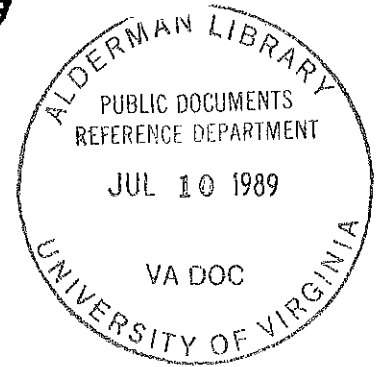


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THE VIRGINIA REGISTER

OF REGULATIONS

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June 19, 1989

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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.

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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 AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds into Virginia.

Statutory Authority: §§ 3.1-726 and 3.1-730 of the Code of Virginia.

Public Hearing Date: September 26, 1989 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations would establish a program in Virginia for the eradication of pseudorabies in swine. Pseudorabies is a disease that causes high death losses in young pigs. The proposed regulations will supersede emergency regulations establishing testing requirements for feeder pig production herds. Both emergency and proposed regulations are prompted by a national drive to rid swine of pseudorabies. The national program requires increasingly strict standards of states that want to be designated free of pseudorabies. The national program requires that a state have authority to carry out the program. The proposed regulations would give that authority.

The department also proposed deleting a business-inhibiting requirement in this regulation requiring health certificates for animals entering Virginia from other states to bear the endorsement of the chief livestock health official of the state of origin.

VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and other Animals or Birds into Virginia.

§ 1. Definitions.

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

"Approved laboratory" means a laboratory approved by the United States Department of Agriculture or the State Veterinarian to conduct official pseudorabies tests.

"Approved slaughter market" means a livestock market approved by the United States Department of Agriculture where shipments of slaughter swine only are permitted in

accordance with applicable state and federal regulations and from which no swine may be released except directly to another approved slaughter market, or to a recognized slaughter establishment for immediate slaughter.

"Breeder swine" means any swine used or intended to be used for reproductive purposes.

"Dogs" means all domestic and wild members of the dog family (Canidae).

"Farm of origin" means a farm on which the affected swine was born, or on which it has resided for at least 90 consecutive days immediately prior to shipment.

"Feeder pig" means any immature swine used for or intended to be used exclusively for feeding for slaughter.

"Hatching eggs" means chicken eggs and turkey eggs which are, or which are intended to be, used for hatching purposes.

"Horses" means all horse-like animals, embracing all members of the equine species including ponies, the asinine species, and burros. It also includes the hybrid offspring of the equine and asinine species by whatever name they may be known, such as mules, hinnies, and donkeys.

"Monkeys" means all monkeys and other primates, such as lemurs, marmosets, chimpanzees, and other apes.

"Official pseudorabies serologic test" means an official pseudorabies test conducted on swine serum to detect the presence or absence of pseudorabies antibodies.

"Official pseudorabies test" means any test for the diagnosis of pseudorabies approved by the United States Department of Agriculture conducted in an approved laboratory.

"Poultry" means chickens and turkeys of all varieties and of all ages.

"Permit" means an official document issued for and prior to the interstate shipment of any livestock, poultry, companion animals, and other animals or birds into Virginia.

"Pseudorabies" means the contagious, infectious, and communicable viral disease of livestock and other animals also known as Aujeszky's disease, mad itch or infectious bulbar paralysis.

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"Pseudorabies monitored herd" means a feeder pig production herd that has been tested according to the provisions of § 2 C (1) of VR 115-02-16, "Rules and Regulations Governing Pseudorabies in Virginia."

"Psittacine birds" means parrots, cockatoos, parakeets, and budgerigars.

"Qualified pseudorabies negative herd" means a swine herd that satisfies the provisions of § 2 D (1), (2), (3) of VR 115-02-16, Rules and Regulations Governing Pseudorabies in Virginia."

"Recognized slaughter establishment" means a slaughter establishment operated under state or federal inspection.

§ 2. Official health certificates.

A. No livestock, other animals, poultry, or other birds, of any species, that are affected with or that have been exposed to any infectious or contagious disease shall be imported into Virginia except by special approval by the State Veterinarian.

B. All livestock, other animals, poultry, or other birds imported into Virginia, except for immediate slaughter, shall be accompanied by an official health certificate, which shall be attached to the waybill or shall be in the possession of the person in charge of such animals or birds, and a copy of such health certificate shall be forwarded promptly to the State Veterinarian of the Commonwealth of Virginia.

C. An official health certificate shall be a written record meeting the requirements of the Commonwealth of Virginia, executed on an approved form of state of origin. It shall contain the names and exact addresses of the consignor and consignee and the exact destination of the animals or birds covered. It shall indicate the health status of the animals or birds, and include the dates and results of all required tests.

1. After physical examination of the animals or birds and completion of all required tests, the official health certificate shall be issued within 30 days before the date of their entry, unless a different time limit is set elsewhere in this regulation. The certificate shall be issued by a licensed, graduate, accredited veterinarian approved by the livestock health official of the state of origin; a veterinarian in the employ of the state of origin; or a veterinarian in the employ of the Veterinary Services Division, Animal and Plant Health Inspection Services, United States Department of Agriculture; or such other veterinarian as may be approved by the State Veterinarian.

2. All copies of the official health certificate, including the original, shall be legible, and shall bear the endorsement of the livestock health official of the state of origin.

D. The requirements for the importation of livestock, other animals, poultry and other birds for exhibition purposes shall be the same as the requirements governing the admission of such animals and birds for breeding purposes, unless specific exceptions are made hereinafter.

§ 3. Entry by permit only.

A. When the State Veterinarian is informed of any unusual or serious outbreak of disease among livestock or poultry in any other state which, in his opinion, constitutes a threat to livestock or poultry in Virginia, he shall by proclamation prohibit the entrance of any livestock or poultry which originate either directly or indirectly from such state. He may also prohibit the entrance of any "products" as defined in the meat or poultry inspection regulations of the United States Department of Agriculture, or in the Virginia Meat and Poultry Products Inspection Act, the Virginia Milk and Cream Law, or any other applicable or related Virginia statutes and regulations, except by special written permit.

B. All requests for special permits shall be directed to the State Veterinarian in writing or by wire, and shall give such information as he may require.

C. Under such special permit, all livestock, poultry, or products thereof entering Virginia shall be consigned to a definite legal resident of Virginia.

§ 4. Common carriers, trucks.

A. Owners and operators of common carriers, trucks, or other conveyances are forbidden to move any livestock or poultry into Virginia except in compliance with the provisions set forth in this regulation.

B. All railway cars, trucks, and other conveyances used for transportation of livestock or poultry shall be kept in a sanitary condition. The State Veterinarian may require the cleaning and disinfecting of any such conveyance at any time to prevent the spread of infectious or contagious diseases.

§ 5. Cattle.

A. Tuberculosis.

1. Cattle for dairy or breeding purposes may enter the Commonwealth of Virginia if they are accompanied by a certificate and signed by the State Veterinarian of the state of origin stating that the cattle originate directly from certified tuberculosis-free areas or from accredited or negative-tested herds.

2. Cattle for dairy or breeding purposes originating from areas or herds other than as specified in paragraph 1 of subsection A of this section must have been found negative to an individual official test for tuberculosis within 60 days prior to entry.

3. Cattle originating directly or indirectly from herds quarantined or subject to quarantine under State-Federal Uniform Methods and Rules (Code of Federal Regulations, Title 9, Chapter I, Parts 1 to 199) for the eradication of tuberculosis are not eligible for entry, except for immediate slaughter under special permit issued by the State Veterinarian.

B. Brucellosis.

1. Permit.

a. Cattle for dairy or breeding purposes that originate from Class B (herd infection rate less than 1.5%) or Class C (herd infection rate more than 1.5%) states may enter the Commonwealth of Virginia, provided that they are accompanied by a prior permit issued by the State Veterinarian.

b. Permits may be obtained by the Virginia purchaser or consignee by contacting the State Veterinarian's Office.

c. Permits expire 15 days after date of issuance.

d. The following information shall be furnished before permits are issued: area or state status, herd status, individual status, vaccination status, name and address of consignor and consignee, and any other information the State Veterinarian may require.

2. Brucellosis testing.

When individual testing is required on female cattle, those of the dairy breeds under 20 months of age and those of the beef breeds under 24 months of age are exempt from such testing, provided that they have been officially calfhood vaccinated in the state of origin against brucellosis and that fact has been certified by the State Veterinarian of the state of origin. Nonvaccinates (male or female) are exempt from testing if under eight months of age.

3. Classification of states.

Cattle for dairy or breeding purposes which originate directly from officially classified states may enter Virginia, provided that they are accompanied by an official health certificate and also meet the following requirements:

a. Class: Free states.

- (1) No herd status
- (2) No individual test
- (3) No permit.

b. Class: A states.

(1) Negative herd status, or

(2) Individual tested within 30 days

(3) No permit.

c. Class: B states.

(1) Originate from negative herd or certified herd, and

(2) Individual tested within 30 days, and

(3) Permit, and

(4) Quarantine and retest 45 to 120 days post-movement.

d. Class: C states.

(1) Originate from certified herd, and

(2) Individual tested within 30 days, and

(3) Permit, and

(4) Quarantine and retest 45 to 120 days post-movement.

4. Brucellosis calfhood vaccination requirements for female bovine animals entering Virginia.

All female bovine animals four months of age or older which enter Virginia for any purpose other than immediate slaughter shall have been officially calfhood vaccinated for brucellosis by a licensed, accredited veterinarian.

a. Recording.

The vaccination status of each animal shall be recorded on the interstate health certificate of the state of origin or on a copy of the vaccination record, to be attached to the health certificate.

b. Exceptions.

These vaccination requirements shall not apply to:

(1) Female bovine animals originating from a brucellosis certified free herd, or from brucellosis class free states;

(2) Female bovine animals entering Virginia for purposes of shows, fairs or exhibitions;

(3) Spayed female bovine animals;

(4) Unvaccinated feeder female bovine animals brought to Virginia if negative to a brucellosis test performed not more than 30 days prior to

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importation into Virginia, not originating from a Class B or Class C state and not originating from a quarantined herd; or

(5) Female bovine animals originating from a Class A state and destined for sale through a Virginia livestock auction market. The animals must have originated from a county that has been free of bovine brucellosis for at least one year and that brucellosis free county shall be at least 50 miles from the border of any county that has had brucellosis infection within the past 12 months. The aforementioned shall be certified by the state veterinarian of the state in which the affected county is located.

C. Scabies.

No cattle affected with or exposed to scabies shall be imported into Virginia for any purpose.

D. Feeder cattle.

Cattle intended for feeding purposes shall be qualified for entry into the Commonwealth under exactly the same conditions as cattle for dairy or breeding purposes. Steers and spayed heifers shall be exempt from any previously stated test requirements.

§ 6. Sheep.

A. Scabies.

Sheep intended for feeding or breeding purposes may enter the Commonwealth of Virginia only if they originate directly from a state officially designated scabies-free by the United States Department of Agriculture.

B. Slaughter.

Sheep imported into Virginia for immediate slaughter shall be consigned directly to a recognized stockyard or to a slaughtering establishment that is approved and inspected by the United States Department of Agriculture or by the Virginia Department of Agriculture and Consumer Services.

§ 7. Swine.

A. Brucellosis.

Swine over four months of age intended for breeding purposes shall originate from an officially validated brucellosis-free herd, or from a herd in which all breeding swine over four months of age were negative to an official test for brucellosis conducted in a state or federal laboratory within 12 months prior to date of entry, or which individually have been negative to an official test for brucellosis conducted in a state or federal laboratory within 30 days prior to entry. The official health certificate accompanying these swine shall indicate the

official herd status or the negative test.

B. Pseudorabies.

1. No swine of any age intended for breeding or feeding purposes shall be imported into Virginia from herds in which there has been an incidence of pseudorabies within the past 12 months.

2. No swine for breeding or feeding purposes which has been exposed to pseudorabies within the past 12 months shall be imported into Virginia.

3. Swine of any age intended for breeding purposes shall be negative to a test approved by the State Veterinarian for pseudorabies conducted within 30 days prior to entry into Virginia. The official health certificate shall indicate such negative test. Breeding swine may originate from herds that have been classified as Pseudorabies Qualified Negative herds and identified as being from such origin. Pseudorabies Qualified Negative herds are those herds in which 25% of the herd have exhibited negative test results in successive quarters (80-105 days) until the entire herd is tested. The test shall not be duplicated on previously tested swine.

1. Feeder pigs.

a. Any feeder pig imported into Virginia shall:

(1) Originate directly from a pseudorabies monitored herd; or

(2) Originate directly from a qualified pseudorabies negative herd; or

(3) Be individually tested and found negative for pseudorabies within 30 days prior to the shipment.

b. Identification of swine.

(1) All swine tested for pseudorabies from feeder pig production herds shall be individually identified by eartag, tattoo, standard ear notch that has been recorded in the book of record of a purebred registry association, or by any other method approved by the State Veterinarian.

(2) Feeder pigs subject to this regulation shall be individually identified by metal eartag or by any other method approved by the State Veterinarian.

2. Breeder swine.

a. No breeder swine may enter Virginia unless it:

(1) Originates from a qualified pseudorabies negative herd and is quarantined and isolated and retested no fewer than 30 and no more than 60 days after importation; or

(2) Is negative to an official pseudorabies serologic test conducted no more than 30 days prior to importation, and is quarantined and isolated at the premises of destination, and retested there no fewer than 30 and no more than 60 days after importation.

b. Identification of breeder swine.

All breeder swine tested for pseudorabies shall be individually identified by eartag, tattoo, standard ear notch that has been recorded in the book of record of a purebred registry association, or by any other method approved by the State Veterinarian.

