>
Infected Animal Maintenance	<input type="checkbox"/>
Quarantine Outside Hospital	<input type="checkbox"/>
Dialysis Unit	<input type="checkbox"/>
Other _____	<input type="checkbox"/>
_____ TITLE _____	
Signature of Owner _____	
TELEPHONE NUMBER ( ) _____ DATE _____	

NOTE: COVER SHEET ONLY, ATTACH OTHER REQUIRED DATA

## PART X.

### RULEMAKING PETITIONS.

#### § 10.1. General.

A. Any person affected by these regulations may petition the executive director to grant a variance or an exemption from any requirement of these regulations, subject to the provisions of this part. Any petition submitted to the executive director is also subject to the provisions of the Virginia Administrative Process Act (§§ 9-6.14:1 to 9-6.14:25 of the Code of Virginia).

B. The executive director will not accept any petition relating to:

1. Equivalent testing or analytical methods contained in EPA Publication SW-846; and
2. Definition of solid waste contained in these regulations.

#### § 10.2. Exemptions to classification as a solid waste.

##### A. Applicability.

1. A person who recycles waste that is managed entirely within the Commonwealth may petition the executive director to exclude the waste at a particular site from the classification as the solid waste (see Parts I and III). The conditions under which a petition for a variance will be accepted are shown in § 10.2.B. The wastes excluded under such petitions may still, however, remain classified as a solid waste for the purposes of other regulations issued by the Virginia Waste Management Board or other agencies of the Commonwealth.

2. A person who generated wastes at a generating site in Virginia and whose waste is transported across state boundaries, shall first obtain favorable decision from the appropriate agencies of other states before his waste may be considered for an exemption by the executive director.

3. A person who recycles materials from a generating site outside the Commonwealth and who causes them to be brought into the Commonwealth for recycling shall first obtain favorable decision from the appropriate authorities in that state before the waste may be considered for an exemption by the executive director.

##### B. Conditions for an exemption.

As the result of a petition and in accordance with the standards and criteria in § 10.2.C and the procedures in § 10.5, the executive director may determine on a case-by-case basis that the following recycled materials are exempt for the purposes of these regulations:

1. Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in Part I);

2. Materials that are reclaimed and then reused within the original primary production process in which they were generated;

3. Materials that have been reclaimed but shall be reclaimed further before the materials are completely recovered; and

4. Materials that are reclaimed and then reused in applications involving their placement into land.

##### C. Standards and criteria for exemptions.

1. The executive director may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The executive director's decision will be based on the following standards and criteria:

a. The manner in which the material is expected to be recycled, and when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangement for recycling);

b. The reason that the applicant has accumulated the material for one or more years without recycling 75% of the volume accumulated at the beginning of the year;

c. The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

d. The extent to which the material is handled to minimize loss;

e. Other relevant factors.

2. The executive director may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

a. How economically viable the production process would be if it were to use virgin materials, rather

# Proposed Regulations

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than reclaimed materials;

b. The prevalence of the practice on an industry-wide basis;

c. The extent to which the material is handled before reclamation to minimize loss;

d. The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

e. The location of the reclamation operation in relation to the production process;

f. Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

g. Whether the person who generates the material also reclaims it; and

h. Other relevant factors.

3. The executive director may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but shall be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

a. The degree of processing the material has undergone and the degree of further processing that is required;

b. The value of the material after it has been reclaimed;

c. The degree to which the reclaimed material is like an analogous raw material;

d. The extent to which an end market for the reclaimed material is guaranteed;

e. The extent to which the reclaimed material is handled to minimize loss; and

f. Other relevant factors.

4. The executive director may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused in applications involving placement into land. This determination will be based on the following factors:

a. How economically advantageous is the utilization

process using reclaimed materials compared to the virgin materials;

b. The prevalence of the practice on an industry-wide basis;

c. The extent to which the material is handled before reclamation to minimize loss;

d. The location of the generating and reclamation operations in relation to the utilization process;

e. The chemical and physical characteristics of the material prior and after the reclamation process;

f. An estimate of the rate of annual usage of the reclaimed material;

g. Whether the person who generates the material also reclaims it;

h. Proximity of emplaced materials to ground and surface waters; and

i. Other factors relevant to public health and the environment.

## § 10.3. Variances from requirements.

### A. Application and conditions.

The executive director may grant a variance from any regulation herein, except those contained in § 10.1.B, to a permittee if the permittee demonstrates to the satisfaction of the executive director that:

a. Strict application of the regulation to the facility will result in undue hardship that is unique to the applicant's particular situation; or

b. Technical conditions exist that make a strict application of the regulation impossible to achieve; and

2. Granting the variance will not result in an unreasonable risk to the public health or the environment.

### B. Effects of the decisions.

1. When the executive director renders a decision under § 10.3 in accordance with the procedures contained in § 10.5, he may:

a. Deny the petition;

b. Grant the variance as requested; or

c. Grant a modified or partial variance.

2. When a modified variance is granted, the executive

director may:

- a. Specify the termination date of the variance;
- b. The executive director may include a schedule for:
  - (1) Compliance, including increments of progress, by the facility with each requirement of the variance; and
  - (2) Implementation by the facility of such control measures as the executive director finds necessary in order that the variance may be granted.

## § 10.4. Rulemaking petitions.

### A. Applicability.

Any person may petition the executive director to append, modify, or revoke any provision of these regulations.

B. The petitioner should submit all relevant information shown in § 10.5.A.1. The executive director will proceed with the processing of the petition in accordance with § 10.5.B. The final decision will be rendered by the Virginia Waste Management Board.

## § 10.5. Administrative procedures.

### A. Submission of petition.

1. General petitioning requirements. The petition shall be submitted to the executive director by certified mail and shall include:

- a. The petitioner's name and address;
- b. A statement of petitioner's interest in the proposed action;
- c. A description of desired action and a citation to the regulation from which a variance is requested;
- d. A description of need and justification for the proposed action;
- e. The duration of the variance, if applicable;
- f. The potential impact of the variance on public health or the environment;
- g. Other information believed by the applicant to be pertinent; and
- h. The following statements signed by the petitioner or his authorized representative, if applicable:

"I certify that I have personally examined and am familiar with the information submitted in this

petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

2. Additional requirements for petitions under § 10.2. In addition to the general information required of all petitioners under § 10.5.A.1:

- a. To be successful the petitioner shall address the applicable standards and criteria listed in § 10.2.C.
- b. For petitions submitted under § 10.2.B.4 following addition and annual quantities of waste covered by the petition;
  - (2) A description of the methodologies and equipment used to obtain representative samples and analyses, to include:
    - (a) The name and address of the laboratory facility performing the sampling on tests of the waste, if different from that of the petitioner;
    - (b) The qualifications of the persons sampling and testing the wastes;
    - (c) The dates of sampling and testing;
    - (d) A description of sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of samples; and
    - (e) A description of the tests performed and the results obtained.
- (3) The description of the reclamation processes.

3. Additional requirements for petitions under § 10.3. In addition to the general information required of all petitioners under § 10.5.A.1, the petitioner shall submit:

- a. An explanation of the applicant's particular situation which prevents the facility from achieving compliance with the cited regulation;
- b. Other information as may be required by the department.

### B. Petition processing.

1. After receiving a petition that includes the information required in § 10.5.A, the executive director will determine whether the information received is sufficient to render the decision. If the

## Proposed Regulations

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information is deemed to be insufficient, the executive director will specify additional information needed and request that it be furnished.

2. The petitioner may submit the additional information requested, or may attempt to show that no reasonable basis exists for the request for additional information. If the executive director agrees that no reasonable basis exists for the request for additional information, he will act in accordance with § 10.5.B.3. If the executive director continues to believe that a reasonable basis exists to require the submission of such information, he will proceed with the denial action in accordance with the Virginia Administrative Process Act (VAPA).

3. After the petition is deemed complete:

a. The executive director will make a tentative decision to grant or deny the petition;

b. In case that petition may be tentatively denied, the executive director will offer the petitioner the opportunity to withdraw the petition, submit additional information, or request the executive director to proceed with the evaluation;

c. Unless the petition is withdrawn, the executive director will issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the locality where the applicant is located. The executive director will accept comment on the tentative decision for 30 days.

d. Upon a written request of any interested person, the executive director may, at his discretion, hold an informal fact finding meeting described in Article 3, Virginia Administrative Process Act. A person requesting a hearing shall state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The executive director may in any case decide on his own motion to hold such a meeting.

e. After evaluating all public comments the executive director will:

(1) In case of general rulemaking petitions (§ 10.4), formulate and submit a recommendation to the Virginia Waste Management Board; or

(2) In case of all other petitions:

(a) Within 15 days after the expiration of the comment period, notify the applicant of the final decision; and

(b) Publish it in a newspaper having circulation in the locality.

C. Petition resolution.

1. In the case of a denial, the petitioner has a right to request a formal hearing to challenge the rejection.

2. If the executive director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the executive director that the petitioner has failed to comply with any variance requirements.

# 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 AIR POLLUTION CONTROL (STATE BOARD OF)

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

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

**Effective Date:** January 1, 1989

### Summary:

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

#### 1. Definitions.

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

#### 2. General provisions.

This part contains the general provisions necessary to support the remaining parts and is structured somewhat like the current stationary source regulations. This is being done so that the VEC program regulations may stand alone as a separate entity. Subjects covered include: applicability, establishment of regulations and orders, hearings and proceedings, variances, appeals, right of entry, conditions on approvals, and procedural information and guidance.

#### 3. Emission standards for motor vehicle air pollution.

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

#### 4. Inspection station licensing and operation.

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

#### 5. Emissions mechanic/inspector testing and licensing.

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

#### 6. Inspection procedures.

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

- a. An agreement with the customer, oral or written, to perform an emissions inspection.
- b. The inspection of emissions control systems.
- c. The test of emissions levels using an analyzer system.
- d. The inspection for visible smoke.
- e. Document distribution.
- f. Customer advisement.
- g. Free retest, if necessary, within 15 days of original test.

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

#### 7. Enforcement procedures.

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

Based on the analysis of the testimony, the board adopted the following substantial changes to the proposed regulation:

1. Enforcement procedures have been changed to provide flexibility to the board and to meet the requirements of the Administrative Process Act.
2. Requirements for use of repair parts have been changed to allow use of EPA approved aftermarket repair parts.
3. Station licensing requirements have been changed to



# Final Regulations

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be applicable to renewals and to allow the board to set the time period for renewals, not to exceed three years.

4. Authority of the board and department have been changed to be consistent with the Motor Vehicle Emissions Control Law.

5. Requirements concerning emissions mechanics/inspectors have been changed to clarify the differences between the two.

6. Inspection requirements have been changed to base the year of mixed vehicles (different model years for body and engine) on year of engine.

7. Requirements concerning the licensing of mechanics/inspectors have been deleted in favor of retaining the Department of State Police licensing regulations. This change necessitated that station operation requirements be changed to require stations to maintain a file of each employee's name, identification number and address.

8. Inspection requirements have been changed to require the use of quality assurance procedures for analyzers.

9. Vehicle repair requirements have been changed to clarify the low emissions tune up procedures.

10. Inspection certificate requirements have been changed to delete the 120 day validity limit for the certificate.

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

## PART I. DEFINITIONS.

### § 1.1. General.

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

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

### § 1.2. Terms defined.

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

"Administrative Process Act" means Title 9, Chapter

1.1:1 of the Code of Virginia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

inspection station license from the [ department board ] which authorizes the official inspection station to perform emissions standards inspections in accordance with the provisions of this regulation.

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

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

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

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

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

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

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

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

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

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

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

"Gross vehicle weight" means the maximum recommended combined weight of the motor vehicle and its load as prescribed by the manufacturer and expressed

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on a permanent identification label affixed to the motor vehicle.

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

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

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

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

[ "Inspector access code" means the security phrase or number issued by the department to an emissions inspector that identifies the inspector. ]

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

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

1. Inspection of the choke, and the cleaning, repair or replacement as required.
2. Adjustment of the idle speed and air-fuel mixture according to the manufacturer's specifications.
3. Adjustment of the ignition dwell or gap and ignition timing according to manufacturer's specifications.
4. Inspection of the positive crankcase ventilation valve and vacuum hoses and the repair and replacement of those parts as required.
5. Inspection of the spark plugs and spark plug wires and the repair and replacement of those parts as may be required.
6. Inspection of the air filter and fuel filter and the replacement of those parts as required.
7. Inspection of distributor and distributor cap and the replacement of those parts as required.

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

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

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

"Motor vehicle" means any vehicle which:

1. Is subject to registration in Virginia by the Department of Motor Vehicles;
2. Is designed for the transportation of persons or property;
3. Is more than one year but less than 21 years old, measured from the model year of such motor vehicle or, if the motor vehicle does not have a model year, measured from the year of manufacture;
4. Is powered by an internal combustion engine; and
5. Has a gross vehicle weight of 8,500 pounds or less.

The term "motor vehicle" does not include any:

1. Vehicle powered by a diesel engine;
2. Motorcycle;
3. Vehicle which, at the time of its manufacture, was not designed to meet the emissions standards set by the federal government; or
4. Motor vehicle which is either (i) of the same model year as the current calendar year or (ii) less than one year old, measured from the model year of such motor vehicle.

"Normal business hours" for emissions inspection stations, means Monday through Friday, 9 a.m. through 5 p.m., with the exception of national holidays, temporary closures noticed to the department and closures due to the inability to meet the requirements of [ § 6-1 € of ] this regulation.

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

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

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

"Original condition" means the condition as installed by

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the manufacturer but not necessarily to the original level of effectiveness.

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

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

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

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

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

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

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

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

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

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

"Thermometer, certified" means a laboratory grade ambient temperature measuring device with a range of at least 20°F through 120°F, and an attested accuracy of at least  $\pm 1^\circ\text{F}$  with increments of 1°, with protective shielding and approved by the [ department board ].

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

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

"Variance" means the temporary exemption of an owner or other person from these regulations, or a temporary change in these regulations as they apply to an owner or other person.

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

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

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

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

## PART II. GENERAL PROVISIONS.

### § 2.1. Applicability [ and authority of the department ].

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

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

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

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

[ E. By the adoption of these regulations, the board confers upon the department the administrative and enforcement authority enumerated therein. ]

### § 2.2. Establishment of regulations and orders.

A. Regulations for the Control of Motor Vehicle

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

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

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

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

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

## § 2.3. Hearings and proceedings.

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

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

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

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

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

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

[ 2. Oral statements or testimony at any informal proceeding will be stenographically or electronically recorded, and may be transcribed to written form. ]

[ ~~2. 3.~~ ] Formal hearings will be recorded by a court reporter, or electronically recorded for transcription to written form.

C. Availability of record of hearings [ ~~by the board~~ ].

1. A copy of the transcript of a public hearing or informational proceeding, if transcribed, will be provided within a reasonable time to any person upon receipt of a written request and payment of the cost; if not transcribed, the additional cost of preparation will be paid by the person making the request.

[ 2. A copy of the transcript of an informal proceeding, if transcribed, will be provided within a reasonable time to any person upon receipt of a written request and payment of the cost; if not transcribed, the additional cost of preparation will be paid by the person making the request. ]

[ ~~2. 3.~~ ] Any person desiring a copy of the transcript of a formal hearing recorded by a court reporter may purchase the copy directly from the court reporter; if not transcribed, the additional cost of preparation will be paid by the person making the request.

## § 2.4. Variances.

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

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

## § 2.5. Appeals.

A. Any owner or other person aggrieved by any action of the board [ or department ] taken without a formal hearing, or by inaction of the board [ or department ], may demand a formal hearing in accordance with § 9-6.14:12 of the Administrative Process Act, provided a petition requesting such hearing is filed with the board. In

cases involving actions of the board [ or department ] , such petition shall be filed within 30 days after notice of [ such action is mailed or delivered the action from which appeal is pursued is mailed ] to such owner or other person.

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

[ ~~C.~~ B. ] Any decision of the board resultant from a formal hearing shall constitute the final decision of the board.

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

[ ~~E.~~ D. ] Nothing in this section shall prevent disposition of any case by consent.

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

## § 2.6. Right of entry.

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

## § 2.7. Conditions on approvals.

A. The [ ~~department~~ board ] may impose conditions upon licenses and other approvals which may be necessary to carry out the policy of the Virginia Motor Vehicle Emissions Control Law and Virginia Air Pollution Control Law, and which are consistent with these regulations. Except as specified herein, nothing in these regulations shall be understood to limit the power of the [ ~~department~~ board ] in this regard. If the owner or other person fails to adhere to such conditions, the [ ~~department~~ board ] may [ ~~automatically cancel such licenses or approvals~~ proceed with enforcement action under § 7.1 ]. Without limiting the generality of this section, this section shall apply to: approval of variances [ ; issuance of emissions mechanic/inspector licenses ] and issuance of emissions inspection station licenses.

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

## § 2.8. Procedural information and guidance.

A. The department may develop detailed procedures which:

1. Require data and information in addition to and in amplification of the provisions of these regulations;
2. Are reasonably designed to determine compliance with applicable provisions of these regulations; and
3. Set forth the format by which all data and information shall be submitted.

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

## § 2.9. Export/import of motor vehicles.

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

1. The export/import of the motor vehicle meets the provisions of subsection B of this section; and
2. The removal of the emission control devices does not take place prior to 10 days before the vehicle is turned into the port authorities and the reinstallation of the emission control devices takes place within 10 days after receipt of the vehicle by the owner from the port authorities.

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

1. Be exported/imported under a U.S. Environmental Protection Agency (EPA) approved catalyst control program; or
2. Be exported/imported under a Department of Defense (DOD) privately owned vehicle import control program; or
3. If not under an EPA or DOD program, upon reimport to the United States must be entered through U.S. Customs under cash bond and formal entry procedures (19 CFR Part 12 - Special classes of merchandise) and must be modified to bring it into conformity with applicable federal motor vehicle emission standards (40 CFR Part 86 - Control of air pollution from new motor vehicle engines: Certification and test procedures).

## PART III. EMISSION STANDARDS FOR MOTOR VEHICLE AIR

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## POLLUTION.

### § 3.1. Exhaust emission standards.

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

TABLE III-1.  
EXHAUST EMISSION STANDARDS.

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

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

### § 3.2. Emissions control systems standards.

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

B. No motor vehicle or engine shall be operated if [ ~~the purpose of~~ ] any motor vehicle [ ~~pollution~~ emissions ] control system or device has been defeated [ or replaced ] by installing any part or component which is not [ (i) ] a standard factory replacement part or component [ ~~of the device~~ or (ii) ] a part or component certified by the U.S. Environmental Protection Agency to comply with the Federal Motor Vehicle Control Program requirements ] .

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

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

### § 3.3. Visible emissions standards.

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

## PART IV. EMISSIONS INSPECTION STATION LICENSING AND OPERATION.

### § 4.1. Station licenses [ and renewals ] .

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

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

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

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

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

F. Certificates of [ vehicle ] emissions inspection shall only be issued by stations holding valid licenses issued by the [ ~~department~~ board ] .

G. The [ ~~department~~ board ] will endeavor to notify stations prior to the expiration of their license. However, it is the responsibility of the station to have a current valid license.

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

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

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

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

#### 1. Emissions inspection station.

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

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

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

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

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

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

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

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

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

T. Licenses are valid for three years.

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

[ V. Renewals of licenses shall be subject to the provisions of this regulation as are licenses. ]

## § 4.2. Station operations.

A. All stations shall [ ~~be open for business~~ conduct emissions inspections ] during normal business hours, except stations licensed under § 4.1 K 2 [ , and shall inspect every vehicle presented for inspection within a reasonable time period ].

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

business hours.

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

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

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

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

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

H. [ Emissions ] mechanics/inspectors may conduct inspections, repairs and adjustments [ , or any combination of the preceding, ] as defined by the type of license issued.

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

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

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

L. Stations [ ~~subject to temporary closure due to the requirements of § 6.1~~ finding it necessary to suspend inspections due to analyzer system malfunction ] or any other reason shall refund any inspection fee collected when a customer requests a free retest [ in accordance with § 6.2 L ] and cannot be accommodated [ ~~due to the temporary closure~~ ].

[ M. Stations shall maintain a file of the name, address, and identification number of all currently employed emissions mechanics/inspectors and shall provide the file to the department upon request. ]

## § 4.3. Sign posting.

A. All stations, except those licensed under § 4.1 K 2, shall post a [ ~~department~~ board ] approved sign designating the location as an Official Vehicle Emissions Control Program Inspection Station in a conspicuous location on the licensed premises, available to the public and approved by the department.

B. All stations will post the applicable exhaust emissions standards prescribed in Part III in a



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conspicuous location on the licensed premises, available to the public, and approved by the department.

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

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

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

## § 4.4. Equipment and facility requirements.

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

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

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

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

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

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

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

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

3. An automotive dwell meter.

4. An automotive ignition timing light.

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

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

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

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

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

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

11. Analyzer manufacturer's maintenance and calibration manual.

12. Certified thermometer as defined within this regulation.

13. A fuel filler neck inspection gauge, as approved by the [ ~~department~~ board ].

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

15. Telephone.

16. Lockable storage for securing documents.

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

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

## § 4.5. Analyzer operation and certificate of [ vehicle ] emissions inspection usage.

A. All licensed stations shall maintain the analyzer in such a manner that will permit the proper operation in accordance with the requirements of this regulation [ ~~and~~ , ] applicable statutes [ ~~and~~ any procedures approved by the board ].

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

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

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

E. The licensee shall be responsible [ for ensuring ] that all certificates of [ vehicle ] emissions inspection printed

are legible, and properly printed with all information appearing in the correct location on the form.

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

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

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

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

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

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

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

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

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

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

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

§ 4.6. [ ~~Mechanic/~~ ] Inspector number and [ security access ] code usage.

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

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

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

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

E. [ ~~Mechanics/inspectors~~ Emissions inspection stations ] shall report any unauthorized use of an access code to the department within 24 hours of the discovery of unauthorized use.

F. [ ~~Mechanics/inspectors~~ Emissions inspection stations ] shall be responsible for any violation or fraudulent inspection which occurs using [ ~~his mechanic/ the~~ ] inspector [ ~~number numbers~~ ].

G. [ ~~Mechanics/inspectors~~ Emissions inspection stations ] shall be responsible for all certificates of [ vehicle ] emissions inspection bearing [ ~~his mechanic/ the~~ ] inspector number [ of all employees, past and present ].

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

§ 4.7. Fleet emissions inspection stations.

A person to whom there are 20 or more vehicles registered may be licensed as a "fleet emissions inspection station" and conduct inspection of that fleet. As a fleet inspection station, no inspections shall be conducted for the employees or general public, but only on vehicles owned, leased by the business, or consigned or held in inventory for sale. A fleet emissions inspection station shall comply with all applicable requirements for emissions inspection stations.

## PART V.

### EMISSIONS MECHANIC/INSPECTOR TESTING AND LICENSING.

[ NOTE: The board is delaying final action on its proposal to adopt regulations covering licensing of emissions mechanics and inspectors. As provided in Chapter 800 enacted by the 1988 General Assembly, licensing regulations of the Department of State Police shall remain effective until superseded by regulations of the board. Refer to the Department of State Police regulations entitled Virginia Emissions Inspections Regulations, §§ 1.10 and 1.11. ]

[ § 5.1. Requirements for licensing.

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

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

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

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

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

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

G. Upon notification of cancellation, revocation or suspension, mechanic/inspector shall surrender to the department all licenses issued by the department.

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

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

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

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

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

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

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

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

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

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

R. Licenses are valid for three years.

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

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

A. Qualification requirements for emissions mechanic/inspector licenses.

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

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

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

a. Operation and purpose of emissions control systems.

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

c. Adjustment and repair to manufacturers' specifications.

d. This regulation.

e. Contemporary diagnostic and engine tune-up procedures.

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

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

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

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

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

k. Inspecting for visible smoke emissions.

## B. Requalification requirements for all emissions mechanics/inspectors:

1. Upon the determination by the department of the necessity of technically updating the qualifications for emissions mechanics/inspectors, and upon development or approval of retraining courses and retesting requirements for emissions mechanics/inspectors to demonstrate said qualifications, holders of emissions mechanics/inspectors licenses shall be required to requalify.

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

## C. Issuance of emissions mechanics/inspectors licenses:

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

2. The department shall issue a license to any person so qualified or requalified under § 5-2. ]

## PART VI. INSPECTION PROCEDURES.

### § 6.1. General.

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

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

2. The inspection of emissions control equipment.

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

4. The test for visible smoke.

5. Document distribution.

6. Customer advisement.

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

### § 6.2. Inspection procedure.

A. All aspects of the inspection shall be performed by [ a licensed an ] emissions [ mechanic ] inspector, using the instructions programmed in the certified analyzer system [ and procedures approved by the board ], within the [ designated ] inspection area, and on the licensed premises.

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

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

D. In consideration of maintaining inspection integrity:

1. The temperature of the inspection area shall be between 35°F and 110°F during the inspection. Inspection area temperatures shall be accurately recorded and monitored in a well-ventilated location away from vehicle engine and exhaust heat sources and out of direct sunlight. [ The analyzer shall not be operated when the temperature of the inspection area is not within the range stated above. ]

2. The analyzer system shall be kept in a stable environment which affords adequate protection from the weather [ and local sources of hydrocarbons or other pollutants that may interfere with analyzer performance or accuracy of test results, or both ].

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

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voltage and frequency stability.

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

[ 5. The analyzer system shall be operated according to quality assurance procedures and other procedures approved by the department. ]

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

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

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

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

3. If the vehicle fails the fuel filler neck restrictor inspection, the fuel filler neck restrictor as well as the catalytic converters and, if applicable, exhaust gas oxygen (O<sub>2</sub>) sensors shall be replaced to ensure the efficient operation of these emissions control systems. Any exception from this provision shall be verified as a result of a department approved performance test.

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

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

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

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

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

4. The emissions inspection procedure shall be as follows:

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

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

the engine [ ~~and~~ or other appropriate information to ] determine the model year status.

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

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

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

1. A certificate of [ vehicle ] emissions inspection approval [ ("Passed") ] may be issued if all of the following conditions are met:

a. The vehicle emissions levels are the same as or less than the applicable exhaust emission standards.