3. Slaughter swine.

a. No slaughter swine known to be infected with or exposed to pseudorabies and no swine vaccinated for pseudorabies may enter Virginia unless:

(1) It is shipped directly to a recognized slaughter establishment accompanied by a permit;

(2) It is shipped in a sealed vehicle or individually identified on the permit; and

(3) The conveyance transporting the swine into Virginia is cleaned and disinfected after the swine is off-loaded but prior to the conveyance's leaving the slaughter establishment.

b. Any slaughter swine not known to be infected with or exposed to pseudorabies may enter Virginia, but only if it is accompanied by a waybill, bill of lading, bill of sale, or other document that identifies the swine to the farm of origin and only if it is sent directly to:

(1) A recognized slaughter establishment;

(2) An approved slaughter market and from there directly to a recognized slaughter establishment; or

(3) A market approved for any class of swine and then directly to:

(a) An approved slaughter market and from there directly to a recognized slaughter establishment; or

(b) A recognized slaughter establishment.

c. Identification of slaughter swine.

All slaughter swine, except for those shipped under seal, shall be individually identified by eartag, tattoo, standard ear notch that has been recorded in the book of record of a purebred registry association, or by any other method approved by the State Veterinarian.

4. Exhibition swine.

a. Swine imported into Virginia for exhibition purposes shall:

(1) Originate from a qualified pseudorabies negative herd; or

(2) Be negative to an official pseudorabies serologic test conducted no more than 30 days prior to importation.

b. If swine remain in Virginia for breeding purposes such animal shall:

(1) Be quarantined and isolated at the premises of destination; and

(2) Be retested no fewer than 30 and no more than 60 days after importation.

c. If swine is to be slaughtered, the animal shall conform to the requirements in § 7 B 3 b.

d. All exhibition swine tested for pseudorabies shall be individually identified by eartag, tattoo, standard ear notch that has been recorded in the book or record of a purebred registry association, or by any other method approved by the State Veterinarian.

§ 8. Horses.

A. Horses may enter the Commonwealth of Virginia provided that they are accompanied by an official health certificate giving an accurate description of each animal, with a copy forwarded to and received by the State Veterinarian prior to the arrival of such animals at a destination in the Commonwealth of Virginia.

B. The State Veterinarian may by proclamation prohibit or restrict the entry of any horses into Virginia which, in his opinion, presents a disease threat to Virginia horses or other animals. The proclamation shall be only for the duration of the potential threat, and shall be officially withdrawn when it has served its purpose.

C. An interstate health certificate on all horses that are imported into Virginia shall indicate that they have been officially tested and found negative for equine infectious anemia within the past 12 months. When horses are imported into Virginia, a copy of the official interstate health certificate shall be promptly mailed to the State Veterinarian. Horses that originate from infected premises in other states are not eligible for entry into Virginia unless a written permit is obtained from the State Veterinarian. Horses may be shipped into Virginia for research purposes or for immediate slaughter to approved slaughter establishments after first obtaining a permit from the State Veterinarian. Such horses shall be satisfactorily identified and the origin and destination clearly stated on the permit.

D. No male horse (stallion) or mare over 731 days of

Proposed Regulations

age, which either originates in or has passed through a country where the disease contagious equine metritis is known to exist, may enter the Commonwealth of Virginia except by special permit issued by the State Veterinarian. Those male horses or mares which are issued a special entry permit immediately will be placed under quarantine until the State Veterinarian is satisfied that they pose no danger to the Commonwealth of Virginia's equine population.

§ 9. Poultry.

A. Pullorum-typhoid.

Hatching eggs and poultry shall not be imported into the Commonwealth of Virginia unless such eggs or poultry originate exclusively from flocks participating in the National Poultry Improvement Plan (NPIP) or the National Turkey Improvement Plan (NTIP) (Code of Federal Regulations, Title 9, Chapter I, Parts 1 to 199). These programs shall be under the supervision of the official state agency of NPIP or NTIP, the livestock health official, or other authorized government agency of the state of origin certifying them to be free of Pullorum-typhoid.

B. Mycoplasma Gallisepticum.

Hatching eggs and poultry shall not be imported into the Commonwealth of Virginia unless such eggs or poultry originate from flocks that are designated free of Mycoplasma Gallisepticum by the livestock health official of the state of origin. Each importer of hatching eggs or poultry into Virginia shall secure from the State Veterinarian an approval number, after having provided evidence that the flocks of origin are free of Mycoplasma Gallisepticum. This approval number shall appear on shipping labels or containers of each lot shipped into Virginia.

C. Approval numbers.

1. Each shipper of hatching eggs or poultry shall first secure an approval number from the State Veterinarian. This approval number shall appear on each shipping label or on each container of hatching eggs or poultry shipped into Virginia.

2. Applications for approval numbers shall be made on forms provided by the State Veterinarian. Each application shall require the following information on each flock from which the hatching eggs or poultry originate:

- a. The name and address of each flockowner;
- b. The species (i.e., chickens or turkeys) and the number of birds in each flock;
- c. The date of the most recent Pullorum-typhoid test;

d. The total number, or the percentage, of positive reactions to the most recent Pullorum-typhoid test;

e. The Pullorum-typhoid status attained; and

f. Such additional information as the State Veterinarian may require.

3. Such applications, when completed, shall be forwarded to the official state agency, the state livestock health official, or other competent and recognized authority of the state of origin for verification, approval and signature; and then forwarded to the State Veterinarian for final approval. Hatching eggs or poultry shall not be shipped into Virginia until final approval has been granted and the approval number is received.

D. Exceptions.

This regulation shall not apply to hatching eggs or poultry passing directly through the Commonwealth of Virginia in interstate commerce, nor to poultry imported into the Commonwealth of Virginia for immediate slaughter and consigned directly to a poultry processing establishment that is approved and inspected by the United States Department of Agriculture or by the Virginia Department of Agriculture and Consumer Services.

§ 10. Goats.

A. General.

Goats imported into the Commonwealth of Virginia for any purpose shall comply with the applicable provisions of §§ 2, 3, and 4 of these rules and regulations.

B. Tuberculosis.

1. Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they originate directly from a herd in which all animals were negative to a test for tuberculosis approved by the State Veterinarian within 12 months prior to entry; or

2. Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they are individually tested and found to be negative to a test for tuberculosis approved by the State Veterinarian within 30 days prior to entry.

C. Brucellosis.

1. Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they originate directly from a herd in which all animals were negative to a test for brucellosis approved by the State Veterinarian within 12 months prior to entry; or

2. Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they are individually

tested and found to be negative to a test for brucellosis approved by the State Veterinarian within 30 days prior to entry.

D. Caseous lymphadenitis.

Goats for dairy or breeding purposes may enter the Commonwealth of Virginia if they are free of clinical symptoms of caseous lymphadenitis. "Clinical symptoms", with reference to caseous lymphadenitis, is used to define abscesses of the lymph nodes, whether they are draining or not.

§ 11. Dogs.

A. General.

Dogs to be transported into the Commonwealth shall be accompanied by an official health certificate issued by an accredited veterinarian of the state of origin, certifying that the issuing veterinarian has personally examined the animal or animals within 10 days prior to issuance of such certificate and date of shipment; and that this professional physical examination indicated that the animal or animals were in apparent good health at that time.

B. Rabies.

In addition to the requirements of subsection A of this section the official health certificate covering any dogs to be transported or moved into the Commonwealth of Virginia shall state that they did not originate in an area under quarantine for rabies; that such dogs have not been exposed to rabies; that they have been vaccinated against rabies not more than one year (inactivated virus) and not more than three years (attenuated virus) prior to shipment.

C. Exceptions.

1. The requirement for rabies vaccination specified in subsection B of this section shall not apply to puppies less than four months of age.
2. None of the provisions, requirements, or restrictions of this section shall apply to:
 - a. Any dog passing directly through the Commonwealth of Virginia in interstate commerce; or
 - b. Any dog consigned directly to a laboratory or institution authorized by law to conduct research, teaching, or clinical studies within the Commonwealth of Virginia; or
 - c. Any dog brought into the Commonwealth of Virginia by a person who intends to reside in Virginia.

§ 12. Monkeys.

A. General.

Monkeys to be transported into the Commonwealth of Virginia shall be accompanied by an official health certificate issued by an accredited veterinarian of the state of origin, certifying that the issuing veterinarian personally has examined the monkey(s) within 10 days prior to the issuance of such certificate; and that the professional physical examination indicated that the monkey(s) were in apparent good health at the time. In addition to this general statement, a separate statement shall be included attesting to the fact that the veterinarian has carefully examined the oral mucosa of the monkey(s) and has found no evidence of disease lesions or inflammatory processes.

B. Tuberculosis.

1. Monkeys transported into the Commonwealth of Virginia shall successfully have passed a tuberculin test performed by an accredited veterinarian within 30 days prior to date of shipment. Certification of this fact, including the kind and amount of tuberculin used, the date and hour of injection, and the date and hour that no response of any kind or degree was observed, shall appear upon the face of the health certificate.

2. Monkeys that have been associated with, or that originate in, a monkey colony where there have been other monkeys showing response to the tuberculin test shall not be eligible for entry into Virginia unless and until all monkeys in the group or colony shall have passed two consecutive negative tuberculin tests not less than 30 days apart.

C. Exceptions.

The provisions, requirements, or restrictions of this section shall not apply to any monkey(s) passing directly through the Commonwealth of Virginia in interstate commerce, nor to any monkey(s) consigned to a laboratory or institution authorized by law to conduct research, teaching, or clinical studies within the Commonwealth of Virginia.

§ 13. Psittacine birds.

A. Isolation.

Psittacine birds transported into Virginia shall be confined immediately by their owner, custodian, or agent, to an enclosure in absolute isolation from other birds, animals, and persons, except for the absolute minimum contact necessary for their care. This confinement shall continue for a minimum of 15 days. During this time, the birds shall experience continuous and uninterrupted feeding with either a mash-type feed, or a feed containing dehulled millet seed, containing 0.5 milligrams of chlortetracycline per gram of feed or seed. An accredited veterinarian, specifically authorized for direct supervision

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of such quarantine, shall notify the State Veterinarian in writing when the birds have completed their isolation period.

B. Approval numbers.

1. Each shipper of psittacine birds into the Commonwealth of Virginia shall first secure an approval number from the State Veterinarian of Virginia. This official approval number, along with the words "Virginia Department of Agriculture and Consumer Services Approved", or equivalent, shall appear prominently on each shipping label or on each package or container used for transporting these birds into Virginia.

2. Applications for approval numbers shall be made on forms provided by the State Veterinarian. The State Veterinarian shall designate the duration of such approval. Applications shall require the following information:

a. The legal name and address of each applicant. If an applicant has more than one address or premises intended as a source of psittacine birds to be shipped into Virginia, a separate application shall be filed and a separate approval number secured for each such address or premises;

b. The usual or average number of birds maintained at any given time at each address or premise;

c. A statement, signed by a local or state professional livestock health official or public health authority, attesting to the fact that all psittacine birds leaving the address or premises specified on each application have been subjected to the same or fully equivalent restrictions as to isolation and treatment as are specified in subsection A of § 13; and

d. Any additional information the State Veterinarian may require.

3. Applications for approval numbers shall be forwarded to the State Veterinarian for approval. Approval numbers shall be received by the shipper before shipment is made into the Commonwealth of Virginia.

C. Exceptions.

1. The requirements for isolation and treatment with chlortetracycline as shown in subsection A of § 13 shall not apply to psittacine birds which have been issued an official approval number. An approval number and legend as specified in paragraph 1 of subsection B of § 13 shall appear on each shipping label or container used for shipments into Virginia. Shipments made without approval, or prior to the issuance of approval, will be subjected to the same

restrictions of confinement and treatment as birds from nonapproved sources.

2. The provisions of this section shall not apply to any psittacine birds passing directly through the Commonwealth of Virginia in interstate commerce; nor to psittacine birds brought into the Commonwealth of Virginia by a person who intends to make his residence in Virginia; nor to any psittacine birds consigned directly to a laboratory or institution authorized by law to conduct research, teaching, or clinical studies within the Commonwealth of Virginia.

§ 14. Llamas.

All South American camelids of the genus *Lama* (including, but not limited to llamas, alpacas, guanacos, and vicunas) four months of age and older imported into Virginia from another state or territory shall:

1. Be individually identified by an ear tattoo, with the tattoo number recorded on the health certificate of the state or territory of origin or by any other method approved by the State Veterinarian, with the identification recorded on the health certificate of the state or territory of origin; and

2. Be negative to approved tests for:

- a. Brucellosis;
- b. Tuberculosis; and
- c. Bluetongue.

Such tests shall be performed not more than 30 days prior to importation.

* * * * *

Title of Regulation: VR 115-02-16. Rules Governing Pseudorabies in Virginia.

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Public Hearing Date: September 26, 1989 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations would establish a program in Virginia for the eradication of pseudorabies in swine. Pseudorabies is a disease that causes high death losses in young pigs. The proposed regulations will supersede emergency regulations establishing testing requirements for feeder pig production herds. Both emergency and proposed regulations are prompted by a national drive to rid swine of pseudorabies. The national program requires increasingly strict standards of states that

want to be designated free of pseudorabies. The national program requires that a state have authority to carry out the program. The proposed regulations would give that authority.

VR 115-02-16. Rules Governing Pseudorabies in Virginia.

§ 1. Definitions.

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

"Accredited veterinarian" means a licensed veterinarian approved by the United States Department of Agriculture and the State Veterinarian to perform functions required by cooperative state-federal disease control and eradication programs.

"Approved laboratory" means a laboratory approved by the United States Department of Agriculture or the State Veterinarian to conduct official pseudorabies tests.