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

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

2. A certificate of [ vehicle ] emissions inspection waiver [ ("Waiver") ] may be issued if all of the following conditions are met:

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

b. The vehicle continues to exceed applicable

emissions standards after the low emissions tune-up and emission related repairs required by §§ 6.3 and 6.4 have been performed by an emissions mechanic.

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

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

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

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

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

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

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

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

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

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

3. If the vehicle fails:

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

b. Advise of type of failure;

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c. Advise of free retest; and

d. Advise of waiver requirements.

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

## § 6.3. Low emissions tune-up.

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

1. With a dwell meter, check to determine if the ignition dwell is within the recommended tolerance of  $\pm 2^\circ$  of specifications. Reset if the ignition dwell is not within tolerance.

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

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

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

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

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

[ B. A. ] If the vehicle continues to exceed the applicable emissions standards, the vehicle shall undergo a low emissions tune-up, and if still not in compliance [ shall undergo ] specific emissions related repairs in accordance with § 6.4. The low emissions tune-up and repairs shall be accomplished to the point of compliance or the applicable cost ceiling specified in § 6.2 L 2 c shall have been met.

[ B. For computer controlled, closed loop, feed back emissions control systems, the emissions inspector shall inspect the operation of the emissions control system according to the motor vehicle manufacturer's specifications. ]

## § 6.4. Emissions related repairs.

A. Emissions related repairs generally include only those adjustments to and maintenance and repair of the motor

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

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

1. Air intake systems

2. Ignition systems

3. Fuel control systems

4. Emissions control systems

5. Basic engine systems

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

## § 6.5. Engine changes.

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

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

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

## PART VII. ENFORCEMENT PROCEDURES.

### § 7.1. Enforcement of regulations and orders.

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

#### 1. Administrative proceedings.

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

#### 2. Judicial proceedings.

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

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

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

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

[ E. Case decisions regarding the enforcement of regulations and orders shall be made by the executive director. These decisions (i) may be regarded by the aggrieved party as a final decision of the board and

appealed pursuant to subsection C of § 2.5 or (ii) may be appealed to the board pursuant to subsection A of § 2.5. Appeals to the board shall be based on the record and not de novo. ]

### § 7.2. Penalties.

#### A. [ *Schedule Basis for civil penalties* ].

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

#### [ *Type of Violation - Category One*

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

#### Maximum Duration of Suspension

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

#### Type of Violation - Category One

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

#### Maximum Duration of Suspension

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

#### Type of Violation - Category One

Fraudulent record keeping

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

#### Type of Violation - Category One

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

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

#### Type of Violation - Category Two

Failure to produce records upon demand by department personnel

3rd and



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1st Offense	2nd Offense	Subsequent Offense
3 months	6 months	1 year
Type of Violation - Category Two		

Inspection by unlicensed mechanic/inspector

1st Offense	2nd Offense	3rd and Subsequent Offense
3 months	6 months	1 year
Type of Violation - Category Two		

Unnecessary repairs for purposes of inspection

1st Offense	2nd Offense	3rd and Subsequent Offense
3 months	6 months	1 year
Type of Violation - Category Two		

Misstatement of fact

1st Offense	2nd Offense	3rd and Subsequent Offense
1 month	3 months	1 year
Type of Violation - Category Two		

Improper assigning of certificate of emissions inspection

1st Offense	2nd Offense	3rd and Subsequent Offense
1 month	3 months	1 year
Type of Violation - Category Three		

Improper certificate of emissions inspection security

1st Offense	2nd Offense	3rd and Subsequent Offense
Warning	3 months	1 year
Type of Violation - Category Three		

Unclean inspection area

1st Offense	2nd Offense	3rd and Subsequent Offense
Warning	3 months	3 months
Type of Violation - Category Three		

Improper or careless record keeping

1st Offense	2nd Offense	3rd and Subsequent Offense
Warning	3 months	6 months
Type of Violation - Category Three		

Required tools or equipment missing or broken

1st Offense	2nd Offense	3rd and Subsequent Offense
Warning if tools are	1 month or until	6 months or until tools

repaired or replaced; if not, suspension or replaced;	tools are repaired or replaced; whichever is greater;	are repaired or replaced; whichever is greater;
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Type of Violation - Category Four

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

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

B. Official documents.

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

1. Inspection records/data media.
2. Station license.
3. Signature cards.
4. Unused certificates of [ vehicle ] emissions inspection.
- [ 5. Mechanic/inspector license. ]
- [ 6: 5. ] All fees due the [ department board ] for all inspections that have been performed.

[ C. Warning.

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

1. Furnishing, lending, giving, selling or receiving certificate of emissions inspection without inspection.
2. Fraudulent record keeping.
3. Improper record keeping.

#### 4. Faulty inspection.

##### D. Subsequent violations.

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

##### [ E. C. ] Multiple violations.

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

##### [ F. D. ] Voluntary discontinuance.

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

##### [ G. E. ] Abandonment.

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

##### [ H. F. ] Sale of business.

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

##### [ I. Confiscated materials.

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

#### § 7.3. Reapplication.

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



PART A  
**VEHICLE EMISSIONS INSPECTION CERTIFICATE**  
 COMMONWEALTH OF VIRGINIA

STATION ID	VEHICLE ID
TAMPERING INSPECTION	
RETEST INFORMATION	

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

VEHICLE NO.	INSPECTION NO.	IF VEHICLE PASSES OR IS ISSUED A WAIVER, THE OWNER MUST, AT THE TIME OF REGISTRATION OR RENEWAL, SUBMIT TO DMV THIS SECTION OF THE INSPECTION CERTIFICATE AS PROOF OF EMISSION PROGRAM COMPLIANCE. LOST CERTIFICATES MAY BE REPLACED ONLY ONCE BY CONTACTING THE INSPECTION STATION.  <b>EMISSION QUESTIONS: CALL 703-440-8321</b> DEPT. AIR POLLUTION CONTROL DIV. MOBILE SOURCE OPERATIONS SPRINGFIELD TOWERS, SUITE 1102 6320 AUGUSTA DRIVE SPRINGFIELD, VA 22150
MAKE	STATION	
MODEL	DATE	
YEAR		
OVERALL INSPECTION RESULT _____		

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

\*\*\*\*\*

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

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

**Effective Date:** January 1, 1989

**Summary:**

The regulation concerns the procedures and specifications for the certification of analyzer systems; and includes the following: definitions, general provisions, specifications for construction and materials, hardware and design, environmental conditions, and performance requirements.

Based on the analysis of the testimony, the board adopted the following substantial changes to the proposed regulation:

1. Analyzer certification requirements have been changed to require compliance with Federal Clean Air Act § 207(b) warranty requirements.

2. Analyzer operation requirements have been changed to require the use of the U.S. Environmental Protection Agency procedures for manufacture of calibration gases.

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

## PART I. DEFINITIONS.

### § 1.1. General.

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

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

### § 1.2. Terms defined.

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

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

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

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

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

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

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

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

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

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

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

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

"Emission standard" means any provision of Part III of VR 120-99-01 which prescribes an emission limitation, or

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other emission control requirements for motor vehicle air pollution.

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

"Emissions inspection station" means any official inspection station authorized by the superintendent to make safety inspections pursuant to Article 10 (§ 46.1-315 et. seq.) of Chapter 4 of Title 46.1 of the Code of Virginia and which has applied for and obtained an emissions inspection station license from the [ department board ] which authorizes the official inspection station to perform motor vehicle emissions inspections in accordance with the provisions of VR 120-99-01.

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

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

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

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

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

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

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

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

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

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

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

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

[ "~~Mechanic/~~ Inspector access code" means the security phrase or number issued by the department to [ a licensed ~~mechanic/~~ an emissions ] inspector that identifies the [ licensed ~~mechanic/~~ ] inspector.

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

"Motor vehicle" means any vehicle which:

1. Is subject to registration in Virginia by the Department of Motor Vehicles;
2. Is designed for the transportation of persons or property;
3. Is more than one year but less than 21 years old, measured from the model year of such motor vehicle or, if the motor vehicle does not have a model year, measured from the year of manufacture;
4. Is powered by an internal combustion engine; and
5. Has a gross vehicle weight of 8,500 pounds or less.

The term "motor vehicle" does not include any:

1. Vehicle powered by a diesel engine;
2. Motorcycle;
3. Vehicle which, at the time of its manufacture, was not designed to meet the emissions standards set by the federal government; or
4. Motor vehicle which is either (i) of the same model year as the current calendar year or (ii) less than one year old, measured from the model year of such motor vehicle.

"One hour" means any period of 60 consecutive

minutes.

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

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

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

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

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

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

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

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

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

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

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

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

"Virginia Vehicle Emissions Control Program" means the program for the inspection and control of motor vehicle

emissions established by Virginia Motor Vehicle Emissions Control Law.

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

## PART II. GENERAL PROVISIONS.

### § 2.1. Applicability.

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

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

### § 2.2. Design goals.

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

### § 2.3. Useful life.

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

### § 2.4. Nameplate data.

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

1. Name and address of manufacturer.
2. Model description.
3. Serial number.
4. Date of assembly.

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

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

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## § 2.5. Manuals.

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

1. Easy reference operating instructions.
2. Operation instructions.
3. Maintenance instructions.
4. Initial start-up instructions.

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

1. Allow convenient storage.
2. Allow easy use.
3. Prevent accidental loss or destruction.

## § 2.6. Warranty coverage.

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

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

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

## § 2.7. Manufacturer provided services.

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

1. Delivery, installation, calibration, and verification of the proper operating condition of an analyzer system which has been approved in writing by the department.
2. Training of all mechanics/inspectors employed by the station at the time of installation in the proper use, maintenance, and operation of the analyzer system, including the step-by-step procedure for

performing a vehicle idle inspection.

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

- a. Changes to the emission standards including additions up to a maximum of 30 categories;
- b. Changes to the listed vehicle codes in Table A-3 of Appendix A;
- c. Changes to the items in the printing system to correspond to changes in other requirements; and
- d. Additions or changes to the tampering list (10 maximum).

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

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

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

## § 2.8. Certification of analyzer systems.

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

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

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

#### Section 207(b) Warranty Requirements:

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

[ C. In order to receive department certification, the analyzer system shall be certified by the manufacturer as having met the specifications of 40 CFR Part 85, Subpart W as published in Part IX of the May 22, 1980, Federal Register. This certification is necessary so that inspections performed using that analyzer will qualify applicable vehicles for warranty repair coverage according to the provisions of the Emission Control System Performance Warranty (§ 207(b) of the Federal Clean Air Act). ]

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

#### § 2.9. Span gases.

##### A. General.

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

##### B. Span gas blends.

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

##### C. Containers.

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

##### D. Optional correction factor.

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

##### E. Running changes and equipment updates.

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

#### § 2.10. Calibration of exhaust gas analyzers.

The [ department board ] shall use and require for use in the calibration and spanning of exhaust gas analyzers span gases and containers meeting the following parameters, blends, and specifications.

##### A. Standardizing instruments.

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

##### B. Station instruments.

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

1. The carrier gas shall be nitrogen; the hydrocarbon gas shall be propane. Three component (hydrocarbon, carbon monoxide, carbon dioxide and carrier) gases shall be provided.
2. The concentrations of the span gas blend shall be within limits established by the [ department board ] to provide for uniform exhaust gas analyzer spanning.
3. The accuracy of the span gas blend shall be certified by the blender to the  $\pm 2\%$  of labeled



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concentration and traceable to the National Bureau of Standards.

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

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

## C. Accuracy.

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

## [ ~~D. Containers.~~

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

## D. Calibration gas requirements.

All calibration gas shall be manufactured in accordance with U.S. Environmental Protection Agency technical report, "EPA Recommended Practice for Naming I/M Calibration Gas," EPA-AA-TSS-83-8-B, September 1983. ]

## PART III. CONSTRUCTION AND MATERIALS.

### § 3.1. Materials.

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

### § 3.2. Construction.

The analyzer system shall be complete and all necessary parts and equipment required for satisfactory operation shall be furnished. A suitable means of storing the probes and sample hose shall be provided. All parts shall be

manufactured and assembled to permit the replacement or adjustment, or both, of components and parts without requiring the modification of any parts or the basic equipment design. Where practical, components or subassemblies, or both, shall be modular. The analyzer system cabinet finish shall be baked enamel or equivalent.

### § 3.3. Mobility.

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

### § 3.4. Electrical-materials/construction.

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

### § 3.5. Power supply.

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

### § 3.6. Fault protection.

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

## PART IV. HARDWARE AND DESIGN.

### § 4.1. Read-out display control panel.

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

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

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

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

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

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

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

#### § 4.2. Process control system.

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

B. Analyzer system suppliers are required to submit a

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

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

1. Each test performed.
2. Automatic gas span check (every 180 hours).
3. Automatic leak check (every 180 hours).

#### § 4.3. Sampling system.

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

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

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

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

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

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

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

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

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

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

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

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

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

## § 4.4. Analytical system.

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

## § 4.5. Fail-safe features.

A. Functional operation of the unit shall remain disabled through a system lockout until the instrument meets the warm-up requirements described in the

specifications in BAR 80, § 3.1.10 or § 3.1.10.1, or both (see Appendix D).

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

## § 4.6. Automatic data collection.

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

### A. Data entry system.

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

- a. [ ~~Mechanic/~~ ] Inspector identification number.
- b. Vehicle identification number.
- c. Vehicle make (Table A-3 of Appendix A).
- d. Vehicle model year.
- e. Vehicle type (maximum of 4 categories).
- f. Number of cylinders (2R for rotary) (#D for direct ignition).

NOTE: # = number of cylinders.

- g. Odometer reading.
- h. Type of test (initial\*, Nth retest, state).

NOTE: N = 1 through 9.

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

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

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

l. Vehicle with\*/without air injection.

m. Single\*/dual exhaust.

n. Emissions control systems inspection results.

o. Visible smoke.

p. Certificate number.

q. City/town where repaired\*.

r. Name of repair garage\*.

s. Invoice number of repair.

t. Date of repair\*.

[ #: Waiver number. ]

NOTE: Inputs denoted by an asterisk (\*) may be chosen by default unless changed by the operator in specific cases. [ A special "state" test selection shall be accessible to department personnel only and shall not appear in the standard menu. ]

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

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

## B. Data storage system.

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

## C. Data reporting.

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

2. The storage device and storage media shall be

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secured by [ ~~lock and an~~ ] access code; [ only ] department personnel and manufacturer's representatives shall have access.

## § 4.7. Printing system.

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

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

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

## § 4.8. Automatic gas span check.

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

B. The standard gases used to span and calibrate the analyzer system shall be 1.6% carbon monoxide, 600 parts per million hydrocarbon (as hexane), 11% carbon dioxide in nitrogen,  $\pm$  2% accurate,  $\pm$   $\nu$  blend tolerance and satisfy the criteria included in the Federal Clean Air Act, § 207(b), and described in Subpart W of Part 85 of Chapter I, Title 40 of the Code of Federal Regulations. In order to ensure that the quality of the standard gases used in the program meet these specifications, all standard gases purchased by the owner or operator of a participating emissions inspection station for use in the analyzer system must conform to the requirements established in the BAR 80 Amendment Memorandum, Low Range Gas for Test Analyzer System (see Appendix D). These requirements include the testing and certification of the concentration, accuracy, precision, and purity of the standard gases to within the referenced limits and the labeling of individual gas canisters describing these and other specified parameters.

## § 4.9. Automatic leak check.

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

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

## § 4.10. Automatic hang-up check.

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

When the level stabilizes below or at the 20 parts per million value, an indication that testing may begin shall be displayed. The analyzer system shall be precluded from operating until the hydrocarbon level is met, or 300 seconds have elapsed.

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

## § 4.11. Vehicle diagnosis.

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

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

## § 4.12. Analyzer system tamper protection.

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

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

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

## § 4.13. Automatic read system.

A. The analyzer system shall have a selector switch, equivalent prompter/command or button (with indicator light) labeled "start-test." Activation of "start-test" shall

cause the analyzer system to begin the sequence outlined in § 4.14. The sample validation can occur prior to or simultaneously with the hydrocarbon and carbon monoxide sampling. Integrating or averaging the analyzer response shall begin 17 seconds after the switch is activated, and continue integrating the analyzer response to a flowing sample for the next 15 seconds for hydrocarbon and carbon monoxide sampling. Alternate methods for sample validation will be considered provided that they can be demonstrated to meet the requirements of Subpart W of Part 85 of Chapter I, Title 40 CFR. Emissions sampling may occur immediately after validation. The sample and hold circuits can be either analog or digital. Digital sample rates shall be at least 10 hertz. However, the digital sample rate may be as low as two hertz provided the manufacturer satisfactorily demonstrates equivalent response (accuracy). If the manufacturer identifies that the response time to 99% of a step change is less than 17 seconds, the manufacturer may select [ ~~anytime~~ any time ] between the 99% time and 17 seconds to begin the integration. If the manufacturer elects this option, the integration start time must be boldly visible on the front of the analyzer. Failure to meet this new response time during field audit checks will constitute a failure of the audit.

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

## § 4.14. Automatic test sequence.

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

B. The following inspection [ ~~sequence~~ functions ] shall be utilized:

1. Warm-up and self-calibration procedure.
2. [ ~~Mechanic/~~ ] Inspector identification number?
3. Vehicle identification number?

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4. Vehicle make?

5. Vehicle model year?

6. Vehicle type?

7. Number of cylinders?

8. Odometer reading?

9. Type of test?

Initial

Retest number

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

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

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

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

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

14. Air injection?

15. Single or dual exhaust?

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

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

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

a. Carbon monoxide %

b. Hydrocarbon parts per million

c. Carbon monoxide + carbon dioxide % ]

[ 19. 18. ] Exhaust emissions test (valid/invalid) [ (RPM and dilution) ]

[ 20. 19. ] Exhaust emissions test (pass/fail)

] 21. 20. ] Visible smoke (P/F)

[ 21. For state test only, display cut points, actual levels, previous values if entered, and inspection

results:

a. Carbon monoxide %

b. Hydrocarbon parts per million

c. Carbon monoxide + carbon dioxide % ]

22. Certificate number

23. City/town where repaired?

24. Name of repair garage?

25. Invoice number of repair?

26. Date of repair?

[ 27. Waiver number (if waived) ]

[ 28. 27. ] Print certificate with appropriate messages.

[ NOTE: The above are the major functions of the inspection procedure; however, the sequence of the functions are defined in Appendix E. ]

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

TABLE 4.1.

## STANDARDIZED REPAIR CODES. (Alpha Entries)

A Air filter element

B Other induction system repairs

C Carburetor assembly

D Idle mixture adjustment

E Idle speed adjustment

F Fuel injection components

- G Other carburetor repairs
- H Choke adjustment
- I Other choke repairs
- J Distributor assembly
- K Initial timing adjustment
- L Spark plugs and/or wires
- M Other ignition system repairs
- N Exhaust gas recirculation valve
- O Air injection system
- P Positive crankcase ventilation valve
- Q Catalyst
- R Evaporative canister
- S Miscellaneous hoses
- T Other [ ~~pollution control repairs~~ repairs/unknown ]
- U Electrical control module
- V Oxygen sensor
- W Diagnostic system codes
- X Other sensors

#### § 4.15. Antidilution.

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

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

1. Vehicle equipped with air injection: 4.0%
2. Vehicle without air injection: 6.0%

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

#### § 4.16. Engine tachometer/excessive idle lockout.

A. A digital tachometer shall be integrated with the analyzer system for the purposes of measuring engine

speed according to the number of cylinders indicated in data entry section. The hook-up to the engine shall be by means of a revolutions per minute pick-up. The operator should be prompted to shut the engine off while connecting revolutions per minute probe. Appropriate connection in order to obtain revolutions per minute from all current production on-road vehicles as of the release date of this specification shall be provided. A bypass option shall be available for 1989 and later vehicle model years. [ This option will be evaluated each year by the department to determine if it should be used. ]

B. Idle speed ranges are as follows:

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

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

#### § 4.17. Waivers and warranties.

A. During the retest procedure, software will not allow a waiver to be issued if the vehicle has less than 24,000 miles on the odometer and is less than two model years old. Under VR 120-99-01, waivers may be issued for any vehicle. During a retest, other vehicles shall not be allowed a waiver until an appropriate repair cost has been reported. These costs are listed below:

1. \$60 for pre-1972 model vehicles.
2. \$125 for 1972-1974 model vehicles.
3. \$175 for 1975-1979 model vehicles.
4. \$200 for 1980 and newer model vehicles.

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

#### § 4.18. Innovative technology.

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

PART V.  
ENVIRONMENTAL.



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## § 5.1. Storage temperature.

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

## § 5.2. Operating temperature.

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

## § 5.3. Humidity conditions.

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

## § 5.4. Temperature control.

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

## § 5.5. Data storage device protection.

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

## PART VI. PERFORMANCE.

### § 6.1. Overall accuracy.

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

Hydrocarbons:	0 to 400 parts per million
	= +/- 12 parts
	per million
	400 to 1,000 parts per
	million = +/- 30
	parts per million
	1,000 to 2,000 parts per
	million = +/- 60
	parts per million

Carbon	
monoxide:	0 to 2% = +/- 0.06%
	2 to 5% = +/- 0.15%
	5 to 10% = +/- 0.3%

Carbon	
dioxide:	0 to 10% = +/- 0.3%
	10 to 16% = +/- 0.5%

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

### § 6.2. Drift.

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

### § 6.3. Warm-up.

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

### § 6.4. Response.

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

### § 6.5. Optical correction factor.

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

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

### § 6.6. Interference.

A. The effect of extraneous gas interference and electronic interference on the carbon monoxide and

hydrocarbon analyzers shall be limited. The gas interference shall meet the requirements in BAR 80, §§ 3.1.6 and 4.3.9 (see Appendix D).

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

### § 6.7. Sampling system leakage.

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

### § 6.8. Hydrocarbon hang-up.

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

### § 6.9. Antidilution limits.

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

## APPENDIX A. DATA STORAGE SYSTEM.

### I. Data storage system.

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

### II. Disk format specification - general.

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

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

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

### III. Physical disk definition.

The physical disk media shall be the double-sided,

double density, 3-1/2 inch microdisk (see Appendix B).

### IV. Physical disk specification.

Sony part number	OM-D4440 or equivalent, double sided 3-1/2 inch media
Recording method	Modified Frequency Modulation (MFM)
Recording density	8190 bits per inch
Track density	135 tracks per inch
Track format standard	IBM ® 3740 definition
Number of tracks	80
Sectors per tract	9
Net sector size	512 bytes
Usable sectors	1440
Unformatted capacity	1 megabyte
Formatted capacity	720 Kbytes
Performance specification	Must be capable of storing data on disk(s) supplied by the department -  at an accuracy rate not less than 1 bit in error for every 10,000,000 bits.

### V. Logical disk definition.

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

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

### VI. Logical disk specification.

#### Physical sector allocation.

Boot sector	Sector 0
File Allocation Tables (FATs)	Sectors 1 to 10
Directory	Sectors 11 to 17
Predefined data file	Sectors 18 to 719

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Header Record	Sector 18
System or Vehicle Test Record	Sectors 19 to 719
Undefined disk area	Sectors 720 to 1439

## VII. Data file definition.

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

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

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

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

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

## VIII. System test record definition.

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

## IX. Vehicle test record definition.

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

## X. Vehicle codes.

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

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

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

TABLE A-1.  
CALIBRATION RECORD FORMAT.

DESCRIPTION	BYTE COUNT	BYTES	METHOD <sup>1</sup>	CONTENT <sup>2</sup>
<u>General Information</u>				
1. Record Identification	6	0-5	A	"System"
2. Gas Calibration Indicator	1	6-6	A	"#"
3. Station Number	5	7-11	A	AN
4. Analyzer Number (single letter designation followed by last three numbers of unique serial number)	4	12-15	A	AN
5. Date	6	16-21	A	YY/MM/DD
6. Time (24 hour clock)	4	22-25	A	N
7. Test Sequence Number	5	26-30	A	0000..99999
<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

DESCRIPTION	BYTE COUNT	BYTES	METHOD <sup>1</sup>	CONTENT <sup>2</sup>
<u>Test Results</u>				
12. CO Zero	5	45-49	A	N <sup>3</sup>
13. HC Zero	5	50-54	A	N <sup>3</sup>
14. CO-2 Zero	4	55-58	A	N <sup>3</sup>
15. CO Span Reading	4	59-62	A	N <sup>3</sup>
16. HC Span Reading	4	63-66	A	N <sup>3</sup>
17. CO-2 Span Readings	3	67-69	A	N <sup>3</sup>
18. Leak Check - Pass/Fail	1	70-70	A	"P" or "F"
19. Unused Bytes	441	71-511		Unused

## NOTES:

<sup>1</sup> - Method Input Codes

M = Manual Entry

A = Automatic Entry

<sup>2</sup> - Content Input Codes

A = Alphabetic Character

N = Numeric Character

AN = Alphanumeric Character

<sup>3</sup> - Value may be negative and may need a leading ASCII minus sign.

TABLE A-2.  
VEHICLE TEST RECORD FORMAT.

DESCRIPTION	BYTE COUNT	BYTES	METHOD <sup>1</sup>	CONTENT <sup>2</sup>
<u>GENERAL INFORMATION</u>				
1. Record Identification	6	0-5	A	"VEHICL"
2. Station Number	5	6-10	A	AN
3. Analyzer Number (single letter designation followed by last three numbers of unique serial number)	4	11-14	A	AN
4. Date	6	15-20	A	YY/MM/DD
5. Time (24 hour clock)	4	21-24	A	N
6. Test Sequence Number	5	25-29	A	00001..99999
<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	"Y"/"N"
* 16. Dual Exhaust	1	77-77	M	"Y"/"N"

DESCRIPTION	BYTE COUNT	BYTES	METHOD <sup>1</sup>	CONTENT <sup>2</sup>
<u>EMISSIONS CONTROL SYSTEM INSPECTION RESULTS</u>				
* 17. PVC Valve	1	78-78	M	"P"/"F"/"N"
* 18. Catalytic Converter	1	79-79	M	"P"/"F"/"N"
* 19. Air Pump	1	80-80	M	"P"/"F"/"N"
* 20. Evaporative System	1	81-81	M	"P"/"F"/"N"
* 21. Fuel Filler Neck Restrictor	1	82-82	M	"P"/"F"/"N"
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. Visible Smoke	1	87-87	M	"P"/"F"
<u>REPAIR INPUTS</u>				
* 27. Previous Emission Test Invalid	1	88-88	M	"Y"/"N"
28. Previous CO Level %	4	89-92	M	N
29. Previous HC Level ppm	4	93-96	M	N
* 30. Calculated Reduction CO %	5	97-101	A	N
* 31. Calculated Reduction HC %	5	102-106	A	N
32. Cost of Repair in \$	4	107-110	M	N
33. Repair Code	6	111-116	M	A
<u>EXHAUST EMISSION TEST RESULTS</u>				
34. CO Emission Test, Idle	4	117-120	A	N
35. HC Emission Test, Idle	4	121-124	A	N
36. CO + CO-2 Test, Idle	4	125-128	A	N

DESCRIPTION	BYTE COUNT	BYTES	METHOD <sup>1</sup>	CONTENT <sup>2</sup>
37. CO Emission Test, Idle	1	129-129	A	"P"/"F"
38. HC Emission Test, idle	1	130-130	A	"P"/"F"
39. Not Currently Used	11	131-141		
<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. Not Currently Used	10	185-194		
<u>FINAL RESULTS</u>				
45. Dilution	1	195-195	A	"V"/"I"
* 46. RPM	1	196-196	A	"V"/"I"/"B"
* 47. Overall Inspection Results	1	197-197	A	"P"/"F"/"W"
48. Certificate Number	10	198-207	AM	AN
49. Unused Bytes	303	208-511		Unused

## NOTES:

<sup>1</sup> - Method Input Codes

M = Manual Entry

A = Automatic Entry

<sup>2</sup> - Content Input Codes

A = Alphabetic Character

N = Numeric Character

AN = Alphanumeric Character

\*Denotes changes to the proposal.

6-61/STB2.1

TABLE A-3.  
VEHICLE CODES.

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

6-61/STB3.1

APPENDIX B.  
PHYSICAL DISK DEFINITION.

<u>MODEL</u>	<u>SONY (or equivalent)</u>
<u>GENERAL CHARACTERISTICS</u>	
<u>Usable Sides</u>	<u>Double Side</u>
<u>Recording density</u>	<u>Double density</u>
<u>Maximum recording density</u>	<u>8,717</u>
<u>Number of tracks</u>	<u>80 x 2</u>
<u>Track density (TPI)</u>	<u>135</u>
<u>Memory capacity (Bytes, Unformatted)</u>	<u>1M</u>
<u>Format</u>	<u>Unformatted</u>
<u>Data transfer rate (BPS)</u>	<u>500K (500 RPM)</u>
<u>Disk rotation (RPM)</u>	<u>300/600</u>
<u>Recording system</u>	<u>Modified Frequency Modulation</u>
<u>Dimensions (nominal)</u>	
<u>Outer diameter (mm)</u>	<u>86.0</u>
<u>Disk thickness (um)</u>	<u>80</u>
<u>Coating thickness (um)</u>	<u>1.9</u>
<u>External dimensions (mm)</u>	<u>90z94z3.3 (WHD)</u>
<u>Weight (g)</u>	<u>22</u>
<u>Track Quality</u>	
<u>Missing pulse</u>	<u>0</u>
<u>Extra pulse</u>	<u>0</u>
<u>Environmental Requirements</u>	
<u>Operating/storage conditions</u>	<u>39° F to 140° F at 8% to 90% RH</u>
<u>Magnetic Characteristics (nominal)</u>	
<u>Squareness</u>	<u>0.7</u>
<u>Residual magnetic flux density (GAUSS)</u>	<u>700</u>
<u>Coercive force (OERSTEDS)</u>	<u>625</u>
<u>Surface electric resistance (OHM/IN<sup>2</sup>)</u>	<u>1 x 10<sup>8</sup></u>

6-61/SC.1

## APPENDIX C. INNOVATIVE TECHNOLOGY REQUIREMENTS FOR CERTIFIED ANALYZER SYSTEMS.

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

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

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

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

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

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

E. The [ system shall ability to implement this technology in a manner that will ] not result in undue inconvenience for the station or vehicle owner; and

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

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

## APPENDIX D. DOCUMENTS INCORPORATED BY REFERENCE.

### I. General.

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

incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

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

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

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

D. Copies of materials incorporated by reference in this appendix may be examined by the public at the headquarters office of the Department of Air Pollution Control, Room 819, Ninth Street Office Building, [ 200-202 North Ninth Street, ] Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

### II. Specific documents.

#### A. Code of Federal Regulations.

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

#### B. California Bureau of Automotive Repair.

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

- a. BAR 80, Exhaust Gas Analyzer Specifications, 1980.
- b. BAR 80 Amendment Memorandum, Low Range Gas for Test Analyzer System (TAS), October 16,

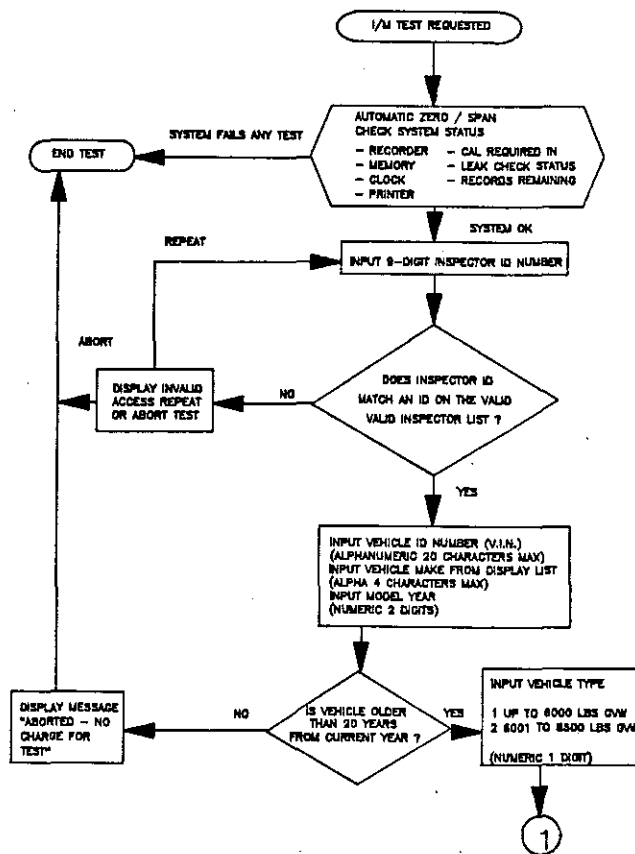


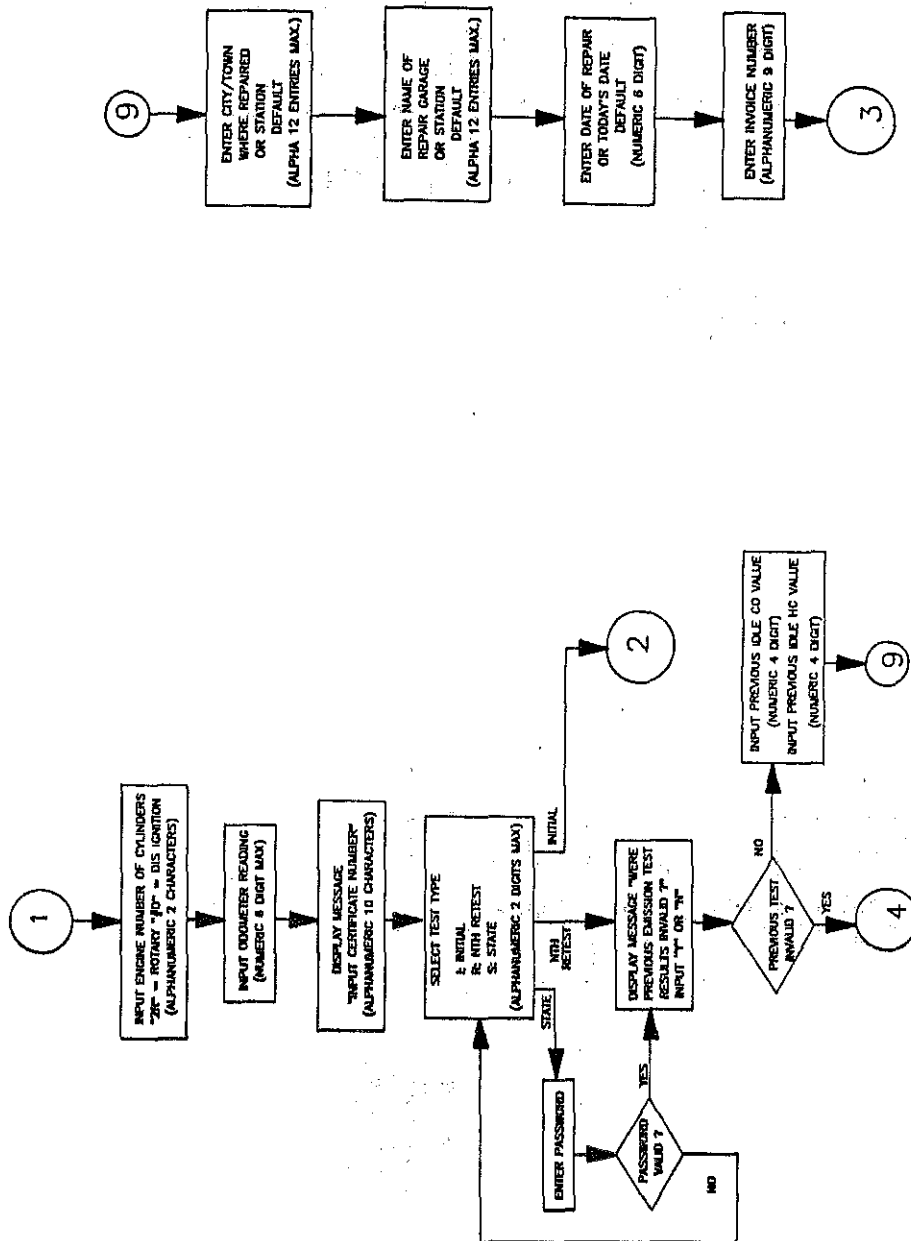
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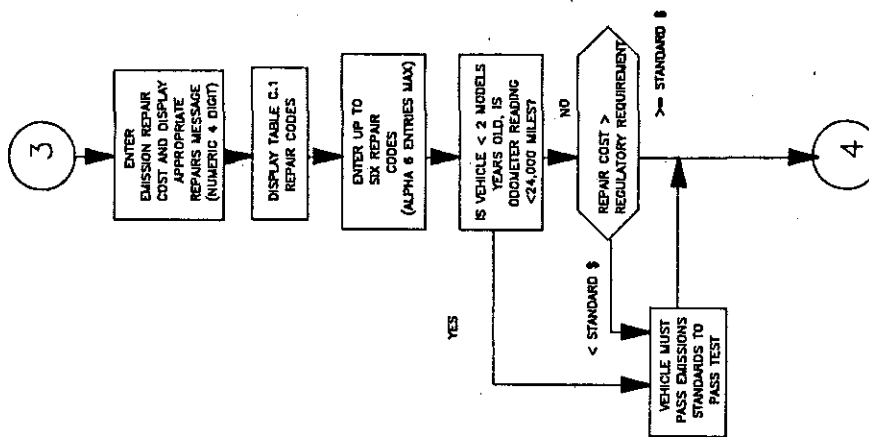
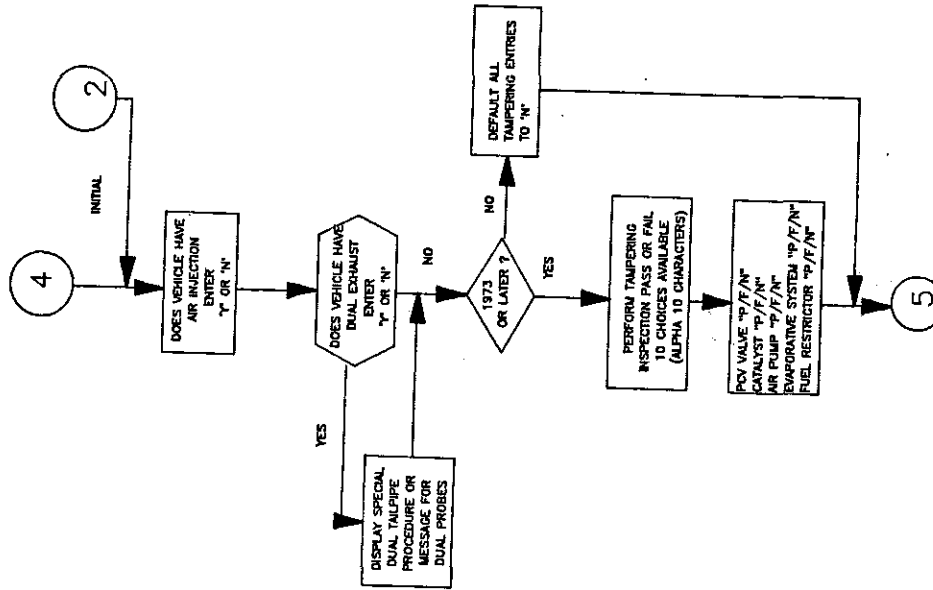
2. Copies may be obtained from: Department of Consumer Affairs, Bureau of Automotive Repair, California Vehicle Inspection Program, 3116 Bradshaw Road, Sacramento, California 95827.

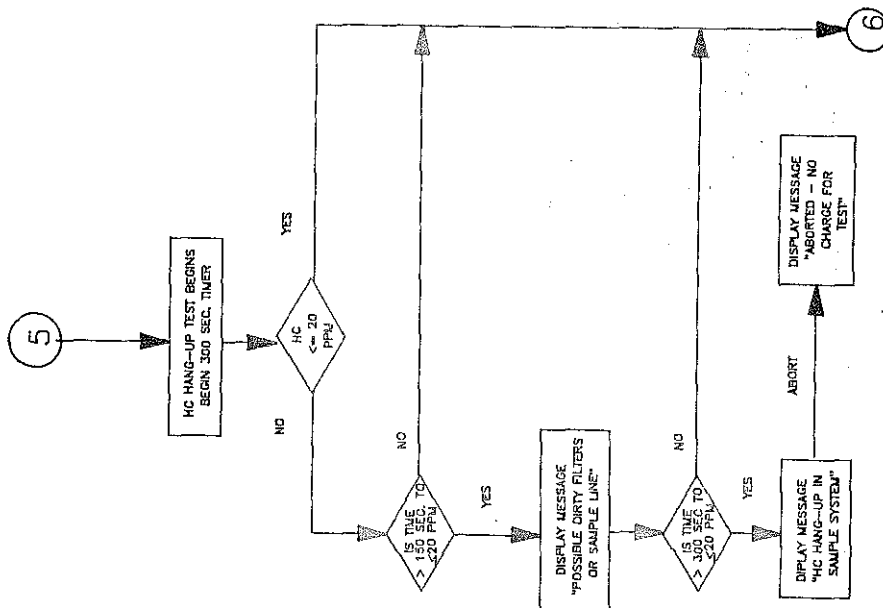
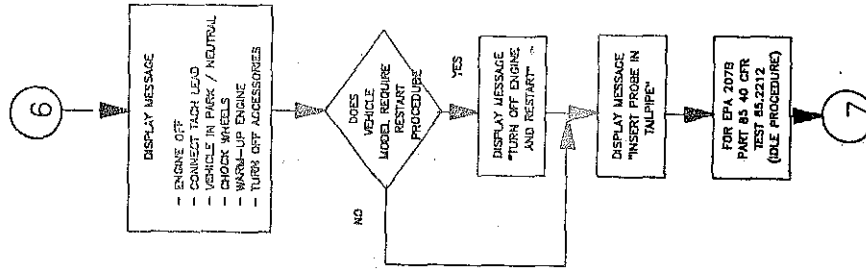
APPENDIX E.  
PROGRAM FLOW DIAGRAM.



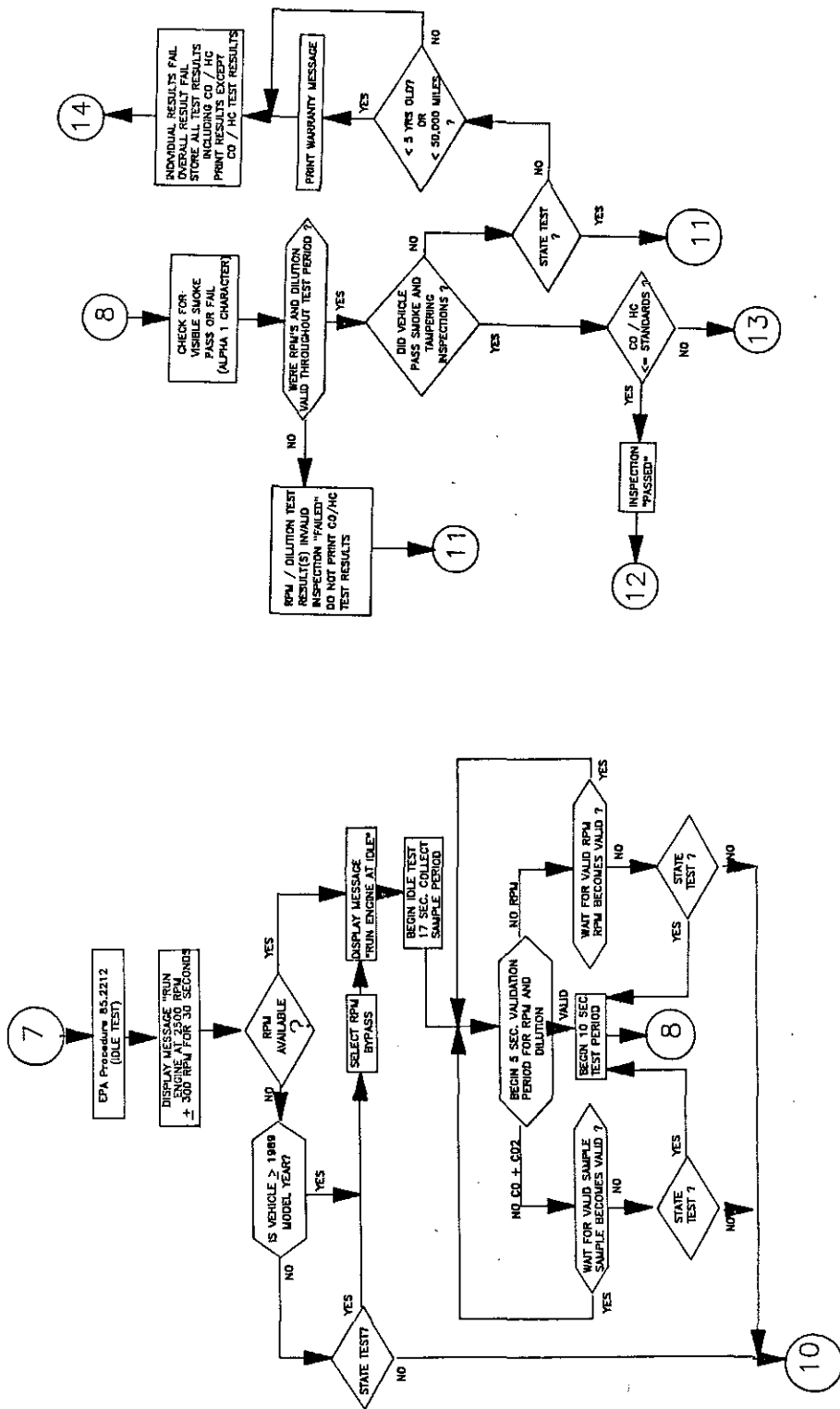


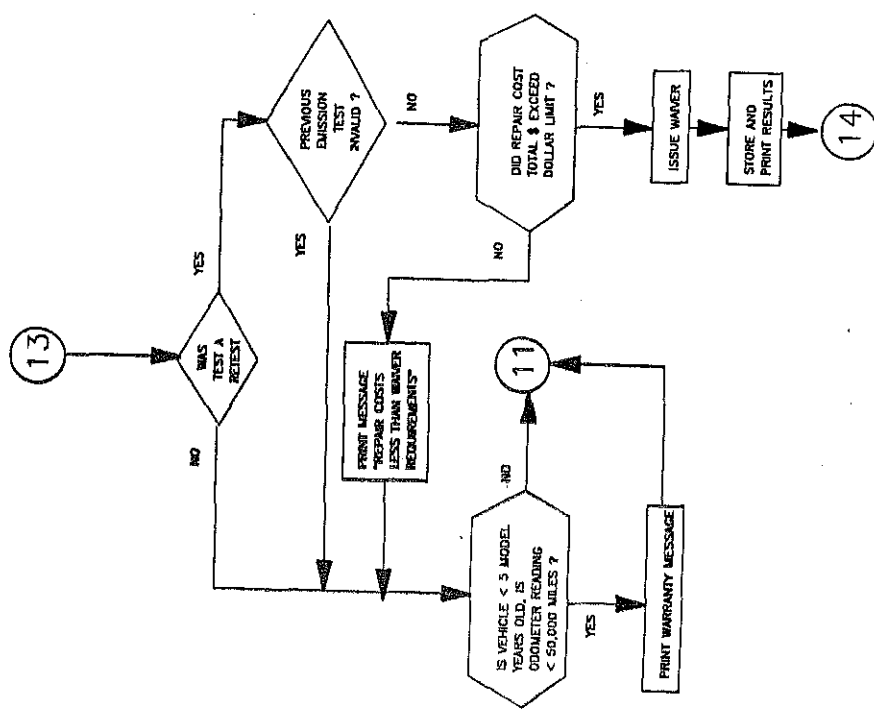
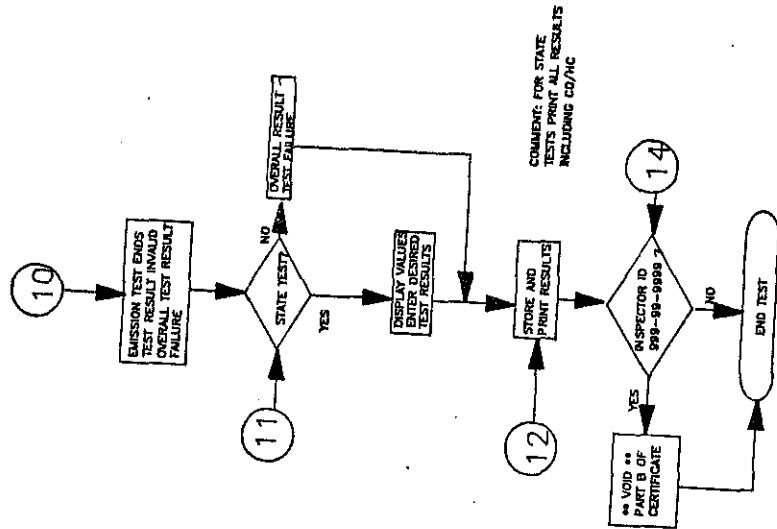
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## DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

**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 Regulations: VR 325-02. GAME.  
VR 325-02-24. Waterfowl and Waterfowl Blinds.

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

Effective Date: December 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.

§ 12. Hunting of waterfowl prohibited on Wednesdays on Pamunkey River.

This section is rescinded in its entirety.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**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, and in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes from Article 2 regulations which consist only of changes in style or form or corrections of technical errors. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulations: State Plan for Medical Assistance Relating to Technical Amendment Resulting from HCFA PM 88-10.

VR 460-01-36. Medicaid Agency Fraud Detection and Investigation Program.

VR 460-01-46. Utilization Control.

VR 460-01-76. Appeals Process for Skilled Nursing and Intermediate Care Facilities.

VR 460-01-79.2. Systematic Alien Verification for Entitlements.

VR 460-02-3.1100. Amount, Duration and Scope of Medical

and Remedial Care and Services Provided to the Categorically Needy.

VR 460-02-4.192. Methods and Standards for Establishing Payment Rates - Other Types of Care.

VR 460-02-4.194. Methods and Standards for Establishing Payment Rates - Long-Term Care.

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

Effective Date: January 1, 1989

Summary:

*These final regulations make technical changes to preprinted Plan pages issued by the Health Care Financing Administration (HCFA) and establish internal practice. Periodically, the HCFA issues revised preprinted pages for inclusion in the states' Medicaid plans. Routinely, statutory and regulatory citations are updated to maintain currency with the latest Congressional actions. In addition, the department, since recently completing a thorough evaluation of the Plan, has continued to identify additional items requiring updating. This technical amendment has combined both of these types of regulatory action.*

VR 460-01-36. Medicaid Agency Fraud Detection and Investigation Program.

Revision: HCFA-PM-88-10 (BERG)  
SEPTEMBER 1988

OMB No.: 0938-0193

State/TERRITORY: VIRGINIA

Citation  
42 CFR 455.12  
AT-78-90  
48 FR 3742  
52 FR 48817

4.5 Medicaid Agency Fraud Detection and Investigation Program

The Medicaid agency has established and will maintain methods, criteria, and procedures that meet all requirements of 42 CFR 455.13 through 455.21 and 455.23 for prevention and control of program fraud and abuse.

TN No. 88-21  
Supersedes  
TN No. 83-07

Approval Date \_\_\_\_\_

Effective Date 1/1/89

HCFA ID: 1010P/0012P



# Final Regulations

VR 460-01-46. Utilization Control.

Revision: HCFA-PM-88-10 (BERC)  
SEPTEMBER 1988

OMB No.: 0938-0193

State/~~TERMINAL~~: VIRGINIA

Citation 4.14 Utilization Control

42 CFR 431.630  
42 CFR 456.2  
50 FR 15312

(a) A Statewide program of surveillance and utilization control has been implemented that safeguards against unnecessary or inappropriate use of Medicaid services available under this plan and against excess payments, and that assesses the quality of services. The requirements of 42 CFR Part 456 are met:

Directly.

1902(a)(30)(C)  
and 1902(d) of the  
Act, P.L. 99-509  
(Section 9431)

By undertaking medical and utilization review requirements through a contract with a Utilization and Quality Control Peer Review Organization (PRO) designated under 42 CFR Part 462. The contract with the PRO--

- (1) Meets the requirements of §434.6(a);
- (2) Includes a monitoring and evaluation plan to ensure satisfactory performance;
- (3) Identifies the services and providers subject to PRO review;
- (4) Ensures that PRO review activities are not inconsistent with the PRO review of Medicare services; and
- (5) Includes a description of the extent to which PRO determinations are considered conclusive for payment purposes.