"Approved slaughter market" means a livestock market approved by the United States Department of Agriculture where shipments of slaughter swine only are permitted in accordance with applicable state and federal regulations and from which no swine may be released except directly to another approved slaughter market, or to a recognized slaughter establishment for immediate slaughter.

"Boar" means any male swine used for or intended to be used for producing offspring.

"Breeder swine" means any swine used or intended to be used for reproductive purposes.

"Farm of origin" means a farm where the swine were born, or on which they have resided for at least 90 consecutive days immediately prior to movement.

"Feeder pig" means any immature swine used for or intended to be used exclusively for feeding for slaughter.

"Licensed veterinarian" means a veterinarian who is licensed by the Virginia Board of Veterinary Medicine to practice veterinary medicine in Virginia.

"Official pseudorabies serologic test" means an official pseudorabies test conducted on swine serum to detect the presence or absence of pseudorabies antibodies.

"Official pseudorabies test" means any test for the diagnosis of pseudorabies approved by the United States Department of Agriculture and conducted in an approved laboratory.

"Official random sample test" means a test for pseudorabies that meets the requirements of § 6 B 1, 2, 3, and 4 of this regulation.

"Permit" means an official document issued for and prior to the interstate shipment of pseudorabies-infected or -exposed swine by the United States Department of Agriculture, State Veterinarian or his representative, or accredited veterinarian which states: (i) the number of swine being shipped; (ii) the purpose for which they are shipped; (iii) the points of origin and destination; (iv) the names and addresses of the consignor and consignee; and (v) any additional information that may be required by applicable state and federal regulations.

"Pseudorabies" means the contagious, infectious, and communicable viral disease of livestock and other animals also known as Aujeszky's disease, mad itch or infectious bulbar paralysis.

"Pseudorabies monitored herd" means a feeder pig production herd that has been tested according to the provisions of § 2 C 1 of this regulation.

"Qualified pseudorabies negative herd" means a swine herd that satisfies the provisions of § 2 D 1, 2, and 3 of this regulation.

"Quarantined feedlot" means a premises where pseudorabies-infected or -exposed swine of Virginia origin are fed under the supervision and control of the State Veterinarian and from which swine are moved directly to a recognized slaughter establishment.

"Recognized slaughter establishment" means a slaughter establishment operated under state or federal inspection.

"Sow" means any female swine used for or intended to be used for producing offspring.

"State Veterinarian" means a Virginia Department of Agriculture and Consumer Services veterinarian employed by the Commissioner of Agriculture and Consumer Services who is responsible for the animal-health programs in the Commonwealth of Virginia.

"Surveillance index" means the percentage of a population of sows and boars sampled multiplied by the percentage of positive swine traced to the farm of origin. When no positive swine are found, the surveillance index shall be the percentage of a population of sows and boars sampled.

"Swine dealer" means any person who routinely purchases, deals in, or sells swine, including commission representatives and brokers, or who operates and conducts an auction where swine are sold.

§ 2. Feeder pigs.

A. Any person shipping, selling, lending, leasing or trading feeder pigs in Virginia; and any person shipping, offering to sell, lend, lease, or trade feeder pigs in Virginia shall assure that they:

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1. Originate from a pseudorabies monitored herd; or
2. Originate from a qualified pseudorabies negative herd; or
3. Are individually tested and found negative for pseudorabies within 30 days prior to the shipment.

B. Identification of swine.

1. All producers of feeder pigs subject to this regulation shall have swine from their production herds tested for pseudorabies and such swine shall be individually identified by eartag, tattoo, standard ear notch that has been recorded in the book of record of a purebred registry association, or by any other method approved by the State Veterinarian.
2. All feeder pig producers shall individually identify their swine by metal eartag or by any other method approved by the State Veterinarian.

C. Pseudorabies monitored herd procedures.

1. To certify a feeder pig production herd as a pseudorabies monitored herd, a producer shall have the herd tested and found to be negative for pseudorabies, with the testing to be of a representative sample of the herd. In addition, the producer shall test all boars in the herd. The sample size be as follows:

- a. In herds of 10 sows or fewer, all sows shall be tested;
- b. In herds of 11 to 35 sows, 10 sows shall be tested; and
- c. In herds of 36 sows or more, 30% of sows or 30 sows, whichever is fewer, shall be tested.

2. To continue pseudorabies monitored herd status, a producer shall have each initially certified feeder pig production herd recertified annually by utilizing the sample size specified in § 2 C 1 of this regulation. The sample for recertification shall also include all boars and 30% of the sows added to the feeder pig production herd since the last certification test. The recertification date shall be no more than 30 days before and no more than 30 days after the anniversary date of the initial herd certification pursuant to § 2 C 1.

D. Qualified pseudorabies negative herd procedures.

1. To have a swine herd meet the requirements of a qualified pseudorabies negative herd, a producer shall subject all swine over six months of age in the herd to an official pseudorabies serologic test. All swine so tested must be found negative.

2. To maintain qualified pseudorabies negative herd status, a producer shall subject all swine over six months of age in the herd to an official pseudorabies serologic test at least once each year. The test shall be accomplished by testing 25% of swine over six months of age every 80-105 days and finding all swine so tested to be negative. No swine may be tested twice in one year to comply with the 25% requirement.

3. A producer may also obtain qualified pseudorabies negative herd status by any means authorized by 9 CFR § 85.1.

E. Proof of herd-health status.

Proof of herd-health status for feeder pig production herds and feeder pigs shall be by one of the following methods:

1. A current Swine Herd Health Card for Pseudorabies (VDACS-03024) issued by the State Veterinarian of other proof, specified by the State Veterinarian, of being a pseudorabies negative herd; or

2. An official pseudorabies test chart identifying the individual feeder pigs offered in the transaction or shipment and indicating that they have tested and found to be negative for pseudorabies within the past 30 days.

§ 3. Breeder swine.

A. Any person shipping, selling, lending, leasing, or trading breeder swine in Virginia; and any person shipping, offering to sell, lend, lease or trade breeder swine in Virginia shall assure that they:

1. Originate from a qualified pseudorabies negative herd; or
2. Are individually tested and found negative for pseudorabies within 30 days prior to the transaction.

B. Identification of breeder swine.

All producers of breeder swine subject to this regulation shall have their swine individually identified by eartag, tattoo, standard ear notch that has been recorded in the book of record of a purebred registry association, or by any other method approved by the State Veterinarian.

§ 4. Slaughter swine.

A. Any person shipping slaughter swine in Virginia not known to be infected with or exposed to pseudorabies shall assure that they are:

1. A recognized slaughter establishment; or
2. An approved slaughter market.

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B. Any person shipping slaughter swine in Virginia known to be infected with or exposed to pseudorabies shall assure that it is sent directly to a recognized slaughter establishment, but only if:

1. The shipper has secured from the State Veterinarian a permit authorizing the shipment; and
2. The conveyance transporting the swine within Virginia is cleaned and disinfected after the swine is off-loaded but prior to leaving the slaughter establishment.

C. Identification of slaughter swine.

Any producer of slaughter swine subject to this regulation, except for those shipped under seal that are involved in transactions pursuant to § 4, shall individually identify such swine by eartag, tattoo, standard ear notch that has been recorded in the book of record of a purebred registry association, or by any other method approved by the State Veterinarian.

§ 5. Exhibition swine.

Any person exhibiting swine shall assure that they:

A. Originate directly from a qualified pseudorabies negative herd;

B. Are individually tested and found negative for pseudorabies within 30 days prior to the exhibition; or

C. Are individually identified by eartag, tattoo, standard ear notch that has been recorded in the book of record of a purebred registry association, or by any other method approved by the State Veterinarian.

§ 6. Surveillance.

A. All slaughter establishments doing business in Virginia shall cooperate with the State Veterinarian in the annual testing of 10% of Virginia's breeder swine population for pseudorabies using an official pseudorabies serologic test with 80% successful traceback of seropositives to the farm of origin, or testing and traceback to achieve a surveillance index of 0.04% or greater. The State Veterinarian shall use current statistics of the National Agricultural Statistics Service of the United States Department of Agriculture on breeding swine populations in calculating surveillance data. The surveillance program shall be random and shall be representative of all herds in the Commonwealth.

B. Every swine producer within a 1.5 mile radius of any pseudorabies-infected premises shall have his herd tested through the use of the official random sample test procedure as specified below.

1. In herds of fewer than 100 head, 25 shall be tested;

2. In herds of 100 to 200 head, 27 shall be tested;

3. In herds of 201 to 999 head, 28 shall be tested; and

4. In herds of 1,000 head or more, 29 shall be tested.

C. All slaughter establishments doing business in Virginia shall cooperate with the State Veterinarian in testing slaughter swine other than cull sows and boars. The State Veterinarian shall establish at slaughter establishments a program for testing such slaughter swine in accordance with the provisions specified under State-Federal-Industry Program Standards for Pseudorabies Eradication which provisions, for purposes of this subsection only, are incorporated by reference.

§ 7. Swine owner notification.

A. Immediately after imposing or releasing a quarantine for pseudorabies on a swine herd, the State Veterinarian or his representative will initiate actions to notify swine owners in writing within a 1.5 mile radius of that quarantine.

B. At least 30 days prior to authorizing or withdrawing the authorization for the establishment of a quarantined feedlot for pseudorabies-infected or -exposed swine, the State Veterinarian or his representative will so notify swine owners in writing within a 1.5 mile radius of the feedlot.

§ 8. Mandatory herd cleanup.

The State Veterinarian is authorized to quarantine pseudorabies-infected and -exposed swine and take measures to eliminate pseudorabies from such swine in Virginia, utilizing a herd cleanup plan. Any person in whose swine herd pseudorabies is diagnosed shall cooperate with the State Veterinarian in instituting one of the following herd cleanup plans:

A. Test and removal of infected swine.

A producer may remove from his herd all swine positive to an official test to either a quarantined area or an approved slaughter establishment. The remaining swine in the herd shall be quarantined and shall pass a negative official pseudorabies serologic test at least 30 days after the removal of the infected swine in order for the quarantine to be released.

B. Offspring segregation.

A producer shall isolate progeny from a quarantined herd which shall be weaned, under the direction of the State Veterinarian, and they shall pass two negative official pseudorabies serologic tests at least 30 days apart in order for the quarantine to be released.

C. Depopulation - Repopulation

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A producer may sell his entire swine herd for slaughter. The producer shall clean and disinfect the premises at least 30 days prior to repopulation.

D. Other herd cleanup plans.

The Virginia Board of Agriculture and Consumer Services delegates to the State Veterinarian the authority to approve additional herd cleanup plans that meet the requirements of the State-Federal-Industry Program Standards for Pseudorabies Eradication.

§ 9. Transportation and disposal of dead swine.

A. No person may dispose of dead swine except by:

1. Rendering at registered facilities;
2. Burial in a manner consistent with law;
3. Incineration in a manner consistent with law; or
4. Any other method approved by the State Veterinarian that is consistent with law.

B. No person shall operate any vehicle or haul any container carrying dead swine or parts thereof in Virginia unless it is covered and leakproof.

§ 10. Vaccination.

No person shall vaccinate any swine in Virginia with a pseudorabies vaccine without prior approval of the State Veterinarian.

§ 11. Reporting of pseudorabies.

Laboratory personnel, producers and veterinarians shall report all suspect cases of pseudorabies to the State Veterinarian by telephone within 24 hours after having knowledge of such cases.

§ 12. Requirements for swine dealers; requirements for agents.

A. Registration.

Every swine dealer doing business in Virginia and his agents shall be registered with the State Veterinarian; each shall make application for registration on forms provided by the State Veterinarian no later than March 1, 1990; each shall renew his registration no later than March 1 of each even-numbered year thereafter. The State Veterinarian will issue a registration card to each registered swine dealer and to each of his agents. Every swine dealer and every agent shall have the card in his possession while engaged in the business of dealing in swine, and show the card to the State Veterinarian or his representative when asked to do so.

B. Records requirement.

Every registered swine dealer shall maintain a record of all swine that he purchases, sells, exchanges, or barter in the course of business.

C. Contents of records.

The records required by subsection B of this section shall include the following information, which shall be recorded daily for each transaction of that day:

1. The date of the transaction;
2. The manmade identification affixed or applied to each swine;
3. The name and address of the seller, or in addition, if different, the name and address of the producer;
4. The name and address of the purchaser, and in addition, if different, the name and address of the ultimate purchaser;
5. The purpose of the swine involved in the transaction, using one or more of the following designations:
 - a. Feeder;
 - b. Breeder;
 - c. Slaughter; or
 - d. Exhibition.

D. Retention of records.

The swine dealer shall keep in his possession for a period of two years after each transaction the records pertaining to that transaction required by subsections B and C of this section.

E. Inspection of records.

Every swine dealer doing business in Virginia shall, during all reasonable hours, permit the State Veterinarian or his representative to have access to and to copy any and all records maintained pursuant to these regulations.

F. Out-of-state swine.

Any swine dealer importing swine into Virginia shall comply with the health requirements governing the admission of swine into Virginia contained in VR 115-02-12, "Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds Into Virginia." The swine dealer shall deliver a copy of the official health certificate to the purchaser.

G. Denial, suspension, or cancellation of registration of dealer; agent.

1. The State Veterinarian may, after due notice or opportunity for hearing to the swine dealer involved, deny the dealer's application for registration, or suspend or cancel his registration, when the State Veterinarian has determined that the swine dealer has:

a. Violated state or federal statutes or regulations governing the interstate or intrastate movement, shipment or transportation of swine;

b. Made false or misleading statements in his application for registration;

c. Sold swine that he knew or should have known were sick or exposed to infectious or contagious disease;

d. Knowingly made false or misleading entries in the records required by these regulations;

e. Failed to comply with any provision of these regulations; or

f. Directed or authorized any agent to engage in any conduct described in subdivisions a through e, above, or knew or should have known that the agent is engaging in such conduct, but has failed to prohibit it.