Quality review requirements described in section 1902(a)(30)(C) of the Act relating to services furnished by HMOs under contract are undertaken through contract with the PRO designated under 42 CFR Part 462.

1902(a)(30)(C)  
and 1902(d) of the  
Act, P.L. 99-509  
(Section 9431)

By undertaking quality review of services furnished under each contract with an HMO through a private accreditation body.

TN No. 88-21  
Supersedes  
TN No. 87-18

Approval Date \_\_\_\_\_

Effective Date 1/1/89

HCFA ID: 1010P/0012P

## VR 460-01-76. Appeals Process for Skilled Nursing and Intermediate Care Facilities.

Revision: HCFA-PM-88-10 (BERC)  
SEPTEMBER 1988

OMB No.: 0938-0193

State/Territory: ~~MISSISSIPPI~~ VIRGINIA

Citation  
42 CFR 431.152  
AT-79-18  
52 FR 32544

### 4.28 Appeals Process for Skilled Nursing and Intermediate Care Facilities

The Medicaid agency has established appeals procedures for skilled nursing and intermediate care facilities as specified in 42 CFR 431.153 and 431.154.

Not applicable to intermediate care facilities; such services are not provided under this plan.

TN No. 88-21  
Supersedes  
TN No. 79-07

Approval Date \_\_\_\_\_

Effective Date 1/1/89

HCFA ID: 1010P/0012P

# Final Regulations

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VR 460-01-79.2. Systematic Alien Verification for Entitlements.

Revision: HCFA-PM-88-10 (BERC)  
SEPTEMBER 1988

OMB No.: 0938-0193

State/Territory: ~~XXXXXX~~ VIRGINIA

Citation  
1137 of  
the Act

P.L. 99-603  
(sec. 121)

4.34 Systematic Alien Verification for Entitlements

The State Medicaid agency has established procedures for the verification of alien status through the Immigration & Naturalization Service (INS) designated system, Systematic Alien Verification for Entitlements (SAVE), effective October 1, 1988.

The State Medicaid agency has elected to participate in the option period of October 1, 1987 to September 30, 1988 to verify alien status through the INS designated system (SAVE).

The State Medicaid agency has received the following type(s) of waiver from participation in SAVE.

Total waiver

Alternative system

Partial implementation

TN No. 88-21  
Supersedes  
TN No. \_\_\_\_\_

Approval Date \_\_\_\_\_

Effective Date 1/1/89

HCFA ID: 1010P/0012P

VR 460-02-3.1100. Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy.

Revision: HCFA-PM-88-10 (BERG)  
SEPTEMBER 1988

ATTACHMENT 3.1-A  
Page 1  
OMB No.: 0938-0193

State ~~DELAWARE~~ VIRGINIA

AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

1. Inpatient hospital services other than those provided in an institution for mental diseases.  
 Provided:  No limitations                       With limitations\*
  
- 2.a. Outpatient hospital services.  
 Provided:  No limitations                       With limitations\*
  
- b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.  
 Provided:  No limitations                       With limitations\*  
 Not provided.
  
3. Other laboratory and x-ray services.  
 Provided:  No limitations                       With limitations\*
  
- 4.a. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.  
 Provided:  No limitations                       With limitations\*
  
- b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.  
 Provided:  Limited to Federal requirements                       In excess of Federal requirements\*

TN No. 88-21  
 Supersedes TN No. 87-17  
 Approval Date \_\_\_\_\_ Effective Date 1/1/89  
 HCFA ID: 1040P/0016P

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## VR 460-02-4.192. Methods and Standards for Establishing Payment Rates - Other Types of Care.

The policy and the method to be used in establishing payment rates for each type of care or service (other than inpatient hospitalization, skilled nursing and intermediate care facilities) listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs:

a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the program so that eligible persons can receive the medical care and services included in the Plan at least to the extent these are available to the general population.

b. Participation in the program will be limited to providers of services who accept, as payment in full, the state's payment plus any copayment required under the State Plan.

c. Payment for care or service will not exceed the amounts indicated to be reimbursed in accord with the policy and methods described in this Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.304(a). The state agency has continuing access to data identifying the maximum charges allowed: such data will be made available to the Secretary, HHS, upon request.

d. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;

3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;

4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;

5. Depreciation schedule or summary;

6. Home office cost report, if applicable; and

7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

The services that are cost reimbursed are:

- (1) Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals
- (2) Home health care services
- (3) Outpatient hospital services excluding laboratory
- (4) Rural health clinic services
- (5) Rehabilitation agencies
- (6) Comprehensive outpatient rehabilitation facilities
- (7) Rehabilitation hospital outpatient services.

e. Payment for the following services shall be the lowest of: State agency fee schedule, actual charge (*charge to the general public*), or Medicare (Title XVIII) allowances:

- (1) Physicians' services
- (2) Dentists' services
- (3) Mental health services including:
  - Community mental health services
  - Services of a licensed clinical psychologist
  - Mental health services provided by a physician
- (4) Podiatry
- (5) Nurse-midwife services
- (6) Durable medical equipment

- (7) Local health services
- (8) Laboratory services (Other than inpatient hospital)
- (9) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)
- (10) X-Ray services
- (11) Optometry services
- (12) Medical supplies and equipment.

f. Payment for pharmacy services shall be the lowest of items (1) through (5) (except that items (1) and (2) will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is higher than the HCFA upper limit of VMAC cost) subject to the conditions, where applicable, set forth in items (6) and (7) below:

(1) The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs which are included both on HCFA's list of multiple source drugs and on the Virginia Voluntary Formulary (VVF), unless specified otherwise by the agency;

(2) The Virginia Maximum Allowable Cost (VMAC) established by the agency plus a dispensing fee, if a legend drug, for multiple source drugs listed on the VVF;

(3) The estimated acquisition cost established by the agency for legend drugs except oral contraceptives; plus the dispensing fee established by the state agency, or

(4) A mark-up allowance determined by the agency for covered nonlegend drugs and oral contraceptives; or

(5) The provider's usual and customary charge to the public, as identified by the claim charge.

(6) Payment for pharmacy services to patients of skilled or intermediate care facilities will be as described above; however, payments for legend drugs will include the allowed cost of the drugs plus only one dispensing fee per month for each specific drug.

(7) The Program recognizes the unit dose delivery system of dispensing drugs only for patients residing in skilled or intermediate care facilities. Reimbursements are based on the allowed payments described above plus the unit dose add on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple source drugs

will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

g. All reasonable measures will be taken to ascertain the legal liability of third parties to pay for authorized care and services provided to eligible recipients including those measures specified under 42 USC 1396(a)(25).

h. The single state agency will take whatever measures are necessary to assure appropriate audit of records whenever reimbursement is based on costs of providing care and services, or on a fee-for-service plus cost of materials.

i. Payment for transportation services shall be according to the following table:

TYPE OF SERVICE	PAYMENT METHODOLOGY
Taxi services	Rate set by the single state agency
Wheelchair van	Rate set by the single state agency
Nonemergency ambulance	Rate set by the single state agency
Emergency ambulance	Rate set by the single state agency
Volunteer drivers	Rate set by the single state agency
Air ambulance	Rate set by the single state agency
Mass transit	Rate charged to the public
Transportation agreements	Rate set by the single state agency
Special Emergency transportation	Rate set by the single state agency

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

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

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l. Expanded prenatal care services to include patient education, homemaker, and nutritional services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

m. Targeted case management for high-risk pregnant women and infants up to age 1 shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

n. [Reserved for reimbursement of nonenrolled providers]

## *L. o.* Refund of overpayments.

(1) Providers reimbursed on the basis of a fee plus cost of materials.

(a) When DMAS determines an overpayment has been made to a provider, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider cannot refund the total amount of the overpayment within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

(c) In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and

amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

(d) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (ii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does not file an appeal, or (iii) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

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

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

(b) If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

(c) If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost

report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

(d) In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

(e) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the due date of any cost report filed by

the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

## **VR 460-02-4.194. Methods and Standards for Establishing Payment Rates - Long-term Care.**

The policy and the method to be used in establishing payment rates for skilled and intermediate care nursing homes listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs.

a. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the Program so that eligible persons can receive the medical care and services included in the Plan to the extent these are available to the general population.

b. Participation in the Program will be limited to providers of services who accept, as payment in full, the amounts so paid.

c. Payment for care of service will not exceed the amounts indicated to be reimbursed in accord with the policy and the methods described in the Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.253(b)(2). The state agency has continuing access to data identifying the maximum charges allowed. Such data will be made available to the Secretary, HHS, upon request.

d. Payments for services to skilled and intermediate nursing homes shall be on the basis of reasonable cost in accordance with the standards and principles set forth in 42 CFR 447.252 as follows:

(1) A uniform annual cost report which itemizes allowable cost will be required to be filed within 90 days of each provider's fiscal year end. The effective date of this requirement was July 1, 1972, for intermediate care facilities.

(2) The determination of allowable costs will be in accordance with Medicare principles as established in the Provider Reimbursement Manual (HIM-15) except



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where otherwise noted in this Plan. For hospital based, skilled, and combined skilled and intermediate care facilities, the cost finding method will be in accordance with Medicare principles. For free-standing intermediate care facilities, a simplified method not requiring a step-down of indirect costs will be substituted by the Program.

(3) Field audits will be conducted on the cost data submitted by the provider to verify the accuracy and reasonableness of such data. Audits will be conducted for each facility on a periodic basis as determined from internal desk audits and more often as required. Audit procedures are in conformance with SSA standards set forth in HIM-13-2. Internal desk audits are conducted annually within six months of receipt of a completed cost report from the provider.

(4) Reports of field audits are retained by the state agency for at least three years following submission of the report.

(5) ~~Overpayments are accounted for in accordance with 42 CFR 447.625 (no later than the second quarter following the quarter in which they were recovered by the state agency). (Reserved.)~~

(6) Facilities are paid on a cost-related basis in accordance with the methodology described in the Plan.

(7) Modifications to the Plan for reimbursement will be submitted as Plan amendments.

(8) Covered cost will include such items as:

(a) Cost of meeting certification standards.

(b) Routine services which include items expense providers normally incur in the provision of services.

(c) The cost of such services provided by related organizations except as modified in the payment system supplement 4.19-D.

(9) Bad debts, charity and courtesy allowances shall be excluded from allowable cost.

(10) Effective for facility cost reporting periods beginning on or after October 1, 1978, the reimbursable amount will be determined prospectively on a facility by facility basis, except that mental institutions and mental retardation facilities shall continue to be reimbursed retrospectively. The prospective rate will be based on the prior period's actual cost (as determined by an annual cost report and verified by audit as set forth in section d(3) above) plus an inflation factor. Payments will be made to facilities no less than monthly.

(11) The payment level calculated by the prospective rate will be adequate to reimburse in full such actual allowable costs that an economically and efficiently operated facility might incur. In addition, an incentive plan will be established as described in the payment system supplement 4.19-D.

(12) Upper limits for payment within the prospective payment system shall be as follows:

(a) Allowable cost shall be determined in accordance with Medicare principles as defined in HIM-15, except as may be modified in this Plan.

(b) Reimbursement for operating costs will be limited to regional ceilings calculated for all nursing homes in the Northern Virginia area and a ceiling calculated for the rest of the Commonwealth plus annual escalators.

(c) Reimbursement, in no instance, will exceed the charges for private patients receiving the same services.

(13) In accordance with 42 CFR 447.205, an opportunity for public comment was permitted before final implementation of rate setting processes.

(14) A detailed description of the prospective reimbursement formula is attached for supporting detail.

(15) Item 398D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

## DEPARTMENT OF TAXATION

**Title of Regulation:** VR 630-3-446.1. Corporation Income Tax: Foreign Sales Corporation.

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

**Effective Date:** January 1, 1989

### Summary:

*This regulation responds to changes in the Internal Revenue Code made by the Tax Reform Act of 1984 by explaining the Virginia tax treatment applicable to taxpayers who take advantage of various federal export tax shelters.*

*No adjustments to Virginia taxable income are required for distributions made to a taxpayer by a Domestic International Sales Corporation (DISC) for its final taxable year ended December 31, 1984. However, an adjustment under § 58.1-446 is required with respect to any of the taxpayer's income which is*

attributed to a DISC in any taxable year ending on or before December 31, 1984.

An adjustment to Virginia income tax under § 58.1-446 must be made when any of a taxpayer's income is attributed to an interest charge DISC in an amount unrelated to the business done by the interest charge DISC. No adjustment is required in the case of a Foreign Sales Corporation or a Small Foreign Sales Corporation.

No substantive changes have been made in the text of the regulation from the version proposed and published in VA.R. 1:24 2081 September 2, 1985. At the public hearing held on November 12, 1985, a representative of the Virginia Manufacturers Association said that the association had no problems with the regulation. No one else spoke.

The authority of the department to require adjustments under § 58.1-446 was upheld by the Virginia Supreme Court on September 23, 1988, in Commonwealth of Virginia v. General Electric Company.

VR 630-3-446.1. Corporation Income Tax: Foreign Sales Corporations.

## § 1. Definitions.

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

"DISC" means a corporation which elected to be treated as a Domestic International Sales Corporation under I.R.C. § 991 before January 1, 1985, and which, under the Tax Reform Act of 1984, is required to end its taxable year on December 31, 1984, and, if it wishes, make a new election to be taxed as an interest charge DISC.

"FSC" means a corporation which has elected to be treated as a Foreign Sales Corporation under I.R.C. § 927 on and after January 1, 1985.

"Interest charge DISC" means a corporation which has elected to be treated as a Domestic International Sales Corporation under I.R.C. § 992 on and after January 1, 1985.

"Small FSC" means a corporation which has elected to be treated as a Small Foreign Sales Corporation under I.R.C. § 927 on and after January 1, 1985.

## § 2. DISC prior to January 1, 1985.

A. All DISC's are required by federal law to end their taxable years on December 31, 1984. Distributions of DISC income accumulated prior to December 31, 1984 are deemed to be made from previously taxed income and are

not included in the federal taxable income of the recipient.

B. The department has required a taxpayer owning a DISC to make an adjustment under § 58.1-446 of the Code of Virginia in each year, including the taxable year ended December 31, 1984, in which the taxpayer pursuant to federal law attributed some of its taxable income to its DISC in an amount unrelated to the business done by the DISC. Therefore, no adjustments are required with respect to distributions received by a taxpayer from accumulated DISC income and excluded from the taxpayer's federal taxable income.

## § 3. Interest charge DISC on and after January 1, 1985.

A. For transactions occurring on and after January 1, 1985 a taxpayer may attribute some of its income to an interest charge DISC by using certain administrative pricing rules which expressly exempt the DISC from complying with I.R.C. § 482 (arms length pricing.) An adjustment under § 58.1-446 of the Code of Virginia is required when any of a taxpayer's income is attributed to an interest charge DISC in an amount unrelated to the business done by the interest charge DISC.

B. The adjustment is required with respect to any interest charge DISC which conducts no business or which does conduct business but such business activity is unrelated to the amount of the taxpayer's income attributed to the interest charge DISC.

C. When an adjustment under § 58.1-446 of the Code of Virginia is required, the adjustment will be based upon consolidation of the interest charge DISC with the taxpayer unless the taxpayer shows to the satisfaction of the Tax Commissioner that some other method of computing the adjustment is more equitable.

## § 4. FSC and small FSC.

No adjustment under § 58.1-446 of the Code of Virginia is required with respect to ownership of a Foreign Sales Corporation or a Small Foreign Sales Corporation.

## DEPARTMENT OF WASTE MANAGEMENT (BOARD OF)

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

**Title of Regulation:** VR 672-10-01. Virginia Hazardous Waste Management Regulations.

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Statutory Authority: § 10.1-1402 of the Code of Virginia.

Effective Date: January 1, 1989

Summary:

*Changes contained in the Amendment 9 to the Virginia Hazardous Waste Management Regulations fall into three basic categories.*

*Changes in the Virginia Hazardous Waste Management Regulations prompted by the changes in the federal regulations.*

*The majority of modifications and additions were made in response to the changes made by the United States Environmental Protection Agency (EPA) in the federal regulations implementing the Resource Conservation and Recovery Act of the 1976 (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA). In order to maintain its authorization to conduct the hazardous waste program in Virginia, the department is required to update its regulations and conform them to the federal requirements on an annual basis.*

*In August, September and October 1986, EPA has amended its lists of hazardous wastes. Corresponding changes are made in Amendment 9.*

*Two minor omissions of federal changes promulgated in November 1986 and March 1987 have been detected in the course of preparation for the public hearing on Amendment 9. The final version of the Amendment contains these changes.*

*The Hazardous and Solid Waste Amendments of 1984 required EPA to impose substantial restrictions on land disposal of hazardous wastes which would encourage treatment and detoxification prior to their ultimate disposition. Responding to the Congressional mandate EPA had first promulgated a "land ban" on solvent- or dioxin-containing wastes in November 1986 and then on the so-called "California waste list" (liquid acidic wastes and wastes containing PCBs or halogenated organic compounds) in July 1987 by publishing a totally new Part 268 of Title 40, Code of Federal Regulations. In general, federal regulations contained in Part 268 restrict the disposal of the above-mentioned wastes unless they are first treated using specified technology to reduce certain hazardous constituents below acceptable values. The storage of the restricted wastes at hazardous waste management facilities prior to treatment or recycling is also subject to certain time limitations. The federal regulations provide for relief from restrictions through a system of exemptions and variances. In addition to these two basic changes, EPA promulgated several technical corrections on various dates between November 1986 and December 1987.*

*The material contained in the federal Part 268 is reproduced almost verbatim in Amendment 9 as a new Part XV of the Virginia Hazardous Waste Management Regulations and other appropriate sections dispersed throughout the regulations. Material contained in federal § 268.5, and originally proposed as § 15.1.E. in Amendment 9, provided for case-by-case variances from the effective date of land disposal prohibitions to be granted by the executive director. A recent determination by EPA indicated that since such variances are national in character, states will not be given the authority to grant such extensions. The material contained in the originally proposed § 15.1.E. has been changed so that the variances may only be granted by the EPA Administrator.*

*On December 10, 1987, EPA published in the Federal Register (52 FR 46964ff) regulations to establish performance-based standards which would cover hazardous waste management technologies not addressed by the existing regulations of Part 264, Title 40, Code of Federal Regulations (Virginia equivalent: Part X, VR 672-10-1). The need for such regulations was addressed in the preamble to the federal regulations under Subpart X to Part 264, which essentially states that the gaps in the present regulatory coverage prevent construction of new treatment and disposal facilities designed to reduce environmental risks as compared to the facilities based on the traditional methods. Amendment 9 to the Virginia regulations contain the federal changes in § 10.15 and other applicable sections.*

*In addition to the above major changes, numerous small technical corrections to the federal regulations require changes in our regulations.*

*Changes to the Virginia Hazardous Waste Management Regulations without an equivalent change to the federal regulations.*

*On July 3, 1986, the United States Environmental Protection Agency (EPA) published a notice in the Federal Register (51 FR 24504) announcing that in order to maintain authorization to administer and enforce a hazardous waste program under Subtitle C of the Resource Conservation and Recovery Act (RCRA), states must apply for authorization to regulate the hazardous components of radioactive waste, i.e., wastes that contain both hazardous waste subject to RCRA and radioactive waste subject to the Atomic Energy Act of 1954 (AEA).*

*While the Virginia Waste Management Act, as codified in 1986, had contained definitions for solid and hazardous wastes substantially identical to those in the federal statute (§§ 1004(27) and 1004(5), RCRA), and thus provided the department with the basis for an application for the appropriate program change, it was felt that a specific reaffirmation by the Virginia*

General Assembly would clarify the statutory authority of the Virginia Waste Management Board to regulate mixed radioactive wastes. In its 1988 session the General Assembly did amend § 10.1-1400 of the Act by adding a definition for the mixed low-level radioactive waste and § 10.1-1402 by authorizing the board to regulate the management of such waste. The statutory amendments and procedural changes associated with them are shown as changes in Amendment 9 under Parts I, II, III, and VI.

Certain solid wastes not regulated as hazardous wastes under either the federal or Virginia regulations, have been so designated by some of the neighboring states. To assure proper handling of such wastes from out-of-state generators, the department is proposing a variance procedure in the new § 14.1.B.5 of its regulations.

### Editorial changes to the Virginia Hazardous Waste Management Regulations.

In the course of promulgating Amendment 8 to the Virginia Hazardous Waste Management Regulations, numerous mistakes were discovered that require correction. The corrections appear in Amendment 9.

### Explanation of substantial changes:

#### A. Correction of section in proposed Amendment 9.

Material contained in federal § 268.5, Part 268, Title 40, Code of Federal Regulations, and originally proposed as new § 15.1.E. in Amendment 9 to the Virginia Hazardous Waste Management Regulations, provided for case-by-case variances from the effective date of land disposal prohibitions to be granted by the executive director. A recent determination by EPA indicated that since such variances are national in character, states will not be given the authority to grant such extensions. The material contained in the originally proposed § 15.1.E. has been changed to read:

*E. Procedures for case-by-case extension to an effective date.*

*Any person who generates, treats, stores, or disposed of a hazardous waste may submit an application to the Administrator for an extension to the effective date of any applicable restriction in accordance with § 268.5, Part 268, Title 40, Code of Federal Regulations. Variances issued to persons managing hazardous waste in Virginia by the Administrator will be considered as valid variances in accordance with Part XIV of these regulations.*

#### B. Correction of omissions.

On November 7, 1986, EPA promulgated land disposal restrictions as a separate Part 268 to Title 40, Code of Federal Regulations. References to this new part are scattered throughout the Virginia Hazardous Waste

Management Regulations. Most of the references have been proposed in the originally proposed Amendment 9, but one change was omitted inadvertently.

Change § 3.1.C.3 to read:

3. A manufacturing process unit or an associated nonwaste treatment manufacturing unit is not subject to regulations contained in Part IV to XI and Part XV until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of the product or raw materials.

On March 19, 1987, the United States Environmental Protection Agency adopted a change to § 265.228, Closure and Post-Closure Care for surface impoundments, with an effective date of September 15, 1987 [52 FR 8708]. This section corresponds to § 9.10.F in the Virginia Hazardous Waste Management Regulations. The change did not add any new requirements but described the existing requirements in greater detail. This change was inadvertently omitted from the originally proposed Amendment 9.

Delete old §§ 9.10.F.1 through 9.10.F.3 and substitute the following:

#### F. Closure and post-closure.

##### 1. At closure, the owner or operator shall:

*a. Remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless exempt by the criteria contained in subsection D of the definition of the hazardous waste (Part I of these regulations); or*

*b. Close the impoundment and provide post-closure care for a landfill under §§ 9.6 and 9.13.D or § 10.13.K, as applicable, including the following:*

*(1) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;*

*(2) Stabilize remaining wastes to a bearing capacity sufficient to support the final cover; and*

*(3) Cover the surface impoundment with a final cover designed and constructed to:*

*(a) Provide long-term minimization of the migration of liquids through the closed impoundment;*

*(b) Function with minimum maintenance;*

# Final Regulations

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(c) Promote drainage and minimize erosion or abrasion of the cover;

(d) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(e) Have permeability less than or equal to the permeability of the bottom liner system or natural subsoils present.

2. In addition to the requirements of §§ 9.6 and 9.13.D or § 10.13.K, as applicable, during the post-closure care period, the owner or operator of a surface impoundment in which waste, waste residues, or contaminated materials remain after closure in accordance with the provisions of § 9-10.F.1.b shall:

a. Maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events;

b. Maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of § 9.5 or § 10.5 as applicable; and

c. Prevent run-on and run-off from eroding or otherwise damaging the final cover.

\* \* \* \* \*

**NOTICE:** Due to its length, the Solid Waste Management Regulations filed by the Department of Waste Management are not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulations is available for public inspection at the office of the Registrar of Regulations and at the Department of Waste Management.

**Title of Regulation:** VR 672-20-10. Solid Waste Management Regulations.

**Statutory Authority:** § 10.1-1402 of the Code of Virginia.

**Effective Date:** December 21, 1988

**Summary:**

The regulations provide the means to regulate the treatment and disposal of solid wastes. They include definitions which are applicable to all parts of the regulations. Authority for these regulations and applicability are included. The regulations become applicable for all existing permitted solid waste management facilities five years following the effective date except for ground water monitoring, daily operations and closure.

Solid wastes which are regulated and those which are

exempt from the provisions of these regulations are specified. The regulations prohibit the operation of an open dump with the means specified for determining when a facility would be classified as an open dump.

The criteria and standards for solid waste disposal facilities are specified. These facilities include sanitary landfills, construction/demolition/debris landfills and industrial landfills. The criteria include siting standards, design requirements, operating standards, ground water monitoring requirements, corrective actions for ground water contamination, and site closure.

Other solid waste facilities include incinerators, materials recovery facilities, energy recovery facilities, solid waste compost facilities, transfer stations, experimental facilities and impoundments and lagoons. The criteria and standards are tailored for the solid waste handling procedures applicable to each facility. These criteria do include appropriate siting standards for the specific facilities.

The permitting procedures are specified. The procedures include a notice of intent, a Part A application, and a Part B application. Once a completed permit is received and evaluated, a draft permit is prepared and made available for public hearing on request. The final permit is issued after the comment period. The process includes provisions for an appeal in the event a permit is denied.

Special handling procedures are specified for special wastes such as asbestos, PCB wastes, liquids, tires, drums and white goods.

Procedures for petitioning for variances and exemptions are included. The process specifies the administrative procedures to be followed in submitting petitions, petition processing, and petition resolution.

Substantial changes to the proposed regulations were adopted by the Virginia Waste Management Board in the final regulations in consideration of the public comments and recommendations received in the public hearings and in the comment period.

The change to § 2.4.B.4 reduces the time from five years as proposed to July 1, 1992, based upon recommendations to reduce the time for the regulations to be effective for existing facilities and to coincide with the budgeting cycle for local government. The change also clarifies the regulation requirement for existing sites.

The change to § 5.1.B.14 deletes the proposed paragraph and inserts a new requirement for double liners for all sanitary landfills. The new section includes a specific description of the double liner system and the requirement to test liner permeability of clay liners in place.

*Section 5.1.B.15 was changed to add new requirements for the leachate collection system to clarify the requirements for consistency with the changes in § 5.1.B.14. These changes are more specific than previously required and are consistent with recommendations received in the comment period.*

*Changes made to § 5.1.C.6 clarify the requirements for on-site fire fighting capability in line with recommendations received. They further clarify that such open burning shall be limited in frequency rather than used as a substitute for proper burial of solid waste. This change may be considered to be a substantive change but is consistent with policy on open burning authorization and restricted requirements of the Department of Air Pollution Control.*

*Section 5.1.C.16.f was added to clarify the requirement for a final site cover. The changes included reflect comments received on the proposed regulations. This change may be viewed as substantive in that a specific requirement is included for a drainage layer above the final cap and that the cap must have a 5.0% slope.*

*Section 5.3.C.12.f was added to require a drainage layer of six inches of  $1 \times 10^{-3}$  cm per second material above the covering cap. The drainage layer shall be covered with at least six inches of top soil. The finished slope shall be at least 5.0% to prevent ponding.*

# STATE CORPORATION COMMISSION

## STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 24, 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

### ORDER ADOPTING REGULATION

WHEREAS, by order entered herein August 31, 1988, all interested parties were ordered to TAKE NOTICE that the Commission would enter an order thirty (30) days from the date thereof adopting the proposed revised "Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act," unless the Commission received within such thirty days a request for a hearing to contest the adoption of the proposed revised rules; and

WHEREAS, as of the date of this order no interested party has filed a request for a hearing.

THE COMMISSION, having considered the proposed revised regulation and the law applicable hereto, is of the opinion, finds and ORDERS that the proposed revised 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, should be, and it is hereby ADOPTED, to be effective January 1, 1989.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky who shall forthwith mail a copy of the order together with a copy of the revised regulation to every insurance company licensed to sell accident and sickness insurance in the Commonwealth of Virginia.

### 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 §§ 38.2-3516 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, 1989.

B. No new policy form shall be approved on or after January 1, 1989, unless it complies with this regulation.

C. No policy form shall be delivered or issued for delivery in this State on or after January 1, 1989, 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 38.2 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 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

# State Corporation Commission

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 rehabilitatory care;

(c) facilities for the aged, drug addicts or alcoholics subject to the requirements of § 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:



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(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 § 38.2-3412.

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 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

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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 § 38.2-3412;
- (3) pregnancy, except for complications of pregnancy, other than for policies defined in §§ 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 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 § 38.2-3518 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 §§ 38.2-3519A and 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

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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 § 38.2-3412.

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.

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.

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, 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;

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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 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

# State Corporation Commission

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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.



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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD)

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

Governor's Comment:

No objections to the proposed regulations as presented.

/s/ Gerald L. Baliles  
Date: October 18, 1988

### CHILD DAY-CARE COUNCIL

Title of Regulation: **VR 175-04-01. Criminal Record Checks for Licensed Child Day-Care Centers.**

Governor's Comment:

I concur with the substance of these regulations. My final approval will depend upon a review of the comments received during the public comment process.

/s/ Gerald L. Baliles  
Date: October 23, 1988

### DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Title of Regulation: **215-01-01. Standards for Classification of Real Estate as Devoted to Open Space Use Under the Virginia Land Use Assessment Law.**

Governor's Comment:

No objection to the proposed regulation as presented.

/s/ Gerald L. Baliles  
Date: October 25, 1988

### MARINE RESOURCES COMMISSION

Title of Regulation: **450-01-0051. Wetlands Mitigation - Compensation Policy.**

Governor's Comment:

The proposed criteria and guidelines are designed to preserve and protect wetlands while accommodating necessary development. I recommend approval of these criteria.

/s/ Gerald L. Baliles  
Date: October 23, 1988

\* \* \* \* \*

Title of Regulation: **450-01-0052. Criteria for the Placement of Sandy Dredged Material Along Beaches in the Commonwealth.**

Governor's Comment:

The proposed criteria and guidelines are designed to assure that all dredged material suitable for beach nourishment is used on eroding beach shorelines whenever practical. I recommend approval of these criteria.

/s/ Gerald L. Baliles  
Date: October 23, 1988

### VIRGINIA BOARD OF OPTOMETRY

Title of Regulation: **510-01-1. Regulations of the Virginia Board of Optometry.**

Governor's Comment:

I concur with the form and substance of these regulations. My final approval will be contingent upon a review of the comments received during the comment period from the public and from optometrists regarding this proposed regulation.

/s/ Gerald L. Baliles  
Date: October 26, 1988

### STATE BOARD OF SOCIAL SERVICES AND CHILD DAY-CARE COUNCIL

Title of Regulation: **VR 615-30-01 and VR 175-03-01. General Procedures and Information for Licensure.**

Governor's Comment:

I concur with the substance of these regulations. My final approval will depend upon a review of the comments received during the public hearing process.

/s/ Gerald L. Baliles  
Date: October 23, 1988

### VIRGINIA SOIL AND WATER CONSERVATION BOARD

Title of Regulation: **625-01-00. Impounding Structure Regulations.**

Governor's Comment:

No objection to the proposed regulation as presented.

/s/ Gerald L. Baliles  
Date: October 25, 1988

**STATE WATER CONTROL BOARD**

**Title of Regulation: 680-16-14. Potomac-Shenandoah River Basin Water Quality Management Plan.**

Governor's Comment:

The promulgation of these regulations will continue to protect the quality of the receiving streams. The regulations represent stream-specific analysis and the allowable waste load allocations are based on site-specific modelling. Pending public comment, I have no objections to the regulations as presented.

/s/ Gerald L. Baliles  
Date: October 28, 1988

\* \* \* \* \*

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

Governor's Comment:

The promulgation of these regulations will, based on recommendations by the Department of Game and Inland Fisheries' biologist and with the concurrence of the State Water Control Board, properly designate certain trout population in the specified Virginia waters. I have no objection to the regulations as presented, pending public comment.

/s/ Gerald L. Baliles  
Date: October 28, 1988

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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
† Indicates entries since last publication of the Virginia Register

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-04. Rules and Regulations Governing the Operation of Livestock Markets.** The purpose of the proposed action is to establish requirements for the handling of swine consistent with Virginia's need to eradicate pseudorabies from swine, and also to review the present regulation for currency and appropriateness.

Statutory Authority: §§ 3.1-724, 3.1-730, and 3.1-757 of the Code of Virginia.

Written comments may be submitted until December 2, 1988, to William D. Miller, D.V.M., State Veterinarian, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

**Contact:** L. H. Redford, Assistant Chief, Bureau of Veterinary Services, Department of Agriculture and Consumer Services, Division of Animal Health, 1100 Bank St., Suite 600, Richmond, Va. 23219, telephone (804) 786-2483 or SCATS 786-2483

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-05. Rules and Regulations Pertaining to the Health Requirements Governing the Control of Equine Infectious Anemia in Virginia.** The purpose of the proposed action is to review the present regulation for currency and appropriateness.

Statutory Authority: §§ 3.1-724 through 3.1-730 of the Code of Virginia.

Written comments may be submitted until December 2, 1988, to William D. Miller, D.V.M., State Veterinarian, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

**Contact:** L. H. Redford, Assistant Chief, Bureau of Veterinary Services, Department of Agriculture and

Consumer Services, Division of Animal Health, Washington Building, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483 or SCATS 786-2483

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-12. Rules and Regulations Pertaining to the Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds Into Virginia.** The purpose of the proposed action is to review present requirements and establish new requirements for shipping swine consistent with Virginia's need to eradicate pseudorabies from swine, and also to review the present regulation for currency and appropriateness.

Statutory Authority: §§ 3.1-724 and 3.1-730 of the Code of Virginia.

Written comments may be submitted until December 2, 1988, to William D. Miller, D.V.M., State Veterinarian, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

**Contact:** L. H. Redford, Assistant Chief, Bureau of Veterinary Services, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Bldg., 1100 Bank St., Suite 600, Richmond, Va. 23219, telephone (804) 786-2483 or SCATS 786-2483

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to consider promulgating regulations entitled: **VR 115-02-16. Rules and Regulations Governing Pseudorabies in Virginia.** The purpose of the proposed regulation is to establish health requirements for swine for the purpose of eradicating pseudorabies from swine in Virginia.

Statutory Authority: §§ 3.1-724 and 3.1-726 of the Code of Virginia.

Written comments may be submitted until December 2, 1988, to William D. Miller, D.V.M., State Veterinarian, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

**Contact:** L. H. Redford, Assistant Chief, Bureau of Veterinary Services, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Bldg., 1100 Bank St., Suite 600, Richmond, Va. 23219, telephone (804) 786-2483 or SCATS 786-2483

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-04-01. Rules and Regulations Relating to the Endangered Plant and Insect Species Act.** The purpose of the proposed amendment is to list the following 12 rare plant species as endangered under the Virginia Endangered Plant and Insect Species Act: Shale Barren Rock Cress, Arabis serotina; Mat-Forming Water-Hyssop, Bacopa stragula; Piratebush, Buckleya distichophylla; Variable Sedge, Carex polymorpha; Harper's Fimbristylis, Fimbristylis perpusilla; Virginia Sneezeweed, Helenium virginicum; Swamp-Pink, Helonias bullata; Long-Stalked Holly, Ilex collina; Peter's Mountain Mallow, Iliamna corei; Nestronia, Nestronia umbellula; Northeastern Bulrush, Scirpus ancistrochaetus; and Virginia Spiraea, Spiraea virginiana. Naturally occurring populations of the proposed endangered species list ranges from a single known population in the world to populations in five counties along the foothills of the Blue Ridge Mountain. The proposed additions to the endangered species list would prevent the plants' collections and allow for a comprehensive recovery conservation program.

Statutory Authority: § 3.1-1025 of the Code of Virginia.

Written comments may be submitted until December 7, 1988.

**Contact:** D. J. Schweitzer, Assistant Supervisor, P. O. Box 1163, 1100 Bank St., Richmond, Va. 23209, telephone (804) 786-3516 or SCATS 786-3516

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.** The purpose of the proposed amendment is to exempt owners and users of vehicle scales from paragraph U.R.3.7. National Bureau of Standards Handbook 44 - minimum net weight load weighing requirement of 50 scale divisions. Recycling operators (waste paper, scrap metal, aluminum cans, etc.) that weigh vehicles would be permitted to weigh net weight loads less than 50 scale divisions. Section 3.1-926 of the Code of Virginia states in part "...The specifications, tolerances, and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Bureau of Standards and published in National Bureau of Standards Handbook 44

and supplements thereto, or in any publication revising or superseding Handbook 44, shall be the specifications, tolerances, and regulations for commercial weighing and measuring devices of the State of Virginia, except insofar as specifically modified, amended, or rejected by a rule or regulation issued by the board."

Statutory Authority: § 3.1-926 of the Code of Virginia.

Written comments may be submitted until 5 p.m., December 7, 1988.

**Contact:** J. Alan Rogers, Bureau Chief, Virginia Weights and Measures Bureau, P. O. Box 1163, Rm. 402, Richmond, Va. 23209, telephone (804) 786-2476 or SCATS 786-2476

## DEPARTMENT OF AIR POLLUTION CONTROL

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Air Pollution Control intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution Concerning Emission Standards for Volatile Organic Compounds (VOCs).** The purpose of the proposed action is to require the owner or operator to limit VOC emissions from the specific source to a level resultant from the use of reasonably available control technology and necessary for the protection of human health and welfare.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until January 4, 1988.

**Contact:** Robert A. Mann, Director, Division of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-5789 or SCATS 786-5789

## BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects intends to consider amending regulations entitled: **State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects Rules and Regulations.** The purpose of the proposed action is to place a fee schedule into the regulations, and to make minor changes to the regulations to conform with Code of Virginia changes and for clarity.

Statutory Authority: §§ 54-1.28 and 54-25 of the Code of

# General Notices/Errata

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Virginia.

Written comments may be submitted until January 1, 1989.

**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

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider promulgating regulations entitled: **(i) Chesapeake Bay Preservation Area Designation Criteria and (ii) Chesapeake Bay Preservation Area Management Criteria.** The purpose of the proposed regulation is to provide criteria, consistent with the requirements of the Chesapeake Bay Preservation Act, for local governments to use to protect the water quality of the bay and its tributaries from degradation that may result from the use and development of land, especially those activities near the bay and its tributaries.

Statutory Authority: § 10.1-2107 of the Code of Virginia.

Written comments may be submitted until December 9, 1988.

**Contact:** Scott Crafton, Regulatory Assistance Coordinator, Chesapeake Bay Local Assistance Department, 701 Eighth Street Office Bldg., Richmond, Va. 23219, telephone (804) 225-3440 or SCATS 225-3440

## DEPARTMENT OF COMMERCE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency public participation guidelines that the Department of Commerce intends to consider promulgating regulations entitled: **Virginia Asbestos Licensing Regulations.** The purpose of the proposed regulation is to promulgate regulations to replace emergency regulations enacted July 1, 1988.

Statutory Authority: § 54-145.5 of the Code of Virginia.

Written comments may be submitted until January 20, 1989.

**Contact:** Peggy Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8595, toll-free 1-800-552-3016 or SCATS 367-8595

## CRIMINAL JUSTICE SERVICES BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Regulations Relating to Criminal History Record Information - Part I; Criminal History Record Information Security - Part II.** The purpose of the proposed action is to amend and update existing regulations governing the privacy and security of criminal history record information.

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

Written comments may be submitted until December 12, 1988, to Charlotte McClamroch, Section Chief, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

**Contact:** Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000 or SCATS 786-4000

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Dispatchers.** The purpose of the proposed action is to amend and revise entry level training standards for persons employed by state, local or municipal government agency whose duties require the dispatching of law enforcement personnel.

Statutory Authority: Subdivisions 1 and 8 of § 9-170 of the Code of Virginia.

Written comments may be submitted until November 30, 1988, to L. T. Eckenrode, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219.

**Contact:** Paula Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-8730 or SCATS 786-8730

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers and Officers of the Department of Corrections, Division of Adult Institutions.** The purpose of the propose action is to amend and revise compulsory in-service training standards for all law-enforcement officers, jailors or custodial officers and officers of the Department of Corrections, Division of Adult Institutions.

Statutory Authority: Subdivisions 1, 3 and 7 of § 9-170 of the Code of Virginia.

Written comments may be submitted until November 30, 1988, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

**Contact:** Paula Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-8730 or SCATS 786-8730

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Undercover Investigative Officers.** The purpose of the proposed action is to amend and revise compulsory minimum training standards for all full-time law-enforcement officers who are assigned as an undercover investigative officer.

Statutory Authority: Subdivisions 1 and 4 of § 9-170 of the Code of Virginia.

Written comments may be submitted until November 30, 1988, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

**Contact:** Paula Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-8730 or SCATS 786-8730

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider promulgating regulations entitled: **Rules Relating to Compulsory Minimum In-Service Training Standards for Courthouse/Courtroom Security Officers and Deputy Sheriffs Designated to Serve Process.** The purpose of the proposed regulation is to establish mandated in-service training requirements for courthouse/courtroom security officers and deputy sheriffs designated to serve process.

Statutory Authority: Subdivisions 1, 5 and 6 of § 9-170 of the Code of Virginia.

Written comments may be submitted until November 30, 1988, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

**Contact:** Paula Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-8730 or SCATS 786-8730

## DEPARTMENT OF EDUCATION (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 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

## BOARD OF GEOLOGY

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Geology intends to consider amending regulations entitled: **Virginia Board of Geology Rules and Regulations.** The purpose of the proposed action is to place a fee schedule into the regulations, and to make minor changes to the regulations to conform with Code of Virginia changes and for clarity.

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

Written comments may be submitted until January 1, 1989.

**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

## COUNCIL ON HUMAN RIGHTS

### Notice of Intended Regulatory Action

Notice is hereby given that the Council on Human Rights intends to consider promulgating regulations entitled: **VR 402-01-1. Public Participation Guidelines for Development of Council on Human Rights Regulations.** The purpose of the proposed regulations is to solicit input of interested parties in the formation and development of the Council on Human Rights regulations.

Statutory Authority: §§ 2.1-720.6 and 9-6.14:7.1 of the Code

# General Notices/Errata

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of Virginia.

Written comments may be submitted until December 9, 1988.

**Contact:** Lawrence J. Dark, Director, Council on Human Rights, 101 N. 14th St., James Monroe Bldg., 17th Fl., Richmond, Va. 23219, telephone (804) 225-2292, toll-free 1-800-633-5510 or SCATS 225-2292

## VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Professional Counselors intends to consider amending regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.** The purpose of the proposed action is to allow individuals registered with the board prior to July 31, 1988, under the supervision of nonlicensed board approved supervisors to have their supervised experience counted towards licensure and allow nonregistered supervised experience obtained before July 31, 1988, to be applied towards licensure.

Statutory Authority: § 54-929(a) of the Code of Virginia.

Written comments may be submitted until December 21, 1988.

**Contact:** Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912 or SCATS 662-9912

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Professional Counselors intends to repeal regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling, Part II - § 2.3 Requirements for Provisional License Part IV - § 4.3.** The board will have no statutory authority to allow applicants who have a doctorate in counseling to be granted a provisional license while completing either specific coursework or supervised experience required for licensure after January 1, 1989, or to renew that license.

Statutory Authority: §§ 54-929(a) and 54-993.1 of the Code of Virginia.

Written comments may be submitted until December 21, 1988.

**Contact:** Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912 or SCATS 662-9912

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Professional Counselors intends to consider promulgating regulations entitled: **VR 560-01-03. Regulations Governing the Certification of Substance Abuse Counselors.** The purpose of the proposed regulation is to establish the requirements for examination and certification of substance abuse counselors and set the standards of practice for certified substance abuse counselors in Virginia.

Statutory Authority: § 54-929(a) of the Code of Virginia.

Written comments may be submitted until December 21, 1988.

**Contact:** Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912 or SCATS 662-9912

## COMMONWEALTH TRANSPORTATION BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending regulations entitled: **Hauling Permit Travel Regulations.** The purpose of the proposed action is to establish guidelines relating to the operation of vehicles over the highways of Virginia with loads that, when reduced to their smallest dimensions, exceed the maximum legal size and weight established by the Code of Virginia.

Statutory Authority: §§ 33.1-12 (3) and 46.1-343 of the Code of Virginia.

Written comments may be submitted until December 7, 1988.

**Contact:** R. M. Ketner, III, Permit and Truck Weight Manager, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2810 or SCATS 786-2810

## BOARD OF VETERINARY MEDICINE

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Veterinary Medicine intends to consider amending regulations entitled: **VR 645-01-1. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed regulation is to establish standards for licensure and practice as a veterinarian and veterinary technician; state requirements for registration of an animal facility.

Statutory Authority: §§ 54-776 through 54-791 of the Code of Virginia.

Written comments may be submitted until December 21, 1988.

**Contact:** Moira C. Lux, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9915

## STATE WATER CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed action is to comply with the requirements of the Clean Water Act which requires the adoption of water quality standards for § 307(a) toxic pollutants (including the parameter ammonia). The specific sections of the Water Quality Standards being considered for amendment are VR 680-21-01 through 680-21-03 and VR 680-21-06.

The proposed changes have the potential to impact every VPDES permit holder in the Commonwealth of Virginia. The range of impact varies from one of additional monitoring costs through upgrades to existing wastewater treatment facilities.

Applicable laws and regulations include the State Water Control Law, VR 680-14-01 (Permit Regulation), and §§ 303(c)(2)(B) and 307(a) of the Clean Water Act.

Further information, including a fact sheet on the proposal and the applicable laws and regulations, may also be reviewed at the board's regional offices. Addresses and telephone numbers for the offices are:

Piedmont Regional Office, 2201 West Broad Street, Richmond, Virginia 23230, (804) 367-1006

Southwest Regional Office Intersection Route 19 and 825, Abingdon, Virginia 24210, (703) 628-5183

Tidewater Regional Office, 287 Pembroke II, Virginia Beach, Virginia, (804) 363-3913

Valley Regional Office, 116 North Main Street, Bridgewater, Virginia 22812, (703) 828-2595

West Central Regional Office, 5312 Peters Creek Road, N.W., Roanoke, Virginia 24019, (703) 982-7432

Northern Regional Office, 5515 Cherokee Avenue, Suite 404, Alexandria, Virginia 22312, (703) 750-9111

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

Written comments may be submitted until 4 p.m., December 1, 1988, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143,

Richmond, Virginia 23230.

**Contact:** Mr. Alan J. Anthony, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-0791 or SCATS 367-0791

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed action is to revise VR 680-21-04, Groundwater Standards including the Antidegradation Policy to ensure complete and uniform compliance with the standards for the protection of human health and the environment.

The amendments may revise the current policy and standards and should greatly enhance understanding of the standard thereby enabling more complete and uniform compliance. The changes are likely to have an impact on holders of VPDES and VPA permits. However, the exact impact is not known at this time.

Applicable laws and regulations include the State Water Control Law; VR 680-14-01, Permit Regulation; and § 303 of the Clean Water Act.

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

Written comments may be submitted until November 29, 1988, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Russell P. Ellison, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6350 or SCATS 367-6350

## GENERAL NOTICES

### NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

NOTICE OF INTENDED REGULATORY ACTION -



# General Notices/Errata

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.

## ERRATA

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance Relating to Cost Report Filing Requirements. VR 460-02-4.192. Methods and Standards for Establishing Payment Rates - Other Types of Care.**

Publication: VA.R. 4:22 2369-2370 August 1, 1988

Correction to the final regulation begins with subdivision f on page 2370 and should be as follows:

f. Payment for pharmacy services shall be the lowest of:

(1) Whichever is applicable below (except that (a) and (b) are not applied for prescriptions certified as brand necessary by the prescribing physician, if the brand cost is higher than the FMAC and VMAC cost):

(a) The Federal Maximum Allowable Cost (FMAC), determined by the Pharmaceutical Reimbursement Board, Health Care Financing Administration, plus the dispensing fee established by the state agency, or

(b) For other specific multiple source legend drugs listed in the Virginia Voluntary Formulary, a Virginia Maximum Allowable Cost (VMAC) shall be established, plus a dispensing fee, or

(c) For other legend drug, with the exception of oral contraceptives, the estimated acquisition cost determined by the state agency plus the dispensing fee established by the state agency, or

(d) For covered nonlegend drugs and oral contraceptives, a markup allowance determined by the state agency, or

f. Payment for pharmacy services shall be the lowest of items (1) through (5) (except that items (1) and (2) will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is higher than the HCFA upper limit or VMAC cost) subject to the conditions, where applicable, set forth in items (6) and (7) below:

(1) The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs which are included both on HCFA's list of multiple source drugs and on the Virginia Voluntary Formulary (VVF), unless specified otherwise by the agency;

(2) The Virginia Maximum Allowable Cost (VMAC) established by the agency plus a dispensing fee, if a legend drug, for multiple source drugs listed on the VVF;

(3) The estimated acquisition cost established by the agency plus a dispensing fee established by the agency for legend drugs except oral contraceptives;

(4) A mark-up allowance determined by the agency for covered nonlegend drugs and oral contraceptives; or

(5) The provider's usual and customary charge to the public, as identified by the claim charge.

(6) Payment for pharmacy services to patients of skilled or intermediate care facilities will be as described above; however, payments for legend drugs will include the allowed cost of the drugs plus only one dispensing fee per month for each specific drug.

(7) The Program recognizes the 24 hour unit dose delivery system of dispensing drugs only for patients residing in skilled or intermediate care facilities. Reimbursements are based on the allowed payments described above plus the unit dose add on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for VMAC drugs will not exceed the 60th percentile cost level identified by the state agency. All other drugs including FMAC drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency. specific multiple source drugs will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's to exceed the estimated acquisition cost determined by the state agency.

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: VR 615-27-02. Minimum Standards for Licensed Private Child Placing Agencies.

Publication: V.A.R. 5:1 45-63 October 10, 1988

The corrections to the proposed regulations are as follows:

Page 45, the definition of "Child" was omitted and should read

*"Child" means any individual under 18 years of age.*

Page 49, § 3.3 I.2 should read

*2. An individual with a doctor's or a master's degree in...*

Page 51, § 4.2 F.2, a sentence after subdivision 2 was omitted and should read

*If changes are made, the agreement shall be amended and the changes signed or initialled by an appropriate person.*

Page 51, § 4.2 H.1.c, subdivision (d) was omitted and should read

*(d) The type of placement being provided; and*

Page 53, § 4.4 B.1.b(2) should read

*(2) The participation of and services offered the biological parents, if any;*

Page 54, § 4.6 A.6.a.(4) should read

*(4) Closet or drawer space, or both, for clothing and personal possessions of children over two years;*

Page 55, § 4.6 A.7.c, (6) and (7) has been reversed to read

*(6) The applicant's relationships with extended family and friends; and*

*(7) General patterns of family life.*

Page 57, § 5.1.D, the word "department's" has been changed to "division's"

Page 58, § 5.3.B.3.c, change subdivision 3.c to become subdivision 4 and to read:

*4. The assessment shall be completed within 30 days of placement.*

Page 58, § 5.3.C.3, delete the last three words of the sentence so that the sentence reads:

*3. The worker shall describe the type of adoptive placement that appears to be best for the child.*

Page 59, § 5.3.F.2 has been rewritten to read:

*2. If parental rights are terminated, and the parent(s) request it, the agency shall arrange continuing services, either directly or by referral.*

Page 59, § 5.8.A.1 should read

*1. Special needs children who are legally free for adoption shall be registered with AREVA within the timeframes set by The Service Programs Manual.*

Page 61, § 5.11 B.3.f should read

*f. The attitude of family and extended family members toward adoption.*

Page 62, § 7.1 2, the word "department's" has been changed to "division's."

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# CALENDAR OF EVENTS

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<b>Symbols Key</b>
† 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

**November 29, 1988 - 10 a.m. – Public Hearing**  
NOTE: CHANGE IN LOCATION  
State Capitol, Capitol Square, House Room 1, 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.

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**  
NOTE: CHANGE IN LOCATION  
State Capitol, Capitol Square, House Room 1, 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 110-01-03. 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.