2. The State Veterinarian may, after due notice and opportunity for hearing to the agent of a swine dealer, deny or suspend the agent's application for registration, when the State Veterinarian has determined that the agent has:

a. Violated state or federal statutes or regulations governing the interstate or intrastate movement, shipment, or transportation of swine;

b. Made false or misleading statements in his application for registration;

c. Sold swine that he knew or should have known were sick or exposed to infectious or contagious disease;

d. Knowingly made false or misleading entries in the records required by these regulations;

e. Failed to comply with any provision of these regulations; or

f. Ceased to be an agent of a registered swine dealer.

Proposed Regulations

Commonwealth of Virginia
 Department of Agriculture & Consumer Services
 SWINE HERD HEALTH CARD--PSEUDORABIES

Owner: _____
 Address: _____

County where herd is located: _____
 Herd number _____ Qualified _____ Monitored _____

Issue date _____ Expire date _____

SHOW THIS CARD AS PROOF OF HEALTH STATUS
 OF FEEDER PIGS.

The herd identified on this card has been
 health certified for pseudorabies and is
 entitled to the benefits accorded such
 status.

State Veterinarian

Warning: Unlawful use of card may result
 in a fine of up to \$1,000 or up to one
 year in jail or both. VDACS-03024

not transferable

DACS-00050-B

Virginia Department of Agriculture and Consumer Services

P. O. Box 1163, Richmond, Virginia 23209

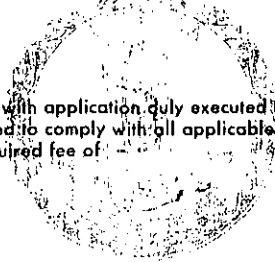
ISSUED

PERMIT

PERMIT
 NUMBER

EXPIRES

Issued in accordance with application duly executed by the
 below who has agreed to comply with all applicable laws, rules and regulations
 and has paid the required fee of _____ shown



 COMMISSIONER

BY

 AUTHORIZED REPRESENTATIVE

not transferable

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

P. O. Box 1163, Richmond, Virginia 23209

PERMIT

(FOLD HERE)

EXPIRES

PERMIT NUMBER



BY

 AUTHORIZED REPRESENTATIVE

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
DIVISION OF ANIMAL HEALTH
APPLICATION FOR REGISTRATION OF VIRGINIA LIVESTOCK DEALERS AND/OR AGENTS

NAME, ADDRESS, ZIP AND PHONE NO. OF REGISTRANT BUSINESS ADDRESS & PHONE:		FORM OF ORGANIZATION ____ Individually Owned ____ Partnership ____ Corporation - Chartered by _____ STATE ____ Cooperative Association ____ Other (Specify)	
HOME ADDRESS & PHONE:			
TYPE OF LIVESTOCK HANDLED Cattle _____ Sheep _____ Swine _____ Equine _____ Goats _____ Other _____		NAME & ADDRESS OF AGENCIES EMPLOYED BY YOU WHO NEED REGISTRATION PERMITS (Use reverse if necessary)	
NAME & ADDRESS OF EMPLOYER(S)			
DO YOU BUY, SELL, OR TRANSPORT IN COMMERCE ANY DYING, DISEASED OR DISABLED LIVESTOCK? YES ___ NO ___		DO YOU BUY OR SELL LIVESTOCK INTERNATIONALLY? YES ___ NO ___	
BRIEFLY DESCRIBE THE GENERAL NATURE OF YOUR DEALERSHIP (attach additional sheet if necessary)			
NAME & LOCATION OF ALL ASSEMBLY BARS OR YARDS OWNED OR USED BY APPLICANT			
OTHER NAMES UNDER WHICH BUSINESS IS TRANSACTED			
NAME, ADDRESS, ZIP & PHONE WHERE LIVESTOCK IS SOLD FOR SLAUGHTER		LIST ALL BUYER CODES USED BY YOU AND YOUR AGENTS	
PACKERS & STOCKHANS ADMINISTRATION REGISTRATION NO.		OTHER STATE DEALER REGISTRATION NO.	
HAVE YOU OR ANY INSTITUTION CONNECTED WITH YOUR OPERATIONS VIOLATED ANY STATE OR FEDERAL LAWS OR REGULATIONS GOVERNING THE INTERSTATE OR INTRASTATE MOVEMENT, SHIPMENT OR TRANSPORTATION OF LIVESTOCK? YES ___ NO ___ If, YES, describe the nature of the violation and the date(s) involved.			
In signing this application, I certify that all entries are true and correct to the best of my knowledge, and I certify that I have read the requirements of the regulations authorizing the State of Virginia to regulate the interstate and intrastate movement, shipment and transportation of livestock required by the regulations. I certify that I will comply with all required Virginia and Federal animal health laws, regulations and directives.			
DATE	TITLE	SIGNATURE	TYPE/PRINTED NAME

FOR OFFICE USE ONLY		
CATEGORY CODE	PERMIT NUMBER	FIPS CODE
		REGION CODE

VDACS-01214

GENERAL INFORMATION	
REGISTRANTS All sections in the top portion of this form shall be filled in by each registrant with the information requested. Permit numbers shall be assigned by the Compliance Enforcement Supervisor, Division of Animal Health as the completed forms are received. Any changes in company/individual name, agency, or address shall be reported to the Division of Animal Health, Compliance Enforcement Supervisor, Ivor Regional Laboratory, P. O. Box 390, Ivor, Virginia 23869, telephone 804-699-9124.	
FIPS COMPLIANCE CODES The FIPS Compliance Code and Region Code shall be filled in by the Field Compliance Officer when appropriate. If this information is not available, it shall be completed by the Compliance Enforcement Supervisor.	
CATEGORY CODES 10 - Cattle Dealer 11 - Poultry Dealer 12 - Swine Dealer (3-0) 25 - Swine Dealer	REGION CODES 01 - Wycheville-Lynchburg Region 02 - Harrisonburg Region 04 - Richmond Region 04 - Richmond-Ivor Region
ADDITIONAL INFORMATION (Continuation space for items on reverse of form)	

Proposed Regulations

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Title of Regulation: VR 230-30-005. Guide for Minimum Standards in Design and Construction of Jail Facilities.

Statutory Authority: § 53.1-68 of the Code of Virginia.

Public Hearing Dates:

August 3, 1989 - 7 p.m.

August 18, 1989 - 10 a.m.

(See Calendar of Events section for additional information)

Summary:

This regulation will establish minimum standards in design and construction of local jails, and has been developed for the purpose of carrying out provisions of §§ 53.1-80 through 53.1-82 of the Code of Virginia, and addresses (i) construction and design requirements for building materials, equipment and systems for secure detention facilities; (ii) construction and design requirements for less-secure facilities; and (iii) construction and design requirements for lockups.

Preface:

These standards for design and construction will be the minimum permitted in Virginia for new facilities and shall be incorporated into expansion and renovation programs. They are promulgated to complement existing criteria published in the Virginia Uniform Statewide Building Code, State Health Department Regulations, and § 504 of the Rehabilitation Act of 1973.

A needs assessment is necessary to determine the size of facility and the daily demands which affect design. The needs assessment shall be completed prior to the beginning of design and is required in order to qualify for reimbursement of state funds for construction.

In order to meet the daily demands of the client population and staff, the minimum designs for jails shall provide for a number of essential custodial functions. Operationally, space is needed for security posts, control station, visiting, intake, holding, processing, examining, clothing storage, laundry, food service, dining, waiting and reception areas for the public, and exercise (both indoor and outdoor). For administration and support, space is needed for general housing, isolation, classification, counseling, support of volunteer programs, canteen, library, medical, supply receiving, mechanical equipment, storage areas, staff lounge, restrooms and administrative offices. The State Board of Corrections' "Minimum Standards for Local Jails and Lockups" shall be utilized as a guideline to determine functional relationships of required areas in jail facilities. With proper planning, all of these can be adequately provided in a cost/space effective manner.

The design concept must allow for flexibility in housing on the basis of inmate classification by age, sex, security needs and, whenever possible, pre/post sentence separation. When determining building design, consideration shall be given to traffic patterns for ease of movement throughout the jail, physical and operational security, elimination of blind spots, and efficiency and economy of staffing. Jail facilities should be designed to allow for the possibility of future expansion.

VR 230-30-005. Guide for Minimum Standards in Design and Construction of Jail Facilities.

PART I. INTRODUCTION.

§ 1.1. Definitions.

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

"Administrative area" means an area of the jail dedicated to maintaining the operation of the jail facility.

"Approved type" means an item as approved by the Department of Corrections.

"A.S.T.M." means the American Society for Testing and Materials.

"Capacity (Design Capacity)" means the maximum number of persons the facility has been constructed to house without the addition of extra beds.

"CCTV" means closed circuit television.

"Central control point" means a secured space which maintains the safety and security of the jail through electronic equipment for surveillance, communication, fire and smoke detection, emergency functions and regulation of ingress and egress to cells, dayrooms, corridors and other space within the jail.

"Classification cell" means a cell for short term holding for purposes of classification prior to being assigned to general population or other housing.

"Dayroom " means a secure area adjacent to an inmate living area, with controlled access from the inmate living area, to which inmates may be admitted for daytime activities such as dining, bathing, and selected recreation or exercise.

"Dormitory" means an area designed for accommodating two to 20 inmates in secure housing or for two to 25 inmates in less-secure housing. In addition to water closets, showers, lavatories, tables, and bunks, the dormitory may include other design items not always found in single cells; such as benches and storage areas.

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"Enlargement/Expansion" means to expand the current detention facility by the construction of additional area(s) as may be determined by need or as required by law or regulation.

"Facility" means a jail or lockup, including buildings and site.

"IMC" means Intermediate Metal Conduit.

"Inmate housing area" means a single person cell, multi-occupancy cell, dormitory or group of such cells (pod) or dormitories which provide accommodations for sleeping, approved personal effects, and personal hygiene.

"Interior security walls" means walls within but not a part of the security perimeter which are utilized to restrict movement within the secure area, including but not limited to cells, cell pods, dormitories, corridors, inmate activity areas, admissions areas, counseling/treatment areas.

"Jail" means a facility that is operated by or for a locality or public authority for the detention of persons who are charged with or convicted of law violations.

"Less secure housing" means a facility or area housing for work/study release, weekenders, and other inmates of minor security consideration and which may be located outside the jail security perimeter walls.

"Life safety operations" means the function of certain electrical, mechanical and other building equipment provided for the purpose of ensuring the safety of building occupants in the case of a fire or similar emergency situation.

"Lockup" means a facility operated by or for a local government for detention of persons for a short period of time as determined by the Board of Corrections.

"Maximum custody inmates" means persons who cannot be allowed to mingle physically with other inmates without close supervision, normally because of assaultive and aggressive behavior or high escape risk.

"Medium custody inmates" means those persons who require staff supervision and secure accommodations against escape, but who will be allowed to participate in group activities.

"Minimum custody inmates" means those inmates classified as not dangerous or likely to escape, but are of sufficient concern to be housed in a less restrictive environment.

"Natural lighting" means lighting available either by cell or room windows to exterior or from a source within 20 feet of room or cell and visible from the room or cell.

"New construction" means to build a detention facility to

replace an outdated detention facility or to establish a detention facility as may be determined by need or required by law or regulation.

"Pad" is a group of cells clustered together.

"Renovation" means the alteration or other modification of existing detention facility or piece of equipment for the purpose of modernizing or changing the use of capability of such detention facility or equipment as may be determined by need or required by law or regulation. Renovation does not include work on or replacement of a detention facility or equipment which may be generally associated with normal wear and tear and included in routine maintenance. Renovation renders the facility, item or area superior to the original.

"Repair" means the correction of deficiencies in a detention facility or equipment which have either been damaged or worn by use, but which can be economically returned to service without replacement.

"Replacement" means the construction of a detention facility in place of a like detention facility or the purchasing of equipment to replace equipment which has been so damaged or outlived its useful life that it cannot be economically renovated or repaired.

"Room" means a cell without plumbing fixtures. Rooms are utilized when inmates have control of the individual room doors and are free to circulate from rooms to dayrooms at will.

"Routine maintenance" means the normal and usual type of repair or replacement necessary as the result of periodic maintenance inspections or normal wear and tear of a detention facility or equipment.

"Sally port" means a safety vestibule as a defined space that promotes security by the use of two or more interlocking doors.

"Sally port, vehicular" means a drive-in or drive-through made secure preferably by remotely controlled electrically operated interlocking doors for entrance and exit. It is normally located in close proximity to the facility intake area.

"Secure area" means all spaces within the secure area of the facility, including but not limited to cells, cell pods, dormitories, corridors, inmate activity areas, admissions areas, and counseling/treatment areas.

"Secure housing" means housing for all inmates-maximum, medium and minimum, which is not classified as less secure.

"Security perimeter walls" means the outer limits of the jail or lockup proper where walls, floor and roof/ceiling are used to prevent egress by inmates or ingress by unauthorized persons or contraband.

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"Special purpose cells" means cells within the security perimeter which may include isolation, segregation, medical or other special purposes cells.

"Supervision" means the act or process of performing watchful and responsible care over prisoners in one's charge. Supervision, which ensures the safety of corrections officers, requires more than mere observation or surveillance. It is an active process.

"Temporary holding cell/area" means a cell used to hold one or more persons temporarily while awaiting processing, booking, court appearance, or discharge, or a cell used to temporarily hold one or more persons until they can be moved to general housing areas after booking.

PART II. ADMINISTRATION.

§ 2.1. Legal basis.