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**  
NOTE: CHANGE IN LOCATION  
State Capitol, Capitol Square, House Room 1, 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

# Calendar of Events

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.

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**  
NOTE: CHANGE IN LOCATION  
State Capitol, Capitol Square, House Room 1, 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.

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

## STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **December 15, 1988 - 8:30 a.m. – Open Meeting**  
Washington Building, 1100 Bank Street, Room 204, 2nd Floor, Richmond, Virginia

A meeting to receive annual reports from the state commodity boards and reports on other issues relating to the Department of Agriculture and Consumer Services.

**Contact:** Roy E. Seward, Acting Secretary of the Board, 1100 Bank St., Room 210, Washington Bldg., Richmond, Va. 23219, telephone (804) 786-3501

## ALCOHOLIC BEVERAGE CONTROL BOARD

**November 29, 1988 - 9:30 a.m. – Open Meeting**  
**December 13, 1988 - 9:30 a.m. – Open Meeting**  
**December 27, 1988 - 9:30 a.m. – Open Meeting**  
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

**Contact:** Robert N. Swinson, Secretary to the Board, 2901 Hermitage Rd., P. O. Box 27491, Richmond, Va. 23261, telephone (804) 367-0616

## ALEXANDRIA LOCAL EMERGENCY PLANNING COMMITTEE

† **December 14, 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

## STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

**December 2, 1988 - 9 a.m. – Open Meeting**  
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of the September 30, 1988 meeting; (ii) review and discuss enforcement cases; and (iii) review correspondence.

# Calendar of Events

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## Virginia State Board of Architects

**December 16, 1988 - 9 a.m.** — Open Meeting  
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of the September 29, 1988 meeting; (ii) discuss enforcement cases; (iii) review applications; and (iv) discuss correspondence.

## Virginia State Board of Land Surveyors

† **December 1, 1988 - 9 a.m.** — Open Meeting  
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) discuss enforcement cases; (iii) discuss possible changes to education requirements in regulations; and (iv) approve minutes of the August 5, 1988, meeting.

**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

## VIRGINIA CATTLE INDUSTRY BOARD

**December 6, 1988 - 11:45 a.m.** — Open Meeting  
Red Lion Inn, Blacksburg, Virginia

**December 7, 1988 - 9 a.m.** — Open Meeting  
Virginia Cattlemen's Association Office, Daleville, Virginia

A winter board meeting to review research projects.

**Contact:** Reggie Reynolds, Secretary, P. O. Box 176, Daleville, Va. 24083-0176, telephone (703) 992-1992

## LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

**December 1, 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

## CONSORTIUM ON CHILD MENTAL HEALTH

† **December 7, 1988 - 9 a.m.** — Open Meeting  
† **January 4, 1989 - 9 a.m.** — Open Meeting  
† **February 1, 1989 - 9 a.m.** — Open Meeting

Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. ☒

A regular business meeting open to the public, followed by an executive session, for purposes of confidentiality, to review applications for funding of services to individuals.

**Contact:** Wenda Singer, Chair, Virginia Department for Children, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2208

## INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

### Coordinating Committee

**December 9, 1988 - 8:30 a.m.** — Open Meeting  
Department of Social Services, 1603 Santa Rosa Drive, Tyler Building, Suite 210, Richmond, Virginia. ☒

Regularly scheduled monthly meetings to discuss administrative and policy areas related to the Interdepartment Licensure and Certification of Residential Facilities for Children.

**Contact:** John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7124 or SCATS 662-7124

## DEPARTMENT OF COMMERCE

† **December 13, 1988 - 11 a.m.** — Public Hearing  
Kirn Memorial Library, 301 East City Hall Avenue, Norfolk, Virginia

† **December 14, 1988 - 10 a.m.** — Public Hearing  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☒

† **December 15, 1988 - 11 a.m.** — Public Hearing  
Council Chambers, Municipal Building, Room 450, Roanoke, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to amend regulations entitled: **VR 190-05-1. Asbestos Licensing Regulations.** These proposed regulations set forth requirements for licensure and training of asbestos contractors, supervisors, workers, inspectors, management planners and project designers.

### STATEMENT

**Purpose:** Chapter 7.01 (§§ 54-145.4 through 54-145.10:11) of Title 54 of the Code of Virginia provides authority for the

# Calendar of Events

Director of the Department of Commerce to promulgate regulations necessary to regulate asbestos contractors, workers, supervisors, inspectors, management planners and project designers. Statutory changes enacted following the 1988 session of the General Assembly added language to include management planners and project designers in the regulated population. The program effective was July 1, 1988, and therefore it was necessary to promulgate emergency regulations to include all of the categories of asbestos licenses. The emergency regulations replaced the regulations enacted on April 14, 1988.

The purpose of the regulations is to ensure that the public is protected from any potential risk or hazard by the adequate training and the subsequent licensing of asbestos contractors, workers supervisors, inspectors, management planners and project designers. The regulations provide for licensure through an education, experience and examination process for contractors and individuals involved in procedures related to asbestos projects, specifically asbestos inspections, removal or encapsulation. The regulations set for the standards for training course approval by the Department of Commerce.

**Impact:** The regulations apply directly to approximately 7,000 individual licensees and 250 contractor licensees, and indirectly to the clients utilizing these professional services.

Attached in an analysis of the projected revenues and expenditures of the program for the 1989-90 biennium, including recommended fees to generate a projected revenue sufficient for operation of the program in accordance with the conditions of the Callahan Act.

Because the program is new and start-up costs have been incurred as well as direct and indirect expenses incurred in the 1986-88 biennium, the program operations resulted in a deficit balance at the close of the past biennium. This deficit will be allocated to future revenue-producing years and is included in the analysis in determining the recommended fees.

All revenue will come from license application and license renewal fees and fees for evaluation and approval of training programs. The fee schedule is as follows:

	<u>Fee Amount</u>
Asbestos Contractor License	\$500
Renewal	\$500
Asbestos Worker License	\$ 35
Renewal	\$ 35
Asbestos Supervisor License	\$ 35
Renewal	\$ 35
Asbestos Inspector License	\$ 35
Renewal	\$ 35
Asbestos Management Planner License	\$ 35
Renewal	\$ 35
Asbestos Project Designer License	\$ 35

Renewal	\$ 35
Asbestos Worker Training Course (24 hours)	\$2100
Refresher Course (8 hours)	\$ 700
Asbestos Supervisor Training Course (32 hours)	\$2800
Refresher Course (8 hours)	\$ 700
Asbestos Inspector Training Course (24 hours)	\$2100
Refresher Course (4 hours)	\$ 700
Asbestos Management Planner Training Course (16 hours)	\$1400
Refresher Course (8 hours)	\$ 700
Asbestos Project Designer Training Course (32 hours)	\$2800
Refresher Course (8 hours)	\$ 700

Statutory Authority: §§ 54-145.5 through 54-145.10:11 of the Code of Virginia.

Written comments may be submitted until January 21, 1989.

**Contact:** Peggy J. Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8595 or SCATS 367-8595

## DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

### Goose Creek Scenic River Advisory Board

† **January 16, 1989 - 2 p.m.** – Open Meeting  
Middleburg Community Center, Main Street, Middleburg, Virginia

A business meeting to discuss issues and matters pertaining to the Goose Creek Scenic River.

**Contact:** Richard G. Gibbons, Recreation Planning Chief, Department of Conservation and Historic Resources, Division of Planning and Recreation Services, 221 Governor St., Suite 306, Richmond, Va. 23219, telephone (804) 786-4132

### Virginia Historic Landmarks Board

† **December 13, 1988 - 2 p.m.** – Open Meeting  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A general business meeting.

### Division of Historic Landmarks State Review Board

† **December 13, 1988 - 10 a.m.** – Open Meeting  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

# Calendar of Events

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A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

Catoctin Rural Historic District, Loudoun County  
Bristoe Battlefield Historic District, Prince William County  
French's Tavern, Powhatan County  
Farnley, Clarke County  
Freestone Point Confederate Battery, Prince William County  
Cockpit Point, Prince William County  
Brentsville Courthouse and Jail, Prince William County  
Mitchells' Ford Intrenchment, Prince William County  
Mayfield Fortification, City of Manassas  
Signal Hill, Prince William County  
Orange and Alexandria Railroad Bridge Piers, Prince William County, Fairfax County  
Greenwich Presbyterian Church, Prince William County

**Contact:** Margaret T. Peters, Information Officer, Department of Conservation and Historic Resources, Division of Historic Landmarks, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-3143 or SCATS 786-3143

## Shenandoah River Advisory Board

† **November 21, 1988 - 4 p.m.** – Open Meeting  
Clarke County Courthouse, Berryville, Virginia

A business meeting to review issues related to the Shenandoah Scenic River.

## Staunton River Scenic River Advisory Board

† **November 30, 1988 - 7 p.m.** – Open Meeting  
Brookneal Community Center, Brookneal, Virginia

A general meeting.

**Contact:** Richard G. Gibbons, Recreation Planning Chief, Department of Conservation and Historic Resources, Division of Planning and Recreation Services, 203 Governor St., Suite 306, Richmond, Va. 23219, telephone (804) 786-4132

## STATE BOARD FOR CONTRACTORS

† **December 14, 1988 - 9 a.m.** – Open Meeting  
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to discuss possible revisions to the rules and regulations of the State Board for Contractors.

† **January 18, 1989 - 9 a.m.** – Open Meeting  
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☐

A quarterly meeting 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, and (iv) 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 the 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

## STATE BOARD OF CORRECTIONS

† **December 14, 1988 - 10 a.m.** – Open Meeting  
† **January 18, 1989 - 10 a.m.** – Open Meeting  
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented to the board.

**Contact:** Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, Va. 23225, telephone (804) 674-3235

## DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

**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

**November 21, 1988 - 9 a.m.** – Open Meeting  
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☐

A meeting to (i) review applications; (ii) review correspondence; (iii) review enforcement cases; and (iv) conduct routine business.

\* \* \* \* \*

**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.**

# Calendar of Events

The proposed amendments establish the requirements for licensure for cosmetologists, cosmetology instructors, and cosmetology schools and establishes standards of practice and fees.

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)

## VIRGINIA BOARD OF DENTISTRY

† November 30, 1988 - 6 p.m. - Open Meeting  
Embassy Suites Hotel, The Commerce Center, 2925 Emerywood Parkway, Richmond, Virginia. ☐

An Executive Committee meeting of the Virginia Board of Dentistry at 6 p.m., and HOM Committee meeting of the Virginia Board of Dentistry at 7 p.m.

December 1, 1988 - 8 a.m. - Open Meeting  
December 2, 1988 - 8 a.m. - Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to consider (i) board business; (ii) formal hearings; and (iii) to discuss proposed regulations.

**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

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.

December 8, 1988 - 9 a.m. - Open Meeting  
December 9, 1988 - 9 a.m. - Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Rooms C & D, Richmond, Virginia. ☐

January 12, 1989 - 9 a.m. - Open Meeting  
January 13, 1989 - 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. 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

\* \* \* \* \*

† January 21, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Education intends to amend regulations entitled: VR 270-02-0007. Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia. The purpose of the proposed regulations is to ensure the provisions of a free and appropriate public education in the least restrictive environment to all handicapped youth ages 2 to 21, inclusive, residing in the Commonwealth.

## STATEMENT

**Purpose:** The Board of Education is reproposing these regulations. The purpose of the reproposal of the regulations is to publish the amendments based on the comments which substantially changed the original draft of amended regulations. The amended regulations bring the state regulations in compliance with Congressional amendments to P.L. 94-142, the federal law mandating that handicapped children and youth receive a free and appropriate public education.

**Basis:** Section 22.1-16 of the Code of Virginia; 20 USC Section 1412 and 1413.

**Subject, substance and issues:** The amended regulations were inconsistent with federal law and other proposed changes were based on the public comments and included in this amended draft. The major changes in the proposed regulations include deletion of the requirement for parental consent before any change in the identification or placement for a handicapped child, maintaining autism as a separate category, defining reevaluation and significant change in placement, expanding the definition of special education to comport with federal law, adding qualifications of personnel providing services, adding related services to an existing IEP, termination of special education services, adding language and timelines regarding suspensions and expulsions and amending the regulations to comply with the law for serving children in juvenile detention homes.

**Impact:** The regulations directly affect 140 school divisions in the Commonwealth.



# Calendar of Events

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Statutory Authority: § 22.1-16 of the Code of Virginia.

Written comments may be submitted until December 21, 1988.

**Contact:** Kathe Klare, Supervisor of Due Process Proceedings, Department of Education, P. O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2887

## STATE EDUCATION ASSISTANCE AUTHORITY

**December 12, 1988 - 10 a.m. – Public Hearing**  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the State Education Assistance Authority intends to adopt regulations entitled: **VR 275-02-1. Regulations Governing the Edvantage Loan Program.** This regulation establishes policies to govern the administration of the Edvantage loan program on the part of participating lenders and institutions of higher education.

Statutory Authority: §§ 23-30.42 and 23-38.64 of the Code of Virginia.

Written comments may be submitted until December 12, 1988.

**Contact:** Randy A. Craig, Manager, Technical Services, State Education Assistance Authority, 6 N. Sixth St., Suite 300, Richmond, Va. 23219, telephone (804) 786-2035, toll-free 1-800-792-5626 (In Virginia) or SCATS 786-2035

## STATE BOARD OF ELECTIONS

† **November 28, 1988 - 10 a.m. – Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond Virginia. ☒

A meeting to ascertain the results of the November 8, 1988, General Election.

**Contact:** Susan H. Fitz-Hugh, Secretary, State Board of Elections, 101 Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-6551

## DEPARTMENT OF FIRE PROGRAMS

† **February 3, 1989 - 9 a.m. – Public Hearing**  
Holiday Inn-Downtown, 301 West Franklin Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Fire Services intends to amend regulations entitled: **VR 310-01-02. Regulations Establishing Certification**

**Standards for Fire Inspectors.** This regulation establishes certification standards for fire inspectors and is amended to incorporate training required as a result of revisions to the Code of Virginia by the 1988 General Assembly authorizing search warrants for inspection or reinspection of buildings.

## STATEMENT

**Basis:** These regulations establish the standards for training Fire Inspectors as required by § 27-34.2 of the Code of Virginia.

**Purpose:** These regulations set forth the standards which fire inspectors authorized by their localities to issue summonses and serve warrants must meet before they may exercise that authority. The regulations also contain the administrative requirement pertaining to those standards.

The amendments to the regulations incorporate training standards required as a result of the passage of §§ 27-98.1 through 27-98.5 by the 1988 General Assembly. These sections authorize search warrants for inspection and reinspection of buildings.

## Impact:

a. Numbers and type of entities or persons affected:

These regulations will apply to 221 fire inspectors in 45 fire departments.

b. Projected costs to regulated entities:

There should be no costs to the individuals to whom these regulations apply. There will be costs to the localities since they must pay any travel, meals, lodging and printed materials associated with the training. Training is scheduled by the Department of Fire Programs to keep costs at a minimum. However, the number of inspectors and the time in which people are appointed to those positions do not permit the training to be offered at a time and place convenient to large numbers of students. Based on past experience, the assumption is that every person to whom these regulations apply must travel to a training site.

There will be no additional costs to localities as a result of the amendments to the regulations. For those trainees receiving training for the first time, the material needed to meet the amendments will be worked into the material already being used in such a way that the training will be completed in the 15 days and field training already required.

The regulations require that each individual must take 16 hours of in-service training every two years.

For those individual who are presently certified, the

# Calendar of Events

training can be made part of the in-service training which is a requirement under the present regulations. The in-service training has no specific topic requirements and is meant to be used to bring individuals up-to-date on the latest changes in the law and procedures such as covered in the amendment.

The costs for one person to be trained based on this is:

lodging -

5 nights/week x 3 weeks x \$35 = \$525.00

meals -

3 meals/day x 15 days x \$25\* = 1,125.00

travel -

6 trips x 100 miles @.22.5 = 135.00

training materials = 36.00

Total = \$1,821.00

\*includes tips

These regulations are not retroactive; therefore, the costs will apply to those who must meet the standard after their effective date.

The regulations required that each individual must take 16 hours of in-service training every two years. The cost to localities per individual for this will be:

lodging - 2 nights x \$35 = \$70.00

3 meals/day x 2 days x \$25 = 50.00

2 trips x 100 @.22.5 = 45.00

total = \$165.00

c. Cost to the agency:

Printing of 200 copies of the revised pages for distribution = \$60.00

Mailing of revised pages to affected departments = 15.00

Cost of instructors per 3 week training session = 5,500.00

Cost of instructors per 16 hours in-service = 1,352.00

total = \$6,927.00

d. Source of funds:

for a and b - local budgets

for c - agency's budget

Statutory Authority: § 9-155 of the Code of Virginia.

Written comments may be submitted until February 3, 1989.

**Contact:** Robert A. Williams, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2681 or SCATS 225-2681

\* \* \* \* \*

† **February 3, 1989 - 9 a.m.** - Public Hearing  
Holiday Inn-Downtown, 301 West Franklin Street,  
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Fire Programs intends to adopt regulations entitled: **VR 310-01-04. Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities.** Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities will require localities using Fire Programs Funds for local fire training construction, improvement and expansion to use instructors meeting standards approved by the Virginia Fire Services Board.

## STATEMENT

**Basis:** These regulations establish the standards for instructors providing training at local fire training centers where the locality elects to use local Fire Program Funds to construct, improve or expand the local fire training center.

**Purpose:** The purpose of these regulations is to assure that funds from the local portion of Fire Programs Funds available to localities pursuant to § 38.2-401 of the Code of Virginia, are used to construct, improve or expand local training centers. The training at these centers shall be conducted by instructors who are certified according to standards developed by the Department of Fire Programs and approved by the Virginia Fire Services Board.

A further purpose is to ensure that fire related training is conducted by individuals having the knowledge, skills, ability and authority to provide the training in a manner which will assure that quality instruction is provided safely, efficiently and effectively.

### Impact:

1. Numbers and type of entities or persons affected:

It is not known nor can it be projected how many localities or people this will affect since it is not known how many localities may elect to use Fire Programs Funds for local fire training facilities.

Most existing fire training facilities are regional

# Calendar of Events

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training centers and these regulations do not apply to them.

The training center which operates as local facilities operate in a manner which meets the regulations. Their training policies are such that it will comply with these regulations.

The training needed to meet the requirements set out in the regulations is regularly scheduled and routinely provided by the Department of Fire Programs throughout the Commonwealth.

In the event an individual is not an Instructor II as required by the regulations there may be a cost for the individual to attend a Department of Fire Programs offering.

That cost would be:

3 nights lodging @ \$35/night = \$105  
3 meals/day for 3 days  
(est. \$22/day) = \$66

Total = \$171

Travel depends on distance from home locality to location of school.

Instructional material furnished by Department of Fire Programs

If the person is not an Instructor I, which is a prerequisite to being an Instructor II, two additional days of training are needed:

2 nights lodging @ \$35/night = \$70  
3 meals/day for 2 days = \$44  
Total = \$114

## 2. Cost to the agency:

Printing the regulations  
600 copies @ \$1.00/copy = \$600

Mailing of regulations = \$150

Student's manual = \$8

Total = \$758

Statutory Authority: §§ 9-155 and 38.2-401 of the Code of Virginia.

Written comments may be submitted until 5 p.m., February 10, 1988.

**Contact:** Carl N. Cimino, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2681 or SCATS 225-2681

## FRANKLIN, ISLE OF WIGHT AND SOUTHAMPTON EMERGENCY PLANNING COMMITTEE

**December 20, 1988 - 7 p.m. - Open Meeting**  
Public Safety Building, Franklin, Virginia. ☒

A meeting to review status of Emergency Response Plan.

**Contact:** Jim Wagenbach, Chief of Emergency Services, Public Safety Building, 1005 Main St., Franklin, Va. 23851, telephone (804) 562-8581

## DEPARTMENT OF GENERAL SERVICES

### Art and Architectural Review Board

**December 2, 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

† **November 30, 1988 - 6:30 p.m. - Open Meeting**  
Old Courthouse, Court Green, Virginia. ☒

The Gloucester LEPC will hold its monthly meeting as scheduled to continue work on the Public Relations/Community Awareness aspects of Sara Title III and to discuss the county draft of its Hazardous Materials Plan which was submitted to VERC in October.

**Contact:** Georgette N. Hurley, Assistant County Administrator, P. O. Box 329, Gloucester, Va. 23061, telephone (804) 693-4042

## COUNCIL ON HEALTH REGULATORY BOARDS

### Administration and Budget Committee

**December 2, 1988 - 1 p.m. - Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

A meeting to discuss the budget.

## Executive Committee

† **December 19, 1988 - 1 p.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

The committee will review the regulations of the Board of Social Work.

## Regulatory Evaluation and Research Committee

† **December 29, 1988 - 1 p.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

The committee will review regulations of the Board of Social Work.

## Scope and Standards Committee

† **December 19, 1988 - 3 p.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

The committee will consider further background information on the criteria revision.

**Contact:** Robert A. Nebiker, Deputy Director, 1601 Rolling Hills Dr., Richmond, Va. 23219, telephone (804) 662-9966

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **December 14, 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

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**December 6, 1988 - 9 a.m.** – Open Meeting  
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee meeting on Emergency Preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Service Coordinator, City of Hopewell, 300 N. Main St., Hopewell, Va. 23860, telephone (804) 541-2298

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

### Amusement Device Technical Advisory Committee

† **November 22, 1988 - 9 a.m.** – Open Meeting  
205 North Fourth Street, 7th Floor Conference Room, Richmond, Virginia. ☒

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

**Contact:** Jack A. Proctor, CPCA, Deputy Director, Division of Building Regulatory Services, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219-1747, telephone (804) 786-4752

## COUNCIL ON INDIANS

† **January 5, 1989 - 2 p.m.** – Open Meeting  
Ninth Street Office Building, Cabinet Conference Room, 6th Floor, Richmond, Virginia. ☒

A regular meeting of the Council on Indians to conduct general business and to receive reports from the council standing committees.

**Contact:** Mary Zoller, Information Director, Council on Indians, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9285 or SCATS 662-9285

## DEPARTMENT OF LABOR AND INDUSTRY

### Apprenticeship Council

† **December 15, 1988 - 10 a.m.** – Open Meeting  
Fairfax County Executive Offices, Massey Building, 4100 Chainbridge Road, "A" Level, Board of Supervisors Meeting Room, Fairfax, Virginia. ☒

A regular quarterly meeting. The public session begins at 10 a.m. Council meeting will begin immediately after conclusion of public session.

**Contact:** Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2381 or SCATS 786-2381

## STATE LOTTERY DEPARTMENT

**November 22, 1988 - 9 a.m.** – Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Agcroft Room, Richmond, Virginia. ☒

Regularly scheduled monthly meeting of the board.

# Calendar of Events

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Business will be conducted according to items listed on agenda which has not yet been determined.

**Contact:** Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-9433 or SCATS 367-9433

## VIRGINIA MARINE PRODUCTS BOARD

† **December 7, 1988 - 5 p.m.** – Open Meeting  
The Ships Cabin Seafood Restaurant, 4110 East Ocean View Avenue, Norfolk, 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, and old/new business.

**Contact:** Shirley Estes Berg, Executive Director, 97 Main St., Suite 103, Newport News, Va. 23601, telephone (804) 599-7261

## MARINE RESOURCES COMMISSION

**December 6, 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. It hears and decides cases on fishing licensing, oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes and beaches. It hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days, and is empowered to take specialized marine life harvesting and conservation measures within 5 days.

**Contact:** Sandra S. Schmidt, Secretary to the Commission, 2401 W. Avenue, P. O. Box 756, Newport News, Va. 23607, telephone (804) 247-2208

## LOCAL EMERGENCY PLANNING COMMITTEE FOR THE CITY OF MARTINSVILLE AND HENRY COUNTY

† **December 8, 1988 - 9:30 a.m.** – Open Meeting  
Martinsville Municipal Building, Martinsville, Virginia. ☐

Open meeting to discuss general business relating to SARA Title III and development of the emergency response plan.

**Contact:** Benny Summerlin, Public Safety Director, Henry County Administration Bldg., P. O. Box 7, Collinsville, Va. 24078, telephone (703) 638-5311, ext. 256

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**December 8, 1988** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance. VR 460-03-3.1100. Elimination of Preauthorization for Routine Eye Services.** This regulation proposes to remove the prior authorization requirement currently on routine eye services.

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

Written comments may be submitted until December 8, 1988, to C. Mack Brankley, Director, Division of Operations and Provider Relations, 600 East Broad Street, Suite 1300, Richmond, Virginia 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

## VIRGINIA STATE BOARD OF MEDICINE

† **December 12, 1988 - 10 a.m.** – Open Meeting  
† **December 13, 1988 - 10 a.m.** – Open Meeting  
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia. ☐

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia.

**December 20, 1988 - 9 a.m.** – Public Hearing  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

A meeting to receive public comments on the use of therapeutic drugs by Doctors of Optometry.

## Credentials Committee

**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.

Informal Conference Committee

† December 2, 1988 - 8:30 a.m. - Open Meeting
Patrick Henry Conference Center, York and Page Streets, Williamsburg, Virginia. ☒

† December 16, 1988 - 9:30 a.m. - Open Meeting
Holiday Inn Fanny's, West Broad and I-64, Richmond, Virginia. ☒

† January 12, 1989 - 9:30 a.m. - Open Meeting
Sheraton-Fredericksburg Resort and Conference Center, I-95 and Route 3, Fredericksburg, Virginia. ☒

A meeting to inquire to 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 session pursuant to § 2.1-344 of the Code of Virginia.

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

† December 14, 1988 - 9:30 a.m. - Open Meeting
Hampton-Newport News Community Services Board, 1520 Aberdeen Road, Hampton, Virginia. ☒

A regular monthly meeting. The agenda will be published on December 7 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 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.

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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 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.

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

Written comments may be submitted until November 30, 1988.

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

Contact: Michael Fehl, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3710

November 30, 1988 - 9 a.m. - Open Meeting
Fort Magruder Inn and Conference Center, Route 60 East, Williamsburg, Virginia. (Interpreter for deaf provided if requested)

Meeting of Virginia's Early Intervention Coordinating Council for Part H, P.L. 99-457. The council is to advise and assist the DMHMRSAS as lead agency to administer Part H, in the development and implementation of a statewide interagency, multidisciplinary system of early intervention services for infants and toddlers with disabilities ages birth through two.

Contact: Michael Fehl, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3710

DEPARTMENT OF MINES, MINERALS AND ENERGY

December 12, 1988 - 10 a.m. - Public Hearing
Mountain Empire Community College, Dalton-Cantrell Building Auditorium, Big Stone Gap, Virginia

# Calendar of Events

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to adopt regulations entitled: **VR 480-05-2. Rules and Regulations Governing the Certification of Diesel Engine Mechanics in Underground Coal Mines.** These regulations prescribe the qualifications and other requirements, and the conditions of use, for a certificate of competency as an underground diesel engine mechanic.

Statutory Authority: §§ 45.1-1.3(4) and 45.1-12 of the Code of Virginia.

Written comments may be submitted until December 12, 1988.

Contact: Bill Edwards, Policy Analyst, Department of Mines, Minerals and Energy, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-0330

## VIRGINIA STATE BOARD OF NURSING

**November 28, 1988 - 10 a.m. – Open Meeting**  
**November 29, 1988 - 10 a.m. – Open Meeting**  
**November 30, 1988 - 10 a.m. – Open Meeting**  
Boar's Head Inn, Route 250 West, Ednam Forest, Charlottesville, Virginia. ☒ (Interpreter for deaf provided if requested)

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, November 28, 1988, at 7:30 p.m., the board will conduct an informational program at the same location and respond to questions relative to duties of the board.

### Informal Conference Committee

**December 13, 1988 - 8:30 a.m. – Open Meeting**  
Koger Building, 8001 Franklin Farms Drive, Suite 124, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

**December 16, 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 1-800-533-1560 or

SCATS 662-9909

## COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

† **December 7, 1988 - 1:30 p.m. – Open Meeting**  
General Assembly Building, Capitol Square, 5th Floor West Conference Room, Richmond, Virginia. ☒

A meeting to consider and act upon matters related to the certification and practice of nurse practitioners.

Contact: Corrine F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909

## BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

**November 22, 1988 - 8 a.m. – Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center - West, Richmond, Virginia. ☒

Examinations  
National Examination - 8 a.m.  
State Examination - 11:30 a.m.  
Oral Examination - 1:30 p.m.

Board meeting - 9 a.m.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907

## OLD DOMINION UNIVERSITY

### Board of Visitors

**December 13, 1988 - 3 p.m. – Open Meeting**  
Old Dominion University, New Administration Building, Room 226, Norfolk, Virginia. ☒

A meeting of the Executive Committee of the Board of Visitors to handle affairs of the University. (Agenda distributed two weeks prior to meeting.)

Contact: Peter F. Wehmann, Office of the Board of Visitors, Old Dominion University, Norfolk, Va. 23529-0029

## VIRGINIA BOARD OF PHARMACY

† **November 30, 1988 - 2 p.m. – Open Meeting**  
† **December 1, 1988 - 9 a.m. – Open Meeting**  
Williamsburg Hilton, 50 Kingsmill Road, Williamsburg, Virginia

Informal discussions on policies and procedures.

**December 15, 1988 - 9 a.m. – Open Meeting**  
Holiday Inn-West End, 6531 West Broad Street, Richmond  
Room, Richmond, Virginia

Routine board business and possible consideration of any committee proposals for licensing of physicians to dispense drugs and for any proposals to increase various licensing fees.

**Contact:** Jack B. Carson, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9911

## BOARD OF COMMISSIONERS TO EXAMINE PILOTS

**December 12, 1988 - 10 a.m. – Open Meeting**  
Virginia Port Authority, World Trade Center, Suite 600,  
Norfolk, Virginia. ☐

The board will meet to conduct routine business at its regular quarterly business meeting.

**Contact:** David E. Dick, Virginia Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8531 or (804) 552-3016

## VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

† **November 22, 1988 - 9 a.m. – Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling  
Hills Drive, Richmond, Virginia. ☐

Informal conferences.

**Contact:** Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912 or SCATS 662-9912

† **December 9, 1988 - 9 a.m. – Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling  
Hills Drive, Richmond, Virginia. ☐

A meeting to consider (i) general board business, including committee reports and response to correspondence; (ii) certification of the results of the board's oral examinations for licensure and certification; and (iii) identification of the need for amendments to the existing Regulations Governing the Practice of Professional Counseling, including discussion of the amendment of the existing regulations of the Emergency Regulations (§ 2.2 B Supervised Experience).

**Contact:** Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912 or SCATS 662-9912

## Credentials Committee

**December 2, 1988 - 11 a.m. – Open Meeting**  
American Association of Pastoral Counselors, 9508 A Lee  
Highway, Fairfax, Virginia

A meeting to review the credentialing process for applicants with pastoral counseling or divinity degrees.

## Examination Committee

**December 2, 1988 - 10 a.m. – Open Meeting**  
American Association of Pastoral Counselors, 9508 A Lee  
Highway, Fairfax, Virginia

A meeting to begin to identify issues for the study of the oral examination process.

**Contact:** Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912 or SCATS 662-9912

## VIRGINIA BOARD OF PSYCHOLOGY

† **December 1, 1988 - 9 a.m. – Open Meeting**  
Department of Health Regulatory Boards, 1601 Rolling  
Hills Drive, Richmond, Virginia. ☐

A meeting to conduct (i) routine board business; (ii) discussion of oral examination questions; (iii) certification of written examination results; and (iv) review of regulations.

**Contact:** Stephanie A. Sivert, Executive Director, or Phyllis Henderson, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9913

## VIRGINIA REAL ESTATE BOARD

**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



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## BOARD OF REHABILITATIVE SERVICES

† **December 2, 1988 - 9:30 a.m.** – Open Meeting  
Department of Rehabilitative Services, 7830 Backlick Road,  
Springfield, Virginia. ☒ (Interpreter for deaf provided if  
requested)

The board will receive an update on the Woodrow  
Wilson Rehabilitation Center study, take action on  
committee reports and recommendations, and conduct  
the regular business of the board.

### Finance Committee

† **December 1, 1988 - 3 p.m.** – Open Meeting  
Hilton Inn, 6550 Loisdale Road, Springfield, Virginia. ☒  
(Interpreter for deaf provided if requested)

The committee will review and comment on the  
department financial report, and consider the funding  
needs of the Woodrow Wilson Rehabilitation Center for  
the next fiscal year.

### Legislation and Evaluation Committee

† **December 1, 1988 - 1 p.m.** – Open Meeting  
Hilton Inn, 6550 Loisdale Road, Springfield, Virginia. ☒  
(Interpreter for deaf provided if requested)

The committee will continue its review of the  
"Virginians with Disabilities Act," and develop its  
agenda for review of department programs.

### Program Committee

† **December 1, 1988 - 2 p.m.** – Open Meeting  
Hilton Inn, 6550 Loisdale Road, Springfield, Virginia. ☒  
(Interpreter for deaf provided if requested)

A meeting to (i) consider proposed amendments to the  
State Vocational Rehabilitation regulations; (ii) receive  
the department's report on the Community  
Rehabilitative Services Division; and (iii) review and  
approve proposed new contracts and grants.

**Contact:** James L. Hunter, Board Administrator, 4901  
Fitzhugh Ave., Richmond, Va. 23230, telephone (804)  
367-6446, toll-free 1-800-552-5019/TDD ☎, SCATS 367-6446,  
or (804) 367-0280/TDD ☎

## STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **December 7, 1988 - 10 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, Senate Room  
A, Richmond, Virginia. ☒

A meeting to hear and render a decision on all  
appeals of denials of on-site sewage disposal system  
permits.

**Contact:** Deborah E. Randolph, 109 Governor St., Room  
500, Richmond, Va. 23219, telephone (804) 786-3559

## STATE BOARD OF SOCIAL SERVICES

**December 14, 1988 - 2 p.m.** – Open Meeting  
**December 15, 1988 - 9 a.m.** – Open Meeting  
Department of Social Services, 8007 Discovery Drive,  
Richmond, Virginia. ☒

A work session and formal business meeting.

**Contact:** Phyllis Sisk, Administrative Staff Specialist,  
Department of Social Services, 8007 Discovery Dr.,  
Richmond, Va. 23229-8699, telephone (804) 662-9236 or  
SCATS 662-9236

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

**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.

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

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**December 9, 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 Virginia Department  
of Social Services intends to adopt regulations entitled:

# Calendar of Events

**VR 615-50-6. Compliance with Service Program Policy Requirements.** The purpose of the proposed action is to establish the philosophy and a system of monitoring for service program policy.

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

Written comments may be submitted until December 12, 1988.

**Contact:** Elizabeth B. Whitley, Chief, Bureau of Management Services, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9140 or toll-free 1-800-522-7091

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**December 10, 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 repeal existing regulations and adopt new regulations entitled: **VR 615-27-02. Minimum Standards for Licensed Private Child Placing Agencies.** These proposed regulations set forth the criteria an agency must meet to obtain a license to place children for foster care or adoption.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until December 10, 1988.

**Contact:** Liz Lion, 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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**January 7, 1989** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-01-2. Lump Sum Ineligibility Period in the Aid to Dependent Children (ADC) Program.** This amendment deletes language giving final authority to the local social services agency for decisions regarding conditions deemed to have occurred beyond the control of the assistance unit, that could shorten the period of ineligibility established due to receipt of a lump sum.

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

Written comments may be submitted until January 7, 1989, to Guy Lusk, Director, Division of Benefit Programs, 8007

Discovery Drive, Richmond, Virginia 23229-8699.

**Contact:** Carol Holmes, Program Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9046 or SCATS 662-9046

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† **January 19, 1989 - 2 p.m.** – Public Hearing  
Blair Building, 8007 Discovery Drive, 2nd Floor Conference Rooms A and B, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-45-2. Child Protective Services Client Appeals.** These amendments establish regulations by which child protective services clients can appeal the decision made by a local department of social services regarding the disposition of a child protective services complaint.

## STATEMENT

**Basis:** This regulation is issued under the authority granted by §§ 63.1-248.6:1 and 63.1-25 of the Code of Virginia.

**Subject:** This regulation establishes the procedures under which an individual can appeal a child protective services finding made against him.

**Purpose:** This regulation provides for due process rights of individuals who are found or suspected to have abused or neglected a child.

**Substance:** This regulation recognizes the child protective services client's rights to challenge the disposition of the local department of social services.

**Issues:** The intent of this regulation is to establish procedural steps by which a child protective services client can challenge the disposition of the local department of social services. The forum for this challenge is a two step process including an informal local conference and a subsequent administrative hearing if needed.

Statutory Authority: §§ 63.1-25 and 63.1-248.6:1 of the Code of Virginia.

Written comments may be submitted until January 19, 1989.

**Contact:** Janine Tondrowski, State Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9081, toll-free 1-800-552-7091 or SCATS 662-9081

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† **January 20, 1989** – Written comments may be submitted until this date.

# Calendar of Events

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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 615-70-9. Enforcement of Child Support Obligations.** This proposed regulation authorizes the Department of Social Services to collect current and delinquent child support payments through methods such as wage withholding, tax refund intercepts, imposition of liens, and orders to withhold and deliver.

## STATEMENT

Subject: This regulation is to accommodate federal regulations and state code which require the department to collect current and delinquent child support obligations in certain cases.

Substance: The Code of Federal Regulations and the Code of Virginia both require and empower the department to enforce certain child support obligations. This regulation covers such areas as wage withholding, tax refund intercepts, imposition of liens and orders to withhold and deliver.

Issues: Efficient collection and disbursement of payments from responsible parents with child support obligations is a valuable tool in keeping families off of public assistance rolls. This has been recognized by the federal government and is now required by both federal regulations and state codes. This regulation helps in the collection of current and delinquent support obligations and so provides caretakers and children with needed support as well as providing for recoupment of taxpayer funds expended in public assistance grants.

Basis: Section 63.1-25 of the Code of Virginia grants the State Board of Social Services the authority to make rules and regulations necessary or desirable to carry out the true purpose and intent of Title 63.1.

Purpose: This regulation brings the department into compliance with state and federal requirements. It sets out the means allowed for the collection of support obligations to provide caretakers and children with needed support and to recoup taxpayer funds that have been expended through state public assistance grants. The department is proposing this regulation as a means for expedient and effective collection of child support obligations.

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

Written comments may be submitted until January 20, 1989.

Contact: Jane Clements, Bureau Chief, Department of Social Services, Blair Bldg., 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7469, toll-free 1-800-552-7091 or SCATS 662-7469

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† **January 20, 1989** – 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 615-70-10. Confidentiality and Exchange of Information for Child Support Enforcement Services.** This proposed regulation authorizes the Department of Social Services to restrict the release of information on absent responsible parents and custodial parents to the general public.

## STATEMENT

Subject: This regulation is to accommodate the procedures required by Virginia's Privacy Protection Act of 1976 and § 63.1-274.6 of the Code of Virginia relating to personal information that is collected or released by the Division of Child Support Enforcement (DCSE).

Substance: Provisions of federal laws, § 63.1-274.6 of the Code of Virginia and the Privacy Protection Act of 1976 provide for the DCSE to establish regulations to safeguard personal information collected by Child Support Enforcement. This regulation was developed pursuant to those provisions.

Issues: All state, county and city offices and agencies are required by law to provide the Division of Child Support Enforcement with information about absent parents to help locate them and to collect support. To that, the Commissioner of the Department of Social Services and the Director of the Division of Child Support Enforcement have the right to subpoena financial records to corroborate the existence of assets identified by the IRS. This regulation enumerates the conditions and procedures observed in the collection and release of that information.

Basis: Section 63.1-25 of the Code of Virginia grants the State Board of Social Services the authority to make rules and regulations necessary or desirable to carry out the true purpose and intent of Title 63.1.

Purpose: The restrictions on the collection and release of personal information by the Division of Child Support Enforcement allow for the efficient use of information in the collection process while providing protection for absent responsible parents and applicants for services.

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

Written comments may be submitted until January 20, 1989.

Contact: Jane Clements, Bureau Chief, Department of Social Services, Blair Bldg., 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7469, toll-free 1-800-552-7091 or SCATS 662-7469

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# Calendar of Events

† **January 20, 1989** – 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 615-70-11. Establishment of Paternity in Child Support Enforcement.** This proposed regulation authorizes the Department of Social Services to obtain voluntary admissions of paternity. It also authorizes the department to obtain consent orders or Acknowledgment of Paternity forms to be used as evidence in judicial paternity hearings.

## STATEMENT

**Subject:** This regulation sets out the means available to the department to establish paternity thus enabling the department to establish and enforce child support obligations.

**Substance:** This regulation allows the department to obtain a consent order which will be recognized by the court or an Acknowledgment of Paternity Form which will assist in obtaining a judicial determination. The Acknowledgment of Paternity Form can be a part of the consent order or used as evidence in a paternity hearing. This helps the department to fulfill its requirement to collect support from responsible parties in certain cases. The authority for this regulation is in § 63.1-250.2 of the Code of Virginia.

**Issues:** Establishment of paternity is primarily a function of the courts; however, federal regulations and the Code of Virginia require the department to locate responsible parties and establish and enforce support obligations. A part of this process is the establishment of paternity. The ability of the department to use consent orders and acknowledgments of paternity results in more expedient and efficient provision of services.

**Basis:** Section 63.1-25 of the Code of Virginia grants the State Board of Social Services the authority to make rules and regulations necessary or desirable to carry out the true purpose and intent of Title 63.1.

**Purpose:** This regulation allows the department to establish paternity through the use of consent orders and other judicial means. Establishment of paternity is necessary in certain cases to enable the department to collect support for those caretakers and children who are in need of support.

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

Written comments may be submitted until January 20, 1989.

**Contact:** Jane Clements, Bureau Chief, Department of Social Services, Blair Bldg., 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7469, toll-free 1-800-552-7091 or SCATS 662-7469

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† **January 20, 1989** – 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 615-70-12. Responsibilities of IV-D Agencies in Interstate Child Support.** This proposed regulation authorizes the Department of Social Services to comply with state and federal laws which require a Central Interstate Registry to manage the flow of child support correspondence into and out of the state.

## STATEMENT

**Subject:** This regulation is to accommodate federal regulations and the Code of Virginia which, through reciprocal legislation, require cooperation between the states in interstate child support cases. The federal code and state code require the IV-D agency in a state to provide the same services that it provides to its own cases when a case is referred from another state's IV-D agency.

**Substance:** Provisions of 45 Code of Federal Regulations 302.12 and § 63.1-274.6 of the Code of Virginia provide for the creation of a central registry and Interstate URESA unit to facilitate the efficient and uniform handling of interstate child support enforcement cases. Sections 20-88.12 through 20-88.30:6 contain the Revised Uniform Reciprocal Enforcement Act requiring cooperation between the states. This regulation was developed pursuant to these provisions.

**Issues:** Federal regulations require cooperation among state IV-D agencies. The states have adopted uniform reciprocal laws which require cooperation between two courts of different states ensuring that support enforcement services are provided for all cases regardless of where the absent parent resides. This regulation sets out the rights and responsibilities of Virginia as both the responding and initiating state and provides for the creation of an Interstate URESA unit and central registry as required by both federal regulations and the Code of Virginia.

**Basis:** Section 63.1-25 of the Code of Virginia grants the State Board of Social Services the authority to make rules and regulations necessary or desirable to carry out the true intent and purpose of Title 63.1.

**Purpose:** The adoption of uniform laws and the creation of central registries allow for more efficient and effective handling of interstate child support cases. Cooperation between the courts and IV-D agencies of different states ensures that support enforcement services are provided in all cases regardless of where the absent parent resides.

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

Written comments may be submitted until January 20,

# Calendar of Events

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1989.

**Contact:** Jane Clements, Bureau Chief, Department of Social Services, Blair Bldg., 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7469, toll-free 1-800-552-7091 or SCATS 662-7469

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† **January 20, 1989** – 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 615-70-13. Child Support Enforcement Services (Application Fees, Rights and Responsibilities and Payment Recovery)**. This proposed regulation describes (i) application fees for child support services; (ii) the rights and responsibilities of custodial parents and the Division of Child Support Enforcement; and (iii) payment recovery.

## STATEMENT

**Subject:** This regulation sets out the services provided by the Department for Child Support Enforcement Cases through the Division of Child Support Enforcement.

**Substance:** This regulation covers the services provided, the application for service, application fees and the rights and responsibilities of both the client and the Division of Child Support Enforcement. Also payment recovery policy is outlined for recoupment of money due to checks being returned to the Division of Child Support Enforcement for insufficient funds and recoupment of money for erroneous payments sent out.

**Issues:** 45 CFR 302.33 and §§ 63.1-250.2 and 63.1-274.6 of the Code of Virginia require that support enforcement services be available to all persons with dependent children who are in need of support. Section 63.1-274.6 of the Code of Virginia also lists services that are to be included among those offered.

It is important for persons receiving services to be aware of their rights and also to cooperate fully with the division so that cases can be handled in an effective, expedient manner. It is also important for the division to have the means to close cases when it becomes necessary or when the support obligation has been fulfilled.

**Basis:** Section 63.1-25 of the Code of Virginia grants the State Board of Social Services the authority to make rules and regulations necessary or desirable to carry out the true purpose and intent of Title 63.1 of the Code of Virginia.

**Purpose:** This regulation sets out the services provided by the Division of Child Support Enforcement, the rights and responsibilities of the custodial parent and the Division of

Child Support Enforcement in the performance of those services and the Division of Child Support Enforcement's payment recovery policy to recoup money owed to the Department of Social Services.

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

Written comments may be submitted until January 20, 1989.

**Contact:** Jane Clements, Bureau Chief, Department of Social Services, Blair Bldg., 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7469, toll-free 1-800-552-7091 or SCATS 662-7469

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† **January 20, 1989** – 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 615-70-14. Establishment of Administrative Support Orders**. This proposed regulation authorizes the Department of Social Services to establish and modify child support obligations and to enforce child support obligations through administrative rather than judicial means.

## STATEMENT

**Subject:** The Child Support Enforcement program is empowered to collect support from absent responsible parents. Administrative support orders are a means available to the department to establish support obligations for both public assistance and nonpublic assistance cases.

**Substance:** The department can establish an administrative support order for both public assistance and nonpublic assistance cases. These orders can be appealed to an administrative hearings officer and from there to the juvenile and domestic relations district court. Each order contains an immediate withholding of earnings requirement. Cooperation of custodial and responsible parents in providing financial information is required. Statutory authority for this regulation is found throughout Chapter 13 of Title 63.1 of the Code of Virginia.

**Issues:** Administrative rather than judicial means of establishing or enforcing obligations should be used whenever possible to expedite support matters. In addition administrative processes are to be used to establish temporary Administrative Support Orders in cases in which judicial determinations of support are delayed by issues such as custody and visitation. In PA cases where the Administrative Support Order is based on the amount of PA paid, the Administrative Support Order can be changed prospectively when the responsible parent provides financial information. Once financial information on the responsible parent is available the amount is based on the

Administrative Child Support Enforcement Scale.

Basis: Section 63.1-25 of the Code of Virginia grants the State Board of Social Services the authority to make rules and regulations necessary or desirable to carry out the true purpose and intent of Title 63.1 of the Code of Virginia.

Purpose: The department needs to establish and enforce child support obligations in the most expedient and efficient manner. The use of the Administrative Support Order and also the use of the Child Support Enforcement Scale as a basis for determining the amount of the obligation, provides an effective means for ensuring that children receive needed support.

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

Written comments may be submitted until January 20, 1989.

Contact: Jane Clements, Bureau Chief, Department of Social Services, Blair Bldg., 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7469, toll-free 1-800-552-7091 or SCATS 662-7469

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† **January 20, 1989** – 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 Department of Social Services intends to adopt regulations entitled: **VR 615-70-15. Persons Qualifying for Child Support Enforcement Services.** This proposed regulation describes the criteria by which eligibility for child support services is determined.

STATEMENT

Subject: This regulation defines those persons who qualify for support enforcement services as required by 45 Code of Federal Regulations 303.33 and § 63.1-250.2 of the Code of Virginia.

Substance: This regulation defines those persons who qualify for support enforcement services in terms of their physical residence, the agency they are dealing with or being represented by and the type of case involved.

Issues: 45 Code of Federal Regulations 302.33 and § 63.1-250.2 of the Code of Virginia require that support enforcement services be made available to all persons with dependent children in need of support.

Basis: Section 63.1-25 of the Code of Virginia grants the State Board of Social Services the authority to make rules and regulations necessary or desirable to carry out the true purpose and intent of Title 63.1.

Purpose: The purpose of this regulation is to comply with federal regulations and the Code of Virginia and thereby provide support to all persons with dependent children who need and qualify for support services.

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

Written comments may be submitted until January 20, 1989.

Contact: Jane Clements, Bureau Chief, Department of Social Services, Blair Bldg., 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7469, toll-free 1-800-552-7091 or SCATS 662-7469

VIRGINIA BOARD OF SOCIAL WORK

† **December 2, 1988 - 1:30 p.m.** – Open Meeting  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to review credentials of applicants for licensure and to review credentialing forms for revision.

† **December 16, 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; (iii) respond to correspondence; (iv) discuss proposed regulations; and (v) certify results of oral examinations.

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**December 16, 1988 - 1 p.m.** – Public Hearing  
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Work intends to adopt new regulations and repeal existing regulations entitled: **VR 620-01-2. Regulations Governing the Practice of Social Work.** These proposed regulations establish the requirements governing the practice of social work in the Commonwealth of Virginia. They include the educational and experiential requirements necessary for licensure; provide criteria for the written and oral examinations; set the standards of practice, and establish procedures for the disciplining of licensed social workers.

Statutory Authority: § 54-942 of the Code of Virginia.

Written comments may be submitted until January 5, 1989.

Contact: Stephanie A. Sivert, Executive Director, Virginia Board of Social Work, 1601 Rolling Hills Dr., Richmond,

# Calendar of Events

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Va. 23229, telephone (804) 662-9967

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **December 7, 1988 - 9 a.m.** – Open Meeting  
Royce Hotel Williamsburg, 415 Richmond Road,  
Williamsburg, Virginia. ☒

A bi-monthly meeting.

**Contact:** Donald L. Wells, Deputy Director, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, Va. 23219, telephone (804) 786-4356

## DEPARTMENT OF TAXATION

† **January 9, 1989 - 9 a.m.** – Public Hearing  
Department of Taxation, 2220 West Broad Street,  
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-2-323.1. Individual Income Tax: Excess Cost Recovery.** These regulations implement 1987 and 1988 legislation which repeals the ACRS addition and permits taxpayers to recover the outstanding balance of excess cost recovery over two or five years.

### STATEMENT

Basis: These regulations are issued under the authority granted by § 58.1-203 of the Code of Virginia.

As part of the Virginia Tax Reform Act of 1987 (1987 Acts, ch. 9, HB 1119, as amended by 1988 Acts c. 773, SB 449) the General Assembly eliminated the requirement that a portion of federal ACRS additions be added back in computing Virginia taxable income for 1988 and after, and allowed individuals to subtract over two taxable years the deferred ACRS deductions from prior years.

In order to provide guidance for payments due in 1988, an emergency regulation was promulgated and published in 4:19 VA.R. 1978-1985 June 20, 1988. This proposed regulation contains new policies due to the enactment of the 1988 legislation, and significantly reorganizes and rewrites prior language for clarity.

Purpose: These regulations set forth and explain the procedures relating to the elimination of ACRS additions and the return of the outstanding balance of excess cost recovery to taxpayers beginning in 1988.

Issues: Although regulations exist for ACRS additions and subtractions under the former law, the new provisions for the return of the outstanding balance of excess cost recovery differ significantly from the prior law. Regulatory provisions are required in order to carry out the intent of

the General Assembly to return the outstanding balance of excess cost recovery to taxpayers.

Substance: The "outstanding balance of excess cost recovery" is defined as the difference between all ACRS additions reported on returns actually filed for 1982 - 1987 and all ACRS subtractions which would have been allowable for 1984 - 1987 whether or not a return was filed. In most cases individuals may recover this "outstanding balance of excess cost recovery" through annual post-1987 subtractions over a two year period.