The Virginia State Board of Corrections is charged by § 53.1-68 of the Code of Virginia with the responsibility for establishing minimum standards for the construction, equipment, administration and operation of local correctional facilities and lockups. Compliance with these standards is necessary in order to qualify for reimbursement of any new construction, renovation or expansion project. This guide was approved by the State Board of Corrections at a regular meeting held on ???. It supersedes the "Guide for Minimum Standards for the Design and Construction of Jail Facilities" adopted by the Board of Corrections in 1978.

Other sections relating to the above are §§ 53.1-1, 53.1-5, 53.1-10, 53.1-69, 53.1-70, 53.1-80, 53.1-81, 53.1-82, 53.1-83, and 53.1-125 of the Code of Virginia.

PART III. CONSTRUCTION AND DESIGN REQUIREMENTS FOR BUILDING MATERIALS, EQUIPMENT AND SYSTEMS FOR SECURE DETENTION FACILITIES.

§ 3.1. Building systems.

The requirements set forth herein establish the standards for building materials, equipment, and systems to be designed and constructed in detention facilities (jails) within the Commonwealth of Virginia. The building components denoted herein are intended to relate the facilities security and custody level and expected use conditions, with the materials, equipment and systems expected performance, particularly related to strength, safety and durability characteristics. Of equal importance is matching the performance levels of the various components which make up a security barrier or system. They must be comparable and compatible.

The prime security perimeter of a detention facility is composed of a complete security envelope consisting of walls, roofs, floors, ceilings, doors, door locks and other

hardware, windows, and glazing. These and other components will be covered within the context of this section.

It is mandatory that all construction conform to the current Virginia Uniform Statewide Building Code, other applicable laws, rules and regulations and all operational standards set forth in the Virginia Board of Corrections' "Minimum Standards for Local Jails and Lockups." All work shall be done in accordance with acceptable design and construction practices and material shall be installed in accordance with manufacturers' recommendations.

A. Structural systems - walls, floors, roofs, ceilings.

1. Wall systems - general. Walls encompassing areas occupied by inmates without constant supervision shall provide a secure barrier to prevent unauthorized access. Their construction shall provide a deterrent against the penetration through the building's exterior or interior walls.

a. Exterior walls - masonry and concrete.

(1) General. Exterior walls shall be of masonry, concrete, or other approved fireproof building material equal in strength and durability.

(2) Masonry. Walls or partitions that serve as perimeter security (may be exterior or interior wall), shall be a minimum of eight inches nominal thickness with horizontal metal wall reinforcing, spaced not more than 16 inches on center starting eight inches above floor and with minimum vertical wall reinforcing of No. 4 reinforcing steel bars not more than eight inches on center the entire height of the wall. Hollow masonry block cell cores shall be filled solid with concrete or course grout in accordance with A.S.T.M. C476.

(a) All masonry mortar shall be type "M" 2,500 p.s.i. mortar.

(b) When security walls do not rest on a concrete footing located below the level of the finished concrete floor slabs, the first row of masonry block wall construction shall be dowelled into the concrete floor slabs using minimum of No. 4 reinforcing bars spaced a maximum of eight inches on center. Dowels shall extend a minimum of three inches into concrete slab and shall be 12 inches in length. Cores of block shall be filled solidly with mortar, grout or concrete. Where top course of masonry block is not dowelled into upper roof/ceiling, secure partition with steel angles located on both sides.

(3) Concrete. May be cast in place or precast reinforced high strength concrete, minimum of 4,000 p.s.i. compressive strength (28-day strength). Minimum thickness shall be four inches.

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b. Interior walls - masonry, concrete, steel.

(1) General.

(a) Interior walls shall be of masonry, concrete, steel plate or other approved fireproof building material equal in strength and durability.

(b) Interior security walls separating secure building areas shall be extended up to the underside of roof or floor construction.

(c) All masonry mortar shall be type "M" 2,500 p.s.i. mortar.

(d) All interior exposed walls and partitions in security areas shall have a smooth hard finish, properly sealed and painted with a washable type paint or other approved durable finish with a flame spread rating of 25 or less (A.S.T.M. E-84).

(2) Masonry.

(a) Perimeter security wall shall comply with requirements of subdivision A 1 a (2) of this section when wall serves as a perimeter security wall.

(b) Interior security walls, inmate housing areas, and control stations shall all comply with the requirements of subdivision A 1 a (2) of this section except: minimum wall thickness shall be six inches. Reinforcing bars shall be spaced not more than 16 inches on center; however, reinforcing bars may be eliminated altogether if block cores are filled solid with 5,000 p.s.i. concrete or grout.

(c) Masonry which is dowelled or tied into floor and roof/ceiling surfaces shall comply with the requirements of subdivision A 2 b of this section except that dowels shall be spaced not more than 16 inches on center.

(3) Concrete shall comply with requirements of subdivision A 1 a (3) of this section.

(4) Steel plate walls shall not be less than 3/16 inch thick and shall be securely attached to structural slabs in floor and roof or ceiling by means of approved bolted, riveted or welded connections. All bolted connections shall have upset or welded thread to prevent removal of fasteners.

(5) Bar grille partitions shall be 2 1/4" x 3/8" steel bar frame with vertical 7/8 inch round double ribbed bars spaced approximately four inches on center and 2 1/4" x 3/8" horizontal steel bars spaced approximately 16 inches on center. Steel to be of open hearth or tool resistant grade according to the use intended.

(6) Woven rod partitions shall be fabricated from

3/8 inch diameter mild steel rods spaced not more than two inches on center in two directions, interwoven and crimp-locked. Rods shall be anchored securely into a heavy gauge (10 gauge minimum) tubular steel frame.

2. Floor systems.

a. All floors shall be concrete including supported slabs and slabs on grade. Slab on grade floors shall be four inches minimum thickness.

b. All floor surfaces shall be of a durable, maintenance free, nonabsorptive material. Floor surfaces, if concrete, shall be finished with an approved sealer and hardener.

3. Roof/ceiling systems.

a. General. The roof/ceiling assemblies above areas which are occupied regularly by medium/maximum security inmates shall provide a secure barrier to prevent access to the area above the ceilings and shall provide a roof construction, which will provide a deterrent against the penetration of the construction from both the interior and exterior of the building. The space above the ceiling should be subdivided to prevent movement from one area of the facility to another within this space.

b. The roof/ceiling slab construction, which includes cell areas, dayroom spaces, control stations and locations which medium/maximum security inmates occupy regularly, shall be any approved type of standard weight concrete construction having a minimum concrete strength of 3,000 p.s.i. and with not less than 6" x 6" x 10 gauge embedded temperature reinforcing. System assembly, for security purposes is to be approved by the Department of Corrections.

c. Ceilings consisting of a suspended grid system with removable type panels (acoustical or metal pan type) shall not be permitted in cells and other areas where inmates will have access to the area unsupervised. Such ceilings may be used in dayrooms and other areas where floor to ceiling height is not less than 15 feet and not accessible to inmates. Ceiling hold down clips shall be used in all inmate accessible areas.

d. Ceilings in spaces other than security areas (as indicated in subdivision b above) which are accessible to inmates shall be permitted to be of the suspended type (suspended below the bottom of structural members); however, ceiling surface shall be no less than three coat portland cement plaster installed on approved type metal lath or approved comparable material.

e. All access to the space above the ceiling surface

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shall be protected by metal access panels equipped with keyed locks.

f. A ceiling shall be provided when roof construction other than concrete is less than 15 feet above finished floor level of an inmate occupied area or within 15 feet of mezzanine style balcony railing on dayroom/atrium style ceiling. Exposed roof structure may be approved by Department of Corrections when located more than 15 feet above floor level and not accessible to inmates.

g. The following are alternate acceptable roof construction assemblies that may be used in detention facility areas with the exception of cells, control stations, armories, sally ports, medical housing, and dormitories with less than a 15 foot ceiling height above finished floor:

(1) Three inch concrete on 16 gauge steel form or decking on concrete or steel supporting members; and

(2) Three inch concrete with 6" x 6" x 10 gauge wire fabric on a 22-gauge steel form or decking on concrete or steel supporting members.

B. Doors and frames - security and nonsecurity type.

1. Security doors generally used where maximum and medium security is required (i.e., sally ports, control stations, housing units, stairwells, cell doors, security perimeter, and emergency exit doors) may be one of the following:

a. Detention - type security hollow metal doors.

(1) Minimum two inches thick with minimum 14 gauge steel face sheets and internal metal stiffeners. Security hollow metal doors shall meet the static load and rack (twist) test requirements of NAAMM (National Association of Architectural Metal Manufacturers) Standard HMMA 863-88(5).

(2) Associated door frames shall be 12 gauge steel minimum.

b. Bar grille doors.

(1) Shall be 2 1/2" x 3/8" steel bar style and rail perimeter with vertical 7/8 inch round double ribbed bars spaced approximately four inches on center and 2 1/2" x 3/8" horizontal steel bars approximately 16 inches on center, steel to be of open hearth or tool resistant grade according to the use intended.

(2) Associated door frames shall be a minimum of 3/16 inch bent steel plate or equivalent rolled steel shapes. All joints shall be mitered and fully welded. Minimum of three wall anchors on each frame

jamb.

c. Steel plate doors.

(1) Shall be a minimum of 3/16 inch thick plate steel.

(2) Shall have minimum of 3/16 inch bent steel plate or equivalent rolled steel shape door frame. Minimum of three wall anchors on each frame jamb.

d. Woven rod door.

(1) Woven wire doors as specified for woven wire partitions. Refer to § 3.1 A 1 b (6).

(2) Frame shall be either 10 gauge roll steel minimum or 3/16 inches bent steel plate or comparable roll shapes. Minimum of three wall anchors on each frame jamb.

2. Nonsecurity doors shall be durable considering the constant use or abuse they will receive in a detention environment. They shall be steel commercial type 1-3/4 inches thick minimum hollow metal doors with 16 gauge face sheets, frames shall be 14 gauge hollow metal or equal.

3. Miscellaneous design features.

a. Glazed view panels shall be provided in all doors where required for security purposes.

b. Where doors, frames and hardware are required by the building code to be fire rated construction, such construction shall not reduce or compromise the security requirements.

c. Sally ports and interlocking requirements.

(1) To allow for control of public and inmate access and circulation, sally ports and interlocking doors consisting of at least one pair of security doors shall be utilized for passage control. Sally ports shall be provided at all exterior openings from security areas and at cell/dayroom pods designed for maximum and medium security inmates.

(2) Sally port locking and unlocking shall be remotely controlled from a secure control station.

(3) Exterior security doors used solely to meet emergency evacuation requirements are not required to be sally ported; however, fencing the area to be utilized for evacuation is recommended.

d. Door frames shall be anchored securely to construction in which they are installed in order to withstand the extreme use/abuse to which doors will be subjected. Masonry supporting door frames shall

be reinforced and cores filled with grout a minimum of 16 inches each side of opening.

e. Security frames shall be completely filled with fine grout in accordance with A.S.T.M. C 476 or type "M" mortar.

C. Locks and locking systems.

1. **General.** Locks and locking systems should provide a level of performance consistent with the level of security, control, safety, and durability required and the type of surveillance utilized. The security and durability of the locks and locking systems should be comparable and compatible with that of the doors, frames or gates in which they are installed. All electrically remote operated doors discussed herein shall be equipped with a manual override feature.

2. **Locking devices.** Where a high degree of security and positive door control is required, sliding door locking devices should be provided and be capable of being operated from a secure control station.

a. Design options.

(1) **Maximum security.** Fully controllable locking devices, i.e., capable of locking, unlocking, opening and closing from a control station.

(2) **Medium security.** Manually operated devices in which a door is initially unlocked or released by remote action but which further opening or closing of the door is done manually.

b. Vehicle sally port gates should be capable of being operated and locked from a remote location, with provisions for manual operation and locking when power is off.

3. **Key operated locks.** Lock operation and size of lock bolt shall be compatible with the frequency of operation, the construction of the door and frame, the level of security required, and the type of surveillance utilized.

a. Mechanical locks are usually mounted on swinging doors and provide for deadlocking or slam-locking with automatic deadlocking.

b. Electro mechanical locks are generally jamb mounted and provide for slam-locking and remote, electric unlocking.

c. Design options.

(1) **Maximum security** (i.e., high security areas like holding cells, segregation cells, or areas with heavy bar grill or steel plate doors) lever tumbler locks should be used. Bolt is retracted by a paracentric key.

(2) **Medium security.** Lever tumbler or mogul cylinder locks should be used. Such locks are often used as electric locks with manual override.

(3) **Minimum security.** Normal commercial grade cylinder locks or security type mortise locks may be used depending on security level or frequency of operation anticipated.

4. Controls shall be provided to operate the locks and locking devices in the required modes.

a. The switches, relays and other devices should make up a control system compatible with the locks and locking devices and should be capable of providing the switching necessary to satisfy all desired operational modes.

b. A control console/panel shall be designed to display all switches to the operator. Normally installed in a secure area (i.e., officers control station) the console should be equipped with a switch for each door, a group switch for each wing of the building (or cell block) and switches for the corridor and sally port gates which control access to those wings. There should also be a power cut-off switch to deactivate the console whenever the officer must leave his station.

c. Status indication shall indicate the closed and locked position of the gate/doors on the control console or panel.

(1) Sliding gates/doors shall have indicated the dead locked position of the gate/door and the locked position of the front or rear locking bar.

(2) Swing gates/doors with jamb mounted electric release locks shall have indicated the closed position of the gate/door, the projected position of the lock bolt and the depressed position of the dead lock roller bolt. Note: green light indicates a closed and locked condition, while a red light indicates all other conditions.

d. In the event of a power failure the locking system shall be fail-secure. A fail secure system is held mechanically locked and only releases with electric or mechanical assistance.

e. Emergency release provisions shall be made for unlocking or gang-release of cell doors and in case of fire, power failure or other emergencies.

(1) Emergency power from a backup generator (internal combustion engine) is normally required for electric release of door systems in case of power failure.

(2) Other forms of emergency release involve some approved form of mechanical linkage, chain or

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cable system or an assembly of all, connected to door release mechanism for each cell, which when activated will release all doors at the same time. The release mechanism shall be in a securely locked steel cabinet.

D. Windows.

1. General. Performance requirements and criteria for the selection and intended use of windows should include the following considerations: security, natural lighting, ventilation, and weather protection.

2. Security type windows. Windows which are to be installed in the building perimeter security (exterior and interior walls and skylight assemblies) shall be security type windows of one or more of the following types:

a. Fixed windows shall have a steel frame to retain the glazing. Security is obtained through the use of security glazing and limitations on the size of openings. Frames fabricated from steel angles or manufactured heavy gauge security hollow metal frames are acceptable.

b. Awning windows with horizontal, tool resisting steel bars spaced maximum of six inches on centers concealed within the head of the frame, each rail of the ventilators and in the frame sill. These bars extend from jamb to jamb and connect into vertical tool resisting bars concealed in the side frames thereby forming a security grille.

c. Protected air vent windows which provide a large fixed glazed area and incorporate a hinged air vent which is protected by an integral slotted interior grille or security screen. The air vent is operated in a continuous opening and closing cycle by rotating a cone or operating handle in either direction. Tool resistant steel bars shall form a security grid.

d. Nonsecurity windows may be required in an exterior security wall to provide a noninstitutional appearance. When such windows are used, however, the window opening shall be protected on the interior side of the opening by a steel bar grillage, security frame and glazing assembly comparable to the security assemblies described herein.

3. Security features.

a. Where bar grille is used at windows and other openings the bar grille shall be similar in design and construction to bar grille partitions (See subdivision A 1 b (5) of § 3.1). Where bar grille is to be accessible to inmates for extended periods of time without constant supervision, bar grille work shall be fabricated from tool resistant steel.

b. All openings (such as windows, louvers, duct and

pipe penetrations, and skylights) eight inches by eight inches or larger penetrating the security perimeter walls, floors or roof must be protected by tool resistant bar grille similar in construction to bar grille partitions arranged to produce clear openings not to exceed 5" x 8". Duct, pipe and louver penetrations of interior security partitions shall be protected as required for openings in security perimeter walls.

c. Removable glazing stops should be applied wherever possible on the side opposite the inmate occupied area to avoid tampering. Where stops must be placed in an inmate area, they should be secured with an ample number of strong, properly installed, tamper-proof fasteners of design approved by the Department of Corrections. Junctions of horizontal and vertical glazing stops must be welded to prevent removal of portions of stop members.

d. All exterior windows in security areas which are capable of being opened must have additional protection of stainless steel wire contraband/insect screen.

E. Glazing.

1. General. A wide variety of glazing materials and assemblies are available for various applications within detention facilities. The performance characteristics to consider are resistance to ballistic attack, resistance to physical attack, durability, fire-safety, and installation. Glazing and glazing assemblies should provide a level of performance against ballistic and physical attacks which are consistent with the level of security and safety required and the type of surveillance utilized. The level of glazing resistances selected should be consistent with the resistances of the surrounding walls, louvers and other building components.

2. Security design considerations.

a. Key considerations where glazing is used, such as windows and doors in housing units, dayrooms, corridors, control rooms and stations, sally ports, visitation areas, are:

(1) Whether or not penetration of that glazing will compromise security and allow passage of contraband;

(2) Degree of staff supervision or surveillance; and

(3) Anticipated amount of vandalism.

b. As penetration of glazing in control rooms and stations will jeopardize security, glazing in these areas shall be able to withstand physical attacks for an extended time period - minimum of 30 minutes. Where control room windows are adjacent to uncontrolled public space(s) or the exterior of the

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building, glazing shall be rated for ballistic attack resistance as required by the nature and location of the facility.

c. In areas such as medium and maximum security housing units, glazing shall have adequate physical attack resistance to prevent penetration for a time sufficient to allow staff to respond to riots, or other emergencies. The assembly should withstand physical attack for a minimum of 30 minutes. If a glazed opening is less than five inches in one direction or the opening is protected by steel bars or rods (bar grillage), vandalism and subsequent maintenance should be important considerations for the selection of glazing and glazing assembly but physical attack glass is not required.

d. Where voice communications through the glazing is required, a system utilizing vandal resistant individual speakers, and microphones intercom or telephone shall be specified.

e. Where glazing is used in areas subject to abrasion and scratching, glass, glass-clad or mar-resistant material should be used.

f. Fire resistance, and flame spread of glazing materials, and the size of openings and area of glazing materials and assemblies must be in accordance with applicable codes and standards.

g. Ballistic and physical attack testing rating of glass shall be based on testing equal to the standards of H.P. White Laboratory, Inc., testing HPW-TP-0100.00[5] or equally comparable and certifiable testing laboratory as approved by the Department of Corrections.

h. Plate glass, float glass and other conventional glass other than wire glass shall not be used in any openings located in the secure perimeter or in any walls, partitions, door or other openings within the area enclosed by the secure perimeter.

§ 3.2. Secure housing units.

A. Secure housing shall be arranged and constructed to ensure the physical separation by normal sight and sound of male, female and juvenile inmates.

B. Secure housing shall be constructed in accordance with § 3.1 of this standard.

C. Secure housing shall be constructed to consist of housing for maximum, medium and minimum custody inmates. Recommended breakdown of these custody levels is 40% maximum, 30% medium, and 30% minimum.

1. Maximum security areas shall be designed as groupings of single cells with common dayrooms to afford protection for persons requiring close

supervision. The number of persons per unit will depend upon the degree of surveillance and security provided, but shall not exceed 12.

2. Medium security areas shall be constructed as single cells plus dayroom and shall accommodate no more than 20 persons per unit of cells plus dayroom. For jails having an occupancy in excess of 300 inmates, the number of occupants may be increased.

3. Minimum security areas may be of cells, rooms or dormitories. Cells must meet requirements in subsection E below. Dormitories must contain a minimum of 85 square feet excluding toilet/shower area for each inmate for which the area is designed. Minimum security areas shall accommodate no more than 20 persons per unit. For facilities having an occupancy in excess of 300 inmates, the number of occupants per unit may be increased.

D. Interior security walls shall be provided around and between all cell pods, dormitories, special purposes cells and along interior security corridors, booking/classification areas and control rooms or secure control stations.

E. All individual inmate cells or individual rooms shall be constructed to contain no less than 70 square feet of living space and have a ceiling height no less than eight feet. Individual cells or rooms shall be configured to incorporate a dayroom or activity space which contains no less than 35 square feet of space for each cell served, not including sally ports, showers, toilets or circulation for door swings.

F. All cells shall be provided with artificial light, toilet and lavatory fixtures, hot and cold water, a security type mirror, a stationary bed/bunk, storage space for personal items and proper ventilation.

G. Each dayroom shall be equipped with a shower, toilet, lavatory with hot and cold water, drinking fountain, or lavatory equipped with bubbler, tables, and benches. Tables and benches shall be stationary in maximum security areas. Stairs shall have open risers to avoid creating blind spots.

H. Interior multi-purpose space(s) shall be provided which is sufficient in size to allow for educational classes, religious services, counseling services, canteen, library, and program services. Total multi-purpose space square footage shall be constructed to provide a minimum of 15 square feet per inmate for which the facility is designed.

I. Equipment used in housing areas shall be appropriate to the needs of security levels.

J. If secure and less secure housing (see Part IV) are provided in the same building, design shall provide traffic patterns to assure the separation of secure and less secure inmate population.

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§ 3.3. Reception and release.

A. Intake, holding and processing.

1. The reception and release area shall be located within the security perimeter of the facility but outside the inmate housing area. Reception and release shall be separated from the housing area by an interior security wall.

2. The reception and release area shall be constructed to provide for the following: control station, temporary holding area(s), classification holding area(s), booking area, records area, property storage and clothing storage.

a. Reception and booking shall provide space for strip search and shower, clothing storage and issue, photograph and fingerprint, medical exam, classification, orientation, interview and telephone calls.

b. There shall be a minimum of one temporary holding area(s)/room(s) for each 25 inmates for which the facility is designed.

c. Holding area(s) shall be constructed to contain a minimum of 15 square feet per inmate, however, no single area shall contain less than 35 square feet. Each area shall contain a stationary bench/bunk and a stainless steel plumbing fixture(s) with sanitary bubbler, hot and cold water and privacy screening. Lighting shall be from a maximum security fixture and of sufficient intensity to permit sight supervision. Heat and ventilation shall be provided in accordance with Building Code requirements.

d. The reception and release area shall be controlled from a secure control station where monitoring equipment will be located to control functions of this area.

e. If a separate classification or cell block is provided, cells shall be not less than 35 square feet in area and be provided with a bunk, lighting, ventilation, and plumbing fixtures, as required by § 3.2 F. Dayrooms are not required for classification cells.

f. Classification should include an interview room with space for an officer and counselor.

g. Storage of inmate personal property shall be provided. Recommended is four to six inches of hanging space per inmate plus bins or lockers for items which cannot be hung.

B. Related areas.

Areas located adjacent to reception and release area,

but outside the security perimeter, are the vehicular sally port, magistrate's office (if provided), waiting room, and personnel sally port. The vehicular sally port and personnel sally port shall be provided with weapons lockers equipped with individually locked compartments.

§ 3.4. Auxiliary areas.

Security is the primary function of the jail. Specific attention must be afforded to design which facilitates physical plant, operational, and staff security.

A. Administration.

1. The jail shall provide sufficient space consistent with the size of the facility for administrative, program and clerical personnel. Adequate space for equipment, records and supplies shall be provided to meet established and projected needs. These spaces shall be located outside the inmate occupied areas.

2. Space shall be provided within the security perimeter for the jailor's office, counselor's office and other offices as the program for the jail requires.

3. The floor area provided for administration space shall comply generally with the "Guidelines for the Utilization of Office Space" published by the Department of General Services.

B. Public areas.

Public areas of the facility shall be located outside the security perimeter. Public access to the building shall be through a main entrance. The public shall not have uncontrolled access to enter the security perimeter. A waiting area with appropriate information signs and provisions for handicapped visitors shall be provided for the public and shall be so situated that it does not interfere with general office routine. The public waiting area shall include sufficient seating, drinking fountains, restrooms and lavatories. Restrooms should be provided with floor drain and hose bib. Provision of public telephones is suggested.

C. Facility visiting area(s).

Visitor accommodations shall be designed to provide flexibility in the degree of physical security and supervision commensurate with security requirements of variously classified inmates. Means shall be provided for audible communication between visitors and inmates, designed to prevent passage of contraband. Provisions shall be made for handicapped visitors. Noncontact visiting space shall be constructed to provide not less than one space for each 12 inmates for which the facility is designed. Additionally, a secure visiting area shall be provided for contact visits from law-enforcement officers, attorneys, clergy, and probation and parole officers. Lockers in the lobby or other convenient area for storage of handbags or other articles which cannot be taken into

the visiting area should be considered.

D. Exterior areas.

All exterior areas shall be adequately lighted and, where required by location or surrounding area, enclosed by a security fence.

E. Gun storage area.

Institutional secure gun storage shall be provided outside the security area of the facility.

F. Special purpose cells.

There shall be one special purpose cell (isolation, medical or segregation) for each 10 secure inmates for which the facility is designed. Special purpose cells are not required to have dayroom or activity space but shall not contain less than 70 square feet of floor space. These cells shall be equipped with a bunk, stainless steel toilet and lavatory fixtures, light, heat and ventilation. Separate showers shall be provided for use by special purpose cell inmates at the rate required by the Building Code. One special purpose cell shall be provided equipped with a water closet, lavatory, shower, and handicapped provisions within the security area of the jail. (Note: These cells will not be counted in the general population bed space of the jail; however, total bed space equals general population plus special purpose cells.)

G. Storage.

Beyond storage mentioned specifically for particular areas, the following shall be provided based upon facility capacity:

1. Secure storage for inmate personal property;
2. Storage for inmate clothing, linens, towels, etc.;
3. Storage for recreation and related equipment (shall be located near indoor and outdoor recreation areas);
4. Secure storage for medical supplies;
5. Storage for extra inmate mattresses and bunks;
6. Secure storage for janitorial supplies in janitor's closets located conveniently to areas serviced; and
7. Secure storage space for storage of security equipment, restraining devices, chemical agents, etc. This space shall be located in an area not accessible to inmates.

§ 3.5. Food service and laundry.

A. Food service.

1. Kitchen. If a kitchen is provided, it shall be

equipped to meet the standards of the Department of Health and the following:

- a. The kitchen shall be designed in accordance with the housing area capacity and include consideration for projected future expansion. The floor area provided for the kitchen shall be based on the inmate population to be served. The area shall be determined on the basis of 10 square feet per inmate for the first 100 inmates and three square feet per inmate for all inmates in excess of 100. No kitchen shall be less than 150 square feet. If a food pass is provided between the kitchen and housing area, it shall be protected with bar grille and a steel door with a secure detention lock. The kitchen shall be located with consideration to ease of serving the inmate population and where supplies can readily be received without breaching security.

- b. A janitor's closet and mop sink for exclusive use in the kitchen shall be located within the kitchen area.

- c. Selection of kitchen equipment shall be coordinated with the Department of Corrections. Equipment such as counters, work tables or shelving with wooden surfaces shall not be allowed in the kitchen.

- d. The floor in the food service areas shall be of a material which is impermeable, will withstand food spillage and is easily cleaned. The use of quarry tile set in an acid and alkali resistant grout and setting bed is recommended.