Generally, if a taxpayer has insufficient income to benefit from a subtraction in a particular year, all or part of the subtraction may be carried over to the next year. A taxpayer who files a final federal and Virginia return may claim an immediate subtraction for the unrecovered outstanding balance of excess cost recovery. If, after filing an individual return for 1989, or after filing a final federal and Virginia return, the taxpayer still has not recouped the outstanding balance of excess cost recovery, the taxpayer may file an application for a refund.

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

Written comments may be submitted until January 23, 1989.

**Contact:** Janie E. Bowen, 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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† **January 9, 1989 - 9 a.m.** – Public Hearing  
Department of Taxation, 2220 West Broad Street,  
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-3-323.1. Corporation Income Tax: Excess Cost Recovery.** These regulations implement 1987 and 1988 legislation which repeals the ACRS addition and permits taxpayers to recover the outstanding balance of excess cost recovery over two or five years.

### STATEMENT

Basis: These regulations are issued under the authority granted by § 58.1-203 of the Code of Virginia.

As part of the Virginia Tax Reform Act of 1987 (1987 Acts, ch. 9, HB 1119, as amended by 1988 Acts c. 773, SB 441) the General Assembly eliminated the requirement that a portion of federal ACRS additions be added back in computing Virginia taxable income for 1988 and after, and allowed corporations to subtract over five taxable years the deferred ACRS deductions from prior years.

In order to provide guidance for payments due in 1988, an

emergency regulation was promulgated and published in 4:21 V.A.R. 2277-2283 July 18, 1988. This proposed regulation contained new policies due to the enactment of the 1988 legislation, and significantly reorganizes and rewrites prior language for clarity.

**Purpose:** These regulations set forth and explain the procedures relating to the elimination of ACRS additions and the return of the outstanding balance of excess cost recovery to taxpayers beginning in 1988.

**Issues:** Although regulations exist for ACRS additions and subtractions under the former law, the new provisions for the return of the outstanding balance of excess cost recovery differ significantly from the prior law. Regulatory provisions are required in order to carry out the intent of the General Assembly to return the outstanding balance of excess cost recovery to taxpayers.

**Substance:** The "outstanding balance of excess cost recovery" is defined as the difference between all ACRS additions reported on returns actually filed for 1982 - 1987 and all ACRS subtractions which would have been allowable for 1984 - 1987 whether or not a return was filed. In most cases corporations may recover this "outstanding balance of excess cost recovery" through annual post-1987 subtractions over a five year period.

Generally, if a taxpayer has insufficient income to benefit from a subtraction in a particular year, all or part of the subtraction may be carried over to the next year. A taxpayer who files a final federal and Virginia return may claim an immediate subtraction for the unrecovered outstanding balance of excess cost recovery. If, after filing a corporate return for 1992, or after filing a final federal and Virginia return, the taxpayer still has not recouped the outstanding balance of excess cost recovery, the taxpayer may file an application for a refund.

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

Written comments may be submitted until January 23, 1989.

**Contact:** Janie E. Bowen, Director, Tax Policy Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23282, (804) 367-8010 or SCATS 367-8010

## COMMONWEALTH TRANSPORTATION BOARD

**December 15, 1988 - 10 a.m. - Open Meeting**  
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

**Contact:** Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

## TREASURY BOARD

**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

## COMMISSION ON THE UNIVERSITY OF THE TWENTY-FIRST CENTURY

† **November 30, 1988 - 7:30 p.m. - Public Hearing**  
Mountain Empire Community College, Dalton Cantrell Hall Auditorium, Big Stone Gap, Virginia

† **December 1, 1988 - 7:30 p.m. - Public Hearing**  
Norfolk State University, Technology Building, Lecture Room, Norfolk, Virginia

† **December 5, 1988 - 7:30 p.m. - Public Hearing**  
George Mason University, Student Union II, Rooms 5, 6, and 7, Fairfax, Virginia

A public hearing.

**Contact:** Anne Pratt, 101 N. 14th St., 9th Fl., Richmond, Va. 23219, telephone (804) 225-2137

## VIRGINIA BOARD OF VETERINARY MEDICINE

† **December 5, 1988 - 8:30 a.m. - Open Meeting**  
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to discuss possible revisions to regulations and general business.

**Contact:** Terri H. Behr, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9915

## BOARD FOR THE VISUALLY HANDICAPPED

**December 8, 1988 - 11 a.m. - Open Meeting**  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A bi-monthly meeting to review policy and procedures



# Calendar of Events

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of the Virginia Department for the Visually Handicapped. The board reviews and approves the department's budget, executive agreement, and operating plan.

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Advisory Committee on Services

**January 14, 1988 - 11 a.m.** – Open Meeting  
397 Azalea Avenue, Administrative Headquarters,  
Richmond, Virginia. ☒ (Interpreter for deaf provided if  
requested)

The 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 ☎

### Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

**November 22, 1988 - 1 p.m.** – Open Meeting  
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting of the 13 agency representatives that comprise the council. The council is designed to facilitate the timely delivery of appropriate services to handicapped children and youth in Virginia.

**Contact:** Glen R. Slonneger, Jr., Department for the Visually Handicapped, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3140

## VIRGINIA VOLUNTARY FORMULARY BOARD

† **December 22, 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 issuances 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 November 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. on December 22 will be made a part of the hearing record and considered by the board.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-4326

## VIRGINIA WASTE MANAGEMENT BOARD

† **December 14, 1988 - 10 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A general business meeting. Briefing on hazardous waste facility siting criteria and related issues. Approval of draft hazardous materials transportation regulations.

**Contact:** Loraine Williams, Secretary, 101 N. 14th St., James Monroe Bldg., 11th Fl., Richmond, Va. 23219, telephone (804) 225-2667, toll-free 1-800-552-2075, SCATS 225-2667 or 225-3753/TDD ☎

## DEPARTMENT OF WASTE MANAGEMENT

**December 7, 1988 - 1:30 p.m.** – Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☒

An informal meeting will be held for Amendment 7 to the Regulations Governing the Transportation of Hazardous Materials. The proposed amendment will incorporate by reference changes made from January 1, 1987, through June 30, 1988, to the U.S. Department of Transportation Hazardous Materials Regulations and § 2.8 is being revised to reflect changes made to § 10.1-1451 of the Code of Virginia by the General Assembly (see Clause 5, Chapter 891 of the 1988 Virginia Acts of Assembly).

**Contact:** Cheryl Cashman, Legislative Analyst, Department of Waste Management, 101 N. 14th St., 11th Fl., Richmond, Va. 23219, telephone (804) 225-2667 or toll-free 1-800-552-2075

\* \* \* \* \*

† **December 12, 1988 - 10 a.m.** – Public Hearing  
James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

† **December 19, 1988 - 1 p.m.** – Public Hearing  
Donaldson Brown Center, Blacksburg, Virginia

† **December 21, 1988 - 10 a.m.** – Public Hearing

# Calendar of Events

City Council Chambers, Fairfax, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Waste Management intends to adopt regulations entitled: **VR 672-40-01. Infectious Waste Management Regulations.** Comprehensive rules defining "infectious waste" and establishing standards for its packaging transportation, storage, treatment and disposal; including design, operation and facility permitting.

## STATEMENT

**Substance and issues:** Notice is hereby given that the Virginia Waste Management Board intends to adopt rules and regulations, titled Infectious Waste Management Regulations, and offers the proposal dated October 1, 1988, for public review and comment. Written comments during the comment period and presentations during three public hearings will be considered before final adoption of the regulations. The proposed regulations are entirely new and regulate the management of infectious waste by those who generate, treat, store, transport or dispose of it. Comments are sought on the requirements for packaging and management of the waste; design and operation of treatment, storage, transportation and disposal facilities; permitting of facilities and registration of transporters. The term infectious waste is defined by the proposal and the board seeks comments on this and other definitions in the proposal.

**Impact:** The types of entities affected include: medical offices, dental offices, funeral establishments, general hospitals, outpatient surgical hospitals, freestanding outpatient rehabilitation centers, home health agencies, rural health agencies, private psychiatric hospitals, mental health facilities, nursing homes, medical laboratories, renal dialysis centers, portable X-ray facilities, and related or similar facilities. Persons engaged in waste management providing services to these facilities will also be affected. The public and persons with property near waste management facilities handling infectious waste will be affected.

**Purpose and basis:** The purpose of these regulations is to establish standards and procedures pertaining to infectious waste management in this Commonwealth; in order to protect the public health and public safety, and to enhance the environment and natural resources. The Virginia Waste Management Board is authorized to supervise and control waste management activities by the Virginia Waste Management Act as set out in Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until January 25, 1989.

**Contact:** Robert G. Wickline, P.E., Director of R & D, D.T.S., James Monroe Bldg., 101 N. 14th St., 11th Fl.,

Richmond, Va. 23219, telephone (804) 225-2321 or SCATS 225-2321

## STATE WATER CONTROL BOARD

**November 29, 1988 - 2 p.m. – Open Meeting**  
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☒

A public meeting to receive comments on possible adoption of water quality standards for Section 307(a) toxic pollutants (including the parameter ammonia).

**Contact:** Alan J. Anthony, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230, telephone (804) 367-0791 or SCATS 367-0791

**November 29, 1988 - 7 p.m. – Open Meeting**  
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia

A public meeting to receive comments on possible amendments to the Groundwater Standards section of the Water Quality Standards, including the Antidegradation Policy.

**Contact:** Russell P. Ellison, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6350

**December 1, 1988 - 7 p.m. – Open Meeting**  
Municipal Office, 150 East Monroe Street, Multi-Purpose Room, Wytheville, Virginia

A public meeting to receive comments on possible adoption of water quality standards for Section 307(a) toxic pollutants (including the parameter ammonia).

**Contact:** Alan J. Anthony, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-0791 or SCATS 367-0791

**December 12, 1988 - 9 a.m. – Open Meeting**

**December 13, 1988 - 9 a.m. – Open Meeting**

NOTE: CHANGE OF MEETING LOCATION

Fort Magruder Inn and Conference Center, Route 60 East, Williamsburg, 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

\* \* \* \* \*

**January 5, 1989 - 2 p.m. – Public Hearing**  
Virginia War Memorial Auditorium, 621 South Belvidere

# Calendar of Events

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Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-14-01. Permit Regulation.** The proposed amendments are to conform with federal regulations and to revise the section requiring issuance of a permit prior to commencing erection, construction or expansion or employment of new processes at any site.

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

Written comments may be submitted until January 13, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** David Smith, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6302 or SCATS 367-6302

\* \* \* \* \*

**January 9, 1989 - 2 p.m. - Public Hearing**  
General District Courtroom, Warm Springs Courthouse, Courthouse Road, 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 680-21-08.8. James River Basin (Upper) - Water Quality Standards.** The proposed amendment would reclassify Hot Springs Runs from natural trout waters to mountainous zone waters.

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

Written comments may be submitted until 4 p.m., January 19, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

**Contact:** Jean Gregory, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6985 or SCATS 367-6985

## STATE WATER COMMISSION AND STATE WATER CONTROL BOARD

**December 13, 1988 - 1:30 p.m. - Open Meeting**  
**December 14, 1988 - 9 a.m. - Open Meeting**  
Fort Magruder Inn and Conference Center, Route 60 East, Williamsburg, Virginia

Joint meeting to discuss Minimum Instream Flow.

**Contact:** Doneva A. Dalton, State Water Control Board, 2111 N. Hamilton St., P. O. Box 11143, Richmond, Va.

23230, telephone (804) 367-6929

## COUNCIL ON THE STATUS OF WOMEN

† **January 31, 1989 - 8 p.m. - Open Meeting**  
Richmond Radisson, 555 East Canal Street, Richmond, Virginia

Meetings of the Standing Committees of the Virginia Council on the Status of Women.

† **February 1, 1989 - 9:30 p.m. - Open Meeting**  
Richmond Radisson, 555 East Canal Street, Richmond, Virginia

A regular meeting to conduct general board business and to receive reports from Council Standing Committees.

**Contact:** Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9200 or SCATS 662-9200

## LEGISLATIVE MEETINGS

### JOINT SUBCOMMITTEE STUDYING ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

**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

**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

† **November 29, 1988 - 9:30 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

A scheduled appropriations meeting.

**Contact:** Bob Schultze, Director, House Appropriations Committee, General Assembly Bldg., 9th Fl., Richmond, Va. 23219, telephone (804) 786-1837

## JOINT SUBCOMMITTEE STUDYING CHINS

† **December 6, 1988 - 10 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A work session. HJR 143

**Contact:** Administrative: Jeffrey A. Finch, House of Delegates, P.O. Box 406, Richmond, Va. 23203, telephone (804) 786-2227. For additional information contact: Susan Ward, Staff Attorney, or Gayle Nowell, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## VIRGINIA CODE COMMISSION

**November 28, 1988 - 10:30 a.m.** – Open Meeting  
NOTE: CHANGE OF MEETING TIME  
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☒

The commission will continue with the revision of Title 46.1 (Motor Vehicle Laws) of the Code of Virginia.

**December 15, 1988 - 9:30 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☒

The commission will complete its work on the revision of Title 46.1 (Motor Vehicle Laws) 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 COUNTY-TOWN RELATIONS

† **December 6, 1988 - 10 a.m.** – Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A regular meeting. SJR 7

**Contact:** Dr. Jack 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 THE DECLINE OF VIRGINIA'S BOBWHITE QUAIL

**November 28, 1988 - 2 p.m.** – Open Meeting  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittee will meet to discuss incentives for increasing the quail population. HJR 114

**Contact:** Martin Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## JOINT SUBCOMMITTEE STUDYING INVESTIGATIVE PROCEDURES USED IN CHILD ABUSE CASES

**November 21, 1988 - 1 p.m.** – Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A work session to finalize recommendations and report. HJR 127

**Contact:** Mary Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208

## JOINT SUBCOMMITTEE STUDYING PRENEED CONTRACTS FOR FUNERAL SERVICES

**December 13, 1988 - 10 a.m.** – Public Hearing  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Public hearing. HJR 50

**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: Suzanne Elkin, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## JOINT SUBCOMMITTEE TASK FORCES STUDYING EARLY CHILDHOOD AND DAY-CARE PROGRAMS

**November 21, 1988 - 10 a.m.** – Open Meeting  
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☒

Task Force on Education of Professionals and

# Calendar of Events

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Providers. HJR 27

**November 21, 1988 - 10 a.m. – Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond,  
Virginia. ☒

Task Force on Programs. HJR 27

**November 22, 1988 - 10 a.m. – Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond,  
Virginia. ☒

Task Force on Parental Education and Involvement.  
HJR 27

**Contact:** Jeffrey A. Finch, House of Delegates, P. O. Box  
406, Richmond, Va. 23203, telephone (804) 786-2227

## **JOINT SUBCOMMITTEE STUDYING TRAINING AND CERTIFICATION OF EMERGENCY MEDICAL SERVICES PERSONNEL**

† **December 12, 1988 - 7 p.m. – Public Hearing**  
Halifax County Courthouse, Main Street, Highway 501,  
South Boston, Virginia

A public hearing. HJR 135/SJR 86

**Contact:** Persons wishing to speak contact: Marcia Melton,  
Division of Legislative Services, P. O. Box 3-AG, Richmond,  
Va. 23208, telephone (804) 786-3591. For addition  
information contact: Amy Wachter, Committee Clerk,  
Senate of Virginia, P. O. Box 396, Richmond, Va. 23203,  
telephone (804) 786-5742

## **JOINT SUBCOMMITTEE STUDYING FIRE PREVENTION**

**November 30, 1988 - 10 a.m. – Open Meeting**  
General Assembly Building, Capitol Square, Senate Room  
A, Richmond, Virginia. ☒

A regular meeting. SJR 67

**Contact:** Jessica Bolecek, Staff Attorney, Division of  
Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208,  
telephone (804) 786-3591 or Natalee Grigg, Committee  
Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va.  
23203, telephone (804) 786-5742

## **JOINT SUBCOMMITTEE STUDYING FLOOD CONTROL POLICIES OF THE COMMONWEALTH**

**November 28, 1988 - 10 a.m. – Open Meeting**  
General Assembly Building, Capitol Square, House Room C,  
Richmond, Virginia. ☒

The subcommittee will meet to discuss the

Commonwealth's role in providing technical and  
financial assistance for flood protection. HJR 113

**Contact:** Martin 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**

**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

## **JOINT SUBCOMMITTEE STUDYING HEAD AND SPINAL INJURED CITIZENS**

† **December 1, 1988 - 10 a.m. – Open Meeting**  
State Capitol, Capitol Square, House Room 1, Richmond,  
Virginia. ☒

A work session. HJR 135

**Contact:** Administrative: Jeffrey A. Finch, House of  
Delegates, P. O. Box 406, Richmond, Va. 23203, telephone  
(804) 786-2227. For additional information contact: Brenda  
Edwards, Research Associate, or Norma Szakal, Staff  
Attorney, Division of Legislative Services, P. O. Box 3-AG,  
Richmond, Va. 23208, telephone (804) 786-3591

## **JOINT SUBCOMMITTEE STUDYING INSURANCE COVERAGE**

† **November 29, 1988 - 9 a.m. – Open Meeting**  
General Assembly Building, Capitol Square, House Room C,  
Richmond, Virginia. ☒

A meeting concerning the study of HJR 120. The  
agenda has not yet been set. HJR 120

**Contact:** Administrative: Jeffrey A. Finch, House of  
Delegates, P. O. Box 406, Richmond, Va. 23203, telephone  
(804) 786-2227. For additional information contact: C.W.  
Cramme', III, Staff Attorney, or Terry Barrett, Research  
Associate, Division of Legislative Services, P. O. Box 3-AG,  
Richmond, Va. 23208, telephone (804) 786-3591

## AGRICULTURE, CONSERVATION AND NATURAL RESOURCES SUBCOMMITTEE ON NONTIDAL WETLANDS

† **November 22, 1988 - 11 a.m.** — Open Meeting  
† **November 22, 1988 - 1 p.m.** — Public Hearing  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

1 p.m. - Public hearing (HB 1037 is "carryover" legislation).

**Contact:** Persons wishing to speak contact: Martin Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591. For additional information contact: Lucy Dodson, Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-5742

## JOINT SUBCOMMITTEE STUDYING SCHOOL DROPOUTS

† **December 7, 1988 - 10 a.m.** — Open Meeting  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A work session.

**Contact:** Administrative: Jeffrey A. Finch, House of Delegates, P. O. Box 3-AG, Richmond, Va. 23203, telephone (804) 786-2227. For additional information contact: Brenda Edwards, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## JOINT SUBCOMMITTEE STUDYING DIVISION OF YOUTH SERVICES

† **December 15, 1988 - 10 a.m.** — Open Meeting  
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A regular meeting. SJR 29

**Contact:** Gayle Nowell, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591 or Amy Wachter, Committee Clerk, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-5742

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### November 21

Child Abuse Cases, Joint Subcommittee Studying Investigative Procedures Used in  
† Conservation and Historic Resources, Department of - Shenandoah River Advisory Board  
Cosmetology, Virginia Board of  
Early Childhood and Day-Care Programs, Joint Subcommittee Task Forces Studying

#### November 22

† Agriculture, Conservation and Natural Resources Subcommittee  
Early Childhood and Day-Care Programs, Joint Subcommittee Task Forces Studying  
† Housing and Community Development, Board of - Amusement Device Technical Advisory Committee  
Lottery Department, State  
Nursing Home Administrators, Board of Examiners for  
† Professional Counselors, Virginia Board of Visually Handicapped, Department for the  
- Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

#### November 28

Bobwhite Quail, Joint Subcommittee Studying the Decline of Virginia's  
Code Commission, Virginia  
† Elections, State Board of  
Flood Control Policies of the Commonwealth, Joint Subcommittee Studying  
Nursing, Virginia State Board of

#### November 29

Alcoholic Beverage Control Board  
† Appropriations Committee, House  
† Insurance Coverage, Joint Subcommittee Studying  
Nursing, Virginia State Board of  
Water Control Board, State

#### November 30

† Conservation and Historic Resources, Department of - Staunton River Scenic River Advisory Board  
† Dentistry, Virginia Board of  
Fire Prevention, Joint Subcommittee Studying  
† Gloucester Local Emergency Planning Committee  
Mental Health, Mental Retardation and Substance Abuse Services, Department of  
Nursing, Virginia State Board of  
† Pharmacy, Virginia Board of

#### December 1

All-Terrain Vehicles, Joint Subcommittee Studying  
† Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of - Virginia State Board of Land Surveyors

# Calendar of Events

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Chesterfield County, Local Emergency Planning Committee of  
Dentistry, Virginia Board of  
† Head and Spinal Injured Citizens, Joint Subcommittee Studying  
† Pharmacy, Virginia Board of  
† Psychology, Virginia Board of  
† Rehabilitative Services, Board of  
- Finance Committee  
- Legislation and Evaluation Committee  
- Program Committee  
Water Control Board, State

## December 2

Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of  
Dentistry, Virginia Board of  
General Services, Department of  
- Art and Architectural Review Board  
Health Regulatory Boards, Council on  
- Administration and Budget Committee  
† Medicine, Virginia State Board of  
- Informal Conference Committee  
Professional Counselors, Virginia Board of  
- Credentials Committee  
- Examination Committee  
† Rehabilitative Services, Board of  
† Social Work, Virginia Board of

## December 3

Medicine, Virginia State Board of  
- Credentials Committee

## December 5

† Veterinary Medicine, Virginia Board of

## December 6

Cattle Industry Board, Virginia  
† CHINS, Joint Subcommittee Studying  
† County-Town Relations, Joint Subcommittee Studying  
Hopewell Industrial Safety Council  
Marine Resources Commission

## December 7

Cattle Industry Board, Virginia  
† Child Mental Health, Consortium on  
† Marine Products Board, Virginia  
† Nursing and Medicine, Committee on the Joint Boards of  
Real Estate Board, Virginia  
† School Dropouts, Joint Subcommittee Studying  
† Sewage Handling and Disposal Appeals Review Board, State  
† Soil and Water Conservation Board, Virginia  
Waste Management, Department of

## December 8

Acquired Immunodeficiency Syndrome (AIDS), Joint Subcommittee Studying  
Education, State Board of  
† Martinsville and Henry County, Local Emergency

Planning Committee for the City of  
Real Estate Board, Virginia  
Visually Handicapped, Board for the

## December 9

Children, Interdepartmental Licensure and Certification of Residential Facilities for  
- Coordinating Committee  
Education, State Board of  
Freedom of Information Act, Joint Subcommittee Studying the  
Professional Counselors, Virginia Board of

## December 12

† Emergency Medical Services Personnel, Joint Subcommittee Studying Training and Certification of  
† Medicine, Virginia State Board of  
Pilots, Board of Commissioners to Examine  
Water Control Board, State

## December 13

Alcoholic Beverage Control Board  
† Conservation and Historic Resources, Department of  
- Virginia Historic Landmarks Board  
- Division of Historic Landmarks State Review Board  
† Medicine, Virginia State Board of  
Nursing, Virginia State Board of  
- Informal Conference Committee  
Old Dominion University  
- Board of Visitors  
Water Control Board, State  
Water Commission, State and Water Control Board, State

## December 14

† Alexandria Local Emergency Planning Committee  
† Contractors, State Board for  
† Corrections, State Board of  
† Health Services Cost Review Council, Virginia  
† Mental Health, Mental Retardation and Substance Abuse Services Board, State  
Social Services, State Board of  
† Waste Management Board, Virginia  
Water Commission, State and Water Control Board, State

## December 15

† Agriculture and Consumer Services, State Board of Code Commission, Virginia  
† Labor and Industry, Department of  
- Apprenticeship Council  
Pharmacy, Virginia Board of  
Social Services, State Board of  
Transportation Board, Commonwealth  
† Youth Services, Joint Subcommittee Studying Division of

## December 16

Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of  
- Virginia State Board of Architects

# Calendar of Events

- † Medicine, Virginia State Board of  
- Informal Conference Committee
- Nursing, Virginia State Board of  
- Informal Conference Committee
- † Social Work, Virginia Board of

## December 19

- † Health Regulatory Boards, Council on  
- Executive Committee
- Scope and Standards Committee

## December 20

- Franklin, Isle of Wight and Southampton Emergency  
Planning Committee

## December 21

- Treasury Board

## December 27

- Alcoholic Beverage Control Board

## December 29

- † Health Regulatory Boards, Council on  
- Regulatory Evaluation and Research Committee

## January 4, 1989

- † Child Mental Health, Consortium on

## January 5

- † Indians, Council on

## January 12

- Education, State Board of
- † Medicine, Virginia State Board of  
- Informal Conference Committee

## January 13

- Education, State Board of

## January 14

- Visually Handicapped, Department for the  
- Advisory Committee on Services

## January 16

- † Conservation and Historic Resources, Department of  
- Goose Creek Scenic River Advisory Board

## January 18

- † Contractors, State Board for
- † Corrections, State Board of

## January 31

- † Women, Council on the Status of

## February 1

- † Child Mental Health, Consortium on
- † Women, Council on the Status of

## PUBLIC HEARINGS

### November 22

- † Agriculture, Conservation and Natural Resources  
Subcommittee

### November 29

- Aging, Department for the

### November 30

- Corrections, Department of
- Education, Department of
- Mental Health, Mental Retardation and Substance  
Abuse Services, Department of
- Social Services, Department of
- † Twenty-First Century, Commission on the University  
of the

### December 1

- Aging, Department for the
- † Twenty-First Century, Commission on the University  
of the

### December 2

- Cosmetology, Virginia Board of

### December 5

- † Twenty-First Century, Commission on the University  
of the

### December 8

- Aging, Department for the

### December 12

- Education Assistance Authority, State
- Mines, Minerals and Energy, Department of
- † Waste Management, Department of

### December 13

- † Commerce, Department of
- Funeral Services, Joint Subcommittee Studying  
Preneed Contracts for

### December 14

- † Commerce, Department of

### December 15

- † Commerce, Department of

### December 16

- Social Work, Virginia Board of

### December 19

- † Waste Management, Department of

### December 20

- Medicine, Virginia State Board of

### December 21

- † Waste Management, Department of



# Calendar of Events

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**December 22**

† Voluntary Formulary Board, Virginia

**January 5, 1989**

Water Control Board, State

**January 9**

† Taxation, Department of  
Water Control Board, State

**January 19**

† Social Services, Department of

**February 3**

† Fire Programs, Department of