- e. Storage space of adequate size and type to accommodate perishable, frozen, and bulk dry food storage, shall be provided.

2. Dining.

- a. If a dining area is provided, a minimum of 15 square feet shall be provided for each inmate the area is designed to serve.

- b. If a dining area is provided, floors shall be of material that is impermeable, will withstand food spillage, cigarette burns, and is easily cleaned.

B. Laundry.

1. Laundry. If a laundry is provided, each jail design shall include sufficient space for a commercial type laundry. Finishes shall be as used in the kitchen area. Electrical, plumbing and ventilation shall be as described under § 3.6.

2. Supply storage. There shall be sufficient storage area for the laundry. If this area contains cleaning articles, it shall be kept locked and inaccessible to inmates, except under supervision of security staff or

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other institutional employees.

§ 3.6. Mechanical, plumbing and electrical.

A. Mechanical.

1. A mechanical room shall be provided which can be entered from outside the inmate security area.
2. An emergency power source sufficient to sustain, as a minimum, life safety operations shall be provided.
3. All facilities shall be designed to provide adequate ventilation and exhaust as required by the Building Code and the "Minimum Standards for Local Jails and Lockups." Where natural ventilation is not feasible, the facility must be climate controlled.

B. Plumbing.

When hot water is available, it will be controlled by a temperature limiting device to preclude temperatures in excess of 110° fahrenheit.

1. Shower stalls in secure housing shall be of secure construction, and include soap dish and drain. Shower heads shall be positioned to confine water flow to shower stall.
2. The showers in secure housing shall be controlled by a time limiting push button. Water temperature shall be controlled by a temperature limiting device inaccessible to inmates.
3. Shower and toilet areas shall be provided with a wall coating which will withstand humidity, will not chip or scale, and the walls and floors shall be waterproofed.
4. All exposed plumbing shall be kept flush with and be securely fastened to the walls and ceilings. No exposed plumbing pipes shall be accessible to the inmates in or from the dayroom or cell area.
5. Sufficient floor (water) drains shall be provided throughout the jail so as to enable water to be squeegeed off of floors in areas where water spillage may be a concern (i.e., showers, group toilet areas, dayrooms).
6. Plumbing fixtures in maximum security housing areas shall be stainless steel toilet/lavatory units.
7. Push button activators shall be used on the inmates side of the plumbing chase to operate the flush valve and lavatory faucets.
8. All housing areas shall be provided with janitorial closets, water drains, fire protection and adequate storage.

9. Separate restroom facilities shall be located throughout the building(s) for the use of security and administrative staff. Also, facilities shall be provided in or convenient to secure control rooms or stations.

10. If walk in type plumbing chases are provided, they shall be provided with a light(s) to facilitate maintenance.

11. Plastic piping shall not be used in the secure areas of the jail above the ground floor slab.

12. Hot and cold water shall be available in all lavatories and showers.

C. Electrical.

1. Wiring shall be run concealed to the greatest extent possible. Where wiring must be exposed and accessible it shall be housed in threaded rigid metal conduit and securely fastened to the walls or ceiling.

2. Wiring shall be in accordance with the Building Code.

§ 3.7. Miscellaneous.

A. Elevators.

1. Facilities with more than two floors shall be provided with an elevator(s) designed to comply with the Building Code. (Strongly recommend an elevator be provided if facility is more than one story in height.)

2. Elevators shall be of sufficient size to transport food carts. At least one elevator per facility shall be of sufficient size to transport stretchers.

3. Elevators shall be key operated or controlled from a control room via speaker/intercom communication.

B. Corridors.

Corridors used for the movement of inmates, stretchers, food carts, etc., shall be constructed to provide a minimum of five feet in width and eight feet in height. Corridors not used for the above functions shall be not less than that required by the Building Code.

C. Handicapped.

Facilities shall be constructed to provide cells, rooms or dormitories to accommodate handicapped inmates at a minimum rate of one handicapped room for each 50 or fewer inmates design capacity. Reasonable accessibility to program, activity, and recreation shall be provided to handicapped inmates. Provisions for handicapped employees and visitors shall be in accordance with the Building Code.

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D. Recreation.

Indoor and outdoor recreation space shall be provided.

1. Indoor recreation may be composed of classroom(s), vocational area(s), and multipurpose room(s), or any of the above. A minimum total space of 600 square feet shall be provided.
2. Outdoor recreation space shall be constructed to provide no less than 1,500 square feet. Minimum overhead clearance shall be 15 feet.
3. It is recommended that recreation space be increased in size in relation to size of facility and more than one recreation area be provided for larger jail facilities.

E. Fencing.

Security fencing or security wall shall be provided for recreation yards and all other areas which are required by these standards to be fenced. Fence shall be single fence, minimum of 12 feet in height, nine gauge, two inches mesh, zinc coated, steel wire interwoven fence fabric, with minimum of three strands of barbed wire attached to support arms at top of the line posts angled to the inmate side. Fence components including but not limited to the top and bottom rails, line posts, terminal posts, tension bars, attachments, concrete footings for the fence, walk gates and truck gates, shall be in accordance with manufacturers' recommendations.

F. Intercom and CCTV (Closed Circuit Television).

1. As a minimum the jail shall be equipped with a communication system monitored by a control center.
2. As a supplement to direct supervision, an intercom and CCTV shall be installed to observe, at a minimum, blind spots in main corridors, building entrances, and sally ports.

G. Telephone.

Telephone service shall be provided in all general population housing areas within the jail.

H. Emergency containment.

Alternate means for security containment shall be readily available in case of disaster, mass arrests or emergency evacuation. These facilities may be the exercise yard, an enclosed entrance sally port or any other approved area which will afford adequate security. When planned for this purpose, these areas shall permit access to toilets and drinking water.

I. Commissary.

It is recommended that space appropriate to the

capacity of the jail be provided for an inmate commissary.

J. Jail equipment.

All jail security equipment, fixtures, hardware, etc., shall be approved by the Department of Corrections.

K. Tamper resistant screws.

Tamper resistant screws shall be used at all locations where screw heads are exposed.

L. Wood products.

Wood or wood products shall not be used in the construction of the security area as part of the building structure.

M. Separation.

When constructed to house a combination of males, females or juveniles, each area shall be separated from the other in a manner which prohibits normal communication by sight or sound.

N. Food passes.

1. Food passes shall be installed in dayroom walls or in dayroom sally port doors and in all maximum and medium security cell doors. Food passes shall be located and installed in a manner which does not conflict with corridor rating requirements of the Building Code. Note: Holding and classification cells are considered maximum security.
2. The size of an unsecured food pass shall be 4-1/2 to five inches high and wide enough for the tray width required.
3. Food passes shall be required in dayrooms, special purpose areas, and maximum security cell doors.

O. Key passes/paper passes.

A security type key pass/paper pass shall be provided in the wall of all control stations adjacent to inmate occupied areas.

PART IV. CONSTRUCTION AND DESIGN REQUIREMENTS FOR LESS-SECURE FACILITIES.

§ 4.1. Less-secure construction.

Buildings or parts of buildings constructed for use as less-secure facilities shall not be used for the detention of secure custody level inmates without upgrade of construction to that required by § 3.1 of these standards. The requirements for less-secure facilities as described within §§ 4.1 through 4.2 reflect a noncombustible construction classification and a minimally secured

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institutional restrained building classification. Such structure houses work/study release, weekenders, or other inmates of less security consideration. Building components proposed shall address the strength, safety and durability characteristics for the custody level of the facility. Such components shall be approved by the Department of Corrections.

A. Walls, floors, ceilings.

1. Exterior walls shall be of masonry, concrete, stone or other durable fire resistant material.
2. Roof and floor construction shall be noncombustible.
3. Windows which are capable of being opened shall be provided with contraband screen and insect screen.
4. All interior finishes shall be durable, have a smooth finish and a flame spread rating of 25 or less, ASTM E-84.

B. Windows, doors.

1. Doors, windows and frames shall be heavy duty commercial or detention type.
2. Locks shall be at least heavy duty commercial and shall be remote release where required by the Building Code.

C. Lighting.

1. Light fixtures shall be of good quality secured with tamper resistant screws.
2. Intensity of lighting shall be in accordance with "Minimum Standards for Local Jails and Lockups."
3. Natural light is required in inmate housing areas.

§ 4.2. Less-secure design.

A. Housing units.

Less-secure housing shall be constructed in accordance with § 4.1 of this standard and shall be designed as follows:

1. Less secure housing shall be constructed as a separate building from the secure housing section of the jail or separated from the secure portion of a facility by a security wall.
2. Less secure housing shall consist of individual rooms or dormitories with not more than 25 inmates per dormitory or group of rooms.
3. All less secure housing shall provide a minimum of 50 square feet of living space per inmate in room or dormitory plus activity space(s) providing 35 square

feet per inmate.

4. Each group of inmate rooms or dormitories shall be provided with artificial light, toilet fixtures, hot and cold water, mirror, bed/bunk and storage space for personal items. The number of plumbing fixtures in dormitories shall be in accordance with the Building Code.

5. Dormitories and activity spaces shall be equipped with tables and benches/chairs.

6. Showers (number in accordance with the Building Code) shall be provided in dormitories and for rooms. For individual rooms, showers and toilet facilities shall be located in a common area adjacent or convenient to rooms served. Common area toilets shall not accommodate more than 25 inmates.

7. Equipment used in less secure housing shall be heavy duty and appropriate to the needs of the security level.

8. Provisions shall be made for food service and laundry in less secure housing.

9. An area separate from the inmate living area shall be provided for the visiting public, clergy or lawyers and for use by counselors or other administrative staff.

B. Mechanical, plumbing and electrical.

1. Mechanical.

a. If constructed as a separate building, facilities shall be provided with a mechanical room which can be entered from outside the inmate area.

b. An emergency power source shall be provided sufficient to sustain, as a minimum, life safety operations.

c. All facilities shall be designed to provide adequate ventilation as required by the Building Code. Where natural ventilation is not feasible, the facility must be climate controlled.

2. Plumbing

a. Shower and toilet areas shall be provided with a wall coating which will withstand humidity, and will not chip or scale. Walls and floors shall be waterproofed.

b. All exposed plumbing shall, to the greatest extent possible, be kept flush with the walls and ceilings.

c. Sufficient floor (water) drains shall be located throughout the facility to inhibit water from standing on the floors.

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d. A water fountain shall be provided in accordance with the Building Code.

e. All housing areas shall be provided with janitorial closets, water drains, and fire protection and storage.

f. Separate restroom facilities shall be located throughout the building(s) for use by security and administrative personnel.

g. If plumbing chases are the walk-in type, it is recommended that they be provided with a light to facilitate maintenance.

h. Plastic piping shall not be used inside the jail facility above ground floor slab.

3. Electrical

a. Wiring shall be run concealed to the greatest extent possible. Where wiring must be exposed and accessible, it shall be housed in IMC.

b. Wiring shall be in accordance with the Building Code.

C. Miscellaneous.

1. Elevators.

a. Separate buildings constructed as less secure housing with more than two floors shall be provided with an elevator(s) designed to comply with the Building Code. Recommend elevator be provided if building is more than one floor.

b. Elevators shall be of sufficient size to transport food carts. At least one elevator per facility shall be of sufficient size to transport stretchers.

2. Corridors. Corridors used for the movement of inmates, stretchers, food carts, etc., shall be constructed to provide a minimum of five feet in width and eight feet in height. Dimensions for corridors not used for the above functions shall be no less than as required by the Building Code.

3. Handicapped. Facilities shall be constructed to provide rooms or dormitories to accommodate handicapped inmates at a minimum rate of one handicapped room for each 50 or fewer inmates. Counseling and program space shall be handicapped accessible. Provisions for handicapped employees and visitors shall be in accordance with the Building Code.

4. Intercom and CCTV.

a. As a minimum, the facility shall be equipped with a system capable of communicating with the control center.

b. As a supplement to direct supervision, an intercom and CCTV shall be installed to observe, at a minimum, blind spots in main corridors, building entrances, and sally ports.

5. Telephone. Telephone service shall be accessible within the facility.

6. Commissary. Provisions shall be made for commissary services.

7. Fencing. Fencing as specified in § 3.7 E shall be provided around the area in which the less secure building is erected. Where only weekenders, work/study release, and inmates of similar minor security consideration are housed, a fence is optional.

PART V.

CONSTRUCTION AND DESIGN REQUIREMENTS FOR LOCKUPS.

§ 5.1. Lockups construction.

A lockup is a facility, the primary use of which is to detain persons for short periods of time as determined by the Board of Corrections.

A. Lockups shall meet the construction and life safety requirements of the Building Code and shall be of fireproof construction.

B. Lockups shall be composed of individual cells or an area for group holding. Cells shall be constructed to provide at least 35 square feet per person and have a ceiling elevation of eight feet. Group holding areas shall provide at least 15 square feet per person, but in no case shall have less than 35 square feet of area.

C. Where necessary for separation of males and females, cells shall provide separation which reduces sight and sound contact to a minimum.

D. Cell walls and the secure perimeter of the lock up area shall be constructed to meet standards specified in § 3.1 A.1 b.

E. Cell fronts and doors shall be equal to that required for maximum security housing in Part III of these standards.

F. All surfaces shall be smooth and painted with epoxy or oil base enamel or be of other approved durable finishes. Surface flame spread rating shall be Class I, 25 or less, ASTM E-84.

G. Each cell or area for group holding must be provided with a stainless steel combination toilet and lavatory with integral drinking fountain.

H. Each cell or area for group holding shall have one stationary steel or concrete wall bunk or bench.

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I. Light, heat, and ventilation shall meet the requirements of that for secure construction in these standards.

J. Sufficient floor drains shall be provided throughout the lockup to prevent water from standing on the floors.

K. As a minimum, lockups shall be monitored by sound (intercom) or be directly supervised by staff on a continuous basis. Additional supervision by use of CCTV is preferable.

L. Security equipment and hardware shall be approved by the Department of Corrections. Tamper resistant screws shall be used in all locations where screw heads are exposed.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

Title of Regulation: VR 240-02-01. Regulations Relating to Criminal History Record Information Part I; Criminal History Record Information Security Part II Use and Security .

Statutory Authority: §§ 9-170 and 9-184 through § 9-192 § 9-196 of the Code of Virginia.

Public Hearing Date: September 19, 1989 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

The proposed amendments to the regulations are submitted in accordance with § 9-6.14:7.1 of the Code of Virginia.

These amendments are being proposed pursuant to the regulation issuing authority granted to the Criminal Justice Services Board by § 9-170 of the Code of Virginia.

The proposed amendments more clearly delineate and update the recordkeeping procedures for the proper collection, correction, amendment, maintenance, dissemination and expungement of criminal history record information. Further, the amended regulations also provide for administrative sanctions for noncompliance with procedures outlined in the regulations. Backup systems and recovery plans are recommended for automated systems.

The existing regulations were last amended on January 8, 1986, and became effective on April 1, 1986.

VR 240-02-01. Regulations Relating to Criminal History Record Information Use and Security.

PART I. GENERAL.

Pursuant to the provisions of §§ 9-170(1), 9-170(15), 9-170(16), 9-170(17) and , 9-170(20) and § 9-186 through 9-192 §§ 9-184 through 9-196 of the Code of Virginia, the Criminal Justice Services Board hereby promulgates the following regulations : relating to Criminal History Record Information Use and Security.

The purpose of these regulations is to assure that state and local criminal justice agencies maintaining criminal history record information establish required record keeping procedures to ensure that criminal history record information is accurate, complete, timely, electronically and physically secure, and disseminated only in accordance with federal and state legislation and regulations. Agencies may implement specific procedures appropriate to their particular systems, but at a minimum shall abide by the requirements outlined herein.

§ 1.1. Definitions.

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

"Access" means the ability to obtain, directly or through an intermediary, criminal history record information contained in manual or automated files.

"Board" means the Criminal Justice Services Board , as defined in § 9-168 of the Code of Virginia .

"Central Criminal Records Exchange (CCRE)" means that the repository in this Commonwealth which receives, identifies , and maintains , and disseminates individual criminal history records , in accordance with § 9-170(21) of the Code of Virginia .

"Conviction data" means information in the custody of any criminal justice agency relating to a judgement of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.), of Title 16.1 of the Code of Virginia, criminal justice investigative information, or correctional status

information.

"Criminal history record information area" means any area, office, room, or space in which criminal history record information is regularly collected, processed, stored, or disseminated to an authorized user. This area includes computer rooms, computer terminal workstations, file rooms and any other rooms or space in which the above activities are carried out.

"Criminal intelligence information" means information on identifiable individuals compiled in an effort to anticipate, prevent or monitor possible criminal activity.

"Criminal investigative information" means information on identifiable individuals compiled in the course of the investigation of specific criminal acts.

"Criminal justice agency" means a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, which is used for the collection, processing, preservation or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Destroy" means to totally eliminate and eradicate by various methods, including, but not limited to, shredding, incinerating, or pulping.

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

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term does not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and a right to know the information.

"Expunge" means removal by to remove, in accordance with a court order, a criminal history record, or a portion of a record, from public inspection or normal access.

"Modify" means to add or delete information from a record to accurately reflect the reported facts of an individual's criminal history record. (See § 9-192(C) of the Code of Virginia.) This includes eradicating, supplementing, updating, and correcting inaccurate and erroneous information.

"Seal" means to physically secure to prevent inspection, except where specified by court order access to a criminal history record, or portion of a criminal history record.

PART II. CRIMINAL HISTORY RECORD INFORMATION USE.

§ 1.2. § 2.1. Applicability.

These regulations are applicable to govern originals or and copies, of manual or automated criminal history record information which are used, collected, stored or disseminated by a state or local criminal justice agency of agencies or other agencies receiving criminal history record information in the Commonwealth; its political subdivisions, and the United States or another state or its political subdivisions but only to the extent of that exchange. Further, these rules apply to noncriminal justice agencies or individuals who are eligible under the provisions of law to receive such limited criminal history record information. The regulations also set forth the required procedures that ensure the proper processing of the expungement of criminal history record information. The provisions of these regulations apply to the following groups, agencies and individuals:

1. State and local criminal justice agencies and subunits of these agencies in the Commonwealth;
2. The United States Government or the government of another state or its political subdivisions which exchange such information with agencies in the Commonwealth, but only to the extent of that exchange;
3. Noncriminal justice agencies or individuals who are eligible under the provisions of § 19.2-389 of the Code of Virginia to receive limited criminal history record information.

The provisions of these regulations do not apply to the:
(i) original or copied records of entry, such as police blotters maintained by a criminal justice agency on a chronological basis and permitted to be made public, but only if such records are not indexed or accessible by name; (ii) offense and dispatch records maintained by a criminal justice agency on a chronological basis and permitted to be made public, if such records are not indexed or accessible by name or do not contain criminal history record information; (iii) court records of public criminal proceedings, including opinions and published compilations thereof; (iv) records of traffic offenses disseminated to or maintained by the Department of Motor Vehicles for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses; (v) statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable; (vi) announcements of executive clemency; (vii) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons; and (viii) criminal justice

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intelligence information; or criminal justice investigative information.

Nothing in these regulations shall be construed as prohibiting a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, which is related to the offense for which the individual is currently within the criminal justice system.

§ 1-3. § 2.2. Collection and storage .

It shall be incumbent upon each criminal justice agency maintaining a criminal justice information system to ensure the timeliness and accuracy of information in the system, collected after November 1, 1976, and dispositions shall be reported promptly to the Central Criminal Records Exchange when appropriate, or to the arresting agency for offenses not required to be reported to the Central Criminal Records Exchange, but in no case later than 30 days after the disposition. In the event inaccuracies are discovered in the information collected, the agency shall notify all agencies and individuals known to have received the information and corrections shall be made in the information.

There shall be no use or dissemination of criminal history record information by criminal justice agency personnel until it has been determined to be the most accurate and complete information available to the criminal justice agency.

A. Responsibility.

Responsibility for collecting and updating criminal history record information rests with:

1. State officials and agencies having the power to arrest, detain, or hold convicted persons in correctional facilities;
2. Sheriffs of cities or counties;
3. Police officials of cities, counties and towns;
4. Other local law-enforcement officers or conservators of the peace who have the power to arrest for a felony (see § 19.2-390 of the Code of Virginia);
5. Clerks of court and court agencies or officers of the court; and
6. Other criminal justice agencies or agencies having criminal justice responsibilities which generate criminal history record information.

B. Reportable offenses.

The above officials and their representatives are

required to submit to the Central Criminal Records Exchange, on forms provided by the Central Criminal Records Exchange, a report on every arrest they complete for:

1. Treason;
2. Felonies or offenses punishable as a misdemeanor under Title 54.1 of the Code of Virginia;
3. Class 1 and 2 misdemeanors under Title 18.2 (except an arrest for a violation of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2;
4. Violation of Article 2 (§ 18.2-415) of Chapter 9 of Title 18.2, or 18.2-119; and
5. Violation of any similar ordinance of a county, city or town.

The chief of police, sheriff, or agency head is responsible for establishing a system to ensure that arrest forms are completed and submitted in a timely and accurate fashion.

C. Timelines of submission.

1. Arrests. Arrest reports for all offenses noted above, except as provided in this section, and a fingerprint card for the arrested individual shall be forwarded to the Central Criminal Records Exchange in accordance with the time limits specified by the Department of State Police. A copy of the Central Criminal Records Exchange arrest form shall also be sent to the local court (a copy of the form is provided for the courts) at the same time.

The link between the arrest report and the fingerprint card shall be established according to Central Criminal Records Exchange requirements. Arrests that occur simultaneously for multiple offenses need only be accompanied by one fingerprint card.

2. Nonconvictions. For arrests except as noted in subdivision 3a below, the clerk of each circuit and district court shall notify the Central Criminal Records Exchange of the final action on a case. This notification must always be made no more than 30 days from the date the order is entered by the presiding judge.

3. Convictions.

- a. For persons arrested and released on summonses under § 19.2-74 of the Code of Virginia, the chief law-enforcement officer or his designee, who may be the arresting officer, shall furnish fingerprint cards and a completed copy of the Central Criminal Records Exchange form to the Central Criminal Records Exchange. The form shall be completed immediately upon conviction unless an appeal is

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noted. In the case of an appeal, officials responsible for reporting the disposition of charges shall report the conviction within 30 days after final action of the case.

b. For arrests except as noted in subdivision 3 a above, the clerk of each circuit and district court shall notify the Central Criminal Records Exchange of the final action on a case. This notification must always be made no more than 30 days from the date the order is entered by the presiding judge unless an appeal is noted and then it must be made no more than 30 days after the time to file an appeal has elapsed and no appeal has been perfected. (See § 19.2-390(b) and 19.2-390(e) of the Code of Virginia.)

4. Final disposition. State correctional officials shall submit to the Central Criminal Records Exchange the release status of an inmate of the state correctional system within 10 days of the release.

D. Updating and accuracy.

Arresting officers and court clerks noted above are responsible for notifying the Central Criminal Records Exchange in a timely fashion, and always within 30 days, of changes or errors and necessary corrections in arrests, convictions, or other dispositions, concerning arrests and dispositions that their agency originated. In the case of correctional status or release information, correctional officials are responsible for notifying the Central Criminal Records Exchange within the same time limits of updates or changes in correctional status information. Forms for updating and correcting information are provided by the Central Criminal Records Exchange.

Each agency is required to supply timely corrections of criminal history record information the agency has provided to a criminal justice or noncriminal justice agency for a period of two years after the date of dissemination.

E. Locally maintained and nonreportable offenses.

Criminal history record information generated by a criminal justice agency and maintained in a locally used and maintained file, including criminal history record information on offenses not required to be reported to the Central Criminal Records Exchange but maintained in local files, as well as criminal history record information maintained by the Central Criminal Records Exchange, shall adhere to the standards of collection, timeliness, updating and accuracy as required by these regulations. Arrests shall be noted and convictions or adjudications recorded within 30 days of court action or the elapse of time to appeal.

§ 1.4. § 2.3. Dissemination.

All criminal history record information shall be

disseminated directly or through an intermediary only in accordance with the provisions of §§ 9-184 and 19.2-389 of the Code of Virginia.

Criminal justice agencies disseminating criminal history record information shall maintain a record of such dissemination as to the receiving criminal justice agency or noncriminal justice agency or individual. The record shall consist of the date of dissemination, identifying name or number of subject record and agency or individual to whom the record was disseminated. Secondary or any subsequent dissemination by a criminal justice agency shall be guided by the same rules and regulations as outlined herein for a primary dissemination. A noncriminal justice agency or individual shall not disseminate any criminal history record information.

If a criminal justice agency determines that an agency or individual to which criminal history record information has been disseminated has further disseminated that information in violation of law, a report of that alleged violation shall be made promptly to the department.

A record of dissemination shall be preserved for a period of not less than two years from date of dissemination.

Prior to any dissemination of a criminal history record by a criminal justice agency, a query of the Central Criminal Records Exchange shall be made to ensure that the most up-to-date disposition data are used. Exceptions to this query are limited to those instances set forth in § 19.2-389(D) of the Code of Virginia.

"Conviction data" record information shall be disseminated to a noncriminal justice agency or individual in compliance with the existing laws and its use shall be limited to the purpose of the original dissemination and shall not be disseminated further.

No agency or individual shall confirm or deny the existence or nonexistence of criminal history record information to any persons or agency that would not be eligible to receive the information itself. No dissemination of a criminal history record is to be made to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of arrest and no disposition of the charge has been recorded and no active prosecution of charge is pending.

Interstate dissemination of criminal history record information shall be governed by existing state and federal law.

Criminal justice agencies may charge a reasonable fee for search time expended and copying when dissemination of criminal history record information is requested by a noncriminal justice agency or individual. The schedule of fees to be charged shall be posted.

A. Authorization.

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No agency or individual shall confirm or deny the existence or nonexistence of a criminal history record to persons or agencies that would not be eligible to receive the information. No dissemination of a criminal history record is to be made to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending.

Criminal history record information or portions of an individual's record both maintained and used by criminal justice agencies and eligible recipients, maintained either at the Central Criminal Records Exchange, or by the originating criminal justice agency, or both, shall only be disseminated as provided by § 19.2-389 of the Code of Virginia.

Upon receipt of a request for criminal history record information, by personal contact, mail, or electronic means from an agency or individual claiming to be authorized to obtain such information, the person responding to the request shall determine whether the requesting agency or individual is authorized to receive criminal history record information.

Criminal justice agencies shall determine what positions in their agency require regular access to criminal history record information as part of their job responsibilities. These positions will be exempt from the dissemination rules below. Use of criminal history record information by a member of an agency not occupying a position authorized to receive criminal history record information, or for a purpose or activity other than one for which the person is authorized to receive criminal history record information, will be considered a dissemination and shall meet the provisions of this section. If the user of criminal history record information does not meet the procedures in subsection B, the use of the information will be considered an unauthorized dissemination.

The release of criminal history record information to an individual or entity not included in § 19.2-389 of the Code of Virginia is unlawful and unauthorized. An individual or agency that releases criminal history record information to a party which does not clearly belong to one of the categories of agencies and individuals authorized to receive the information as outlined in § 19.2-389 of the Code is subject to being denied access to state and national criminal history record information on a temporary or permanent basis and to the administrative sanctions described in § 2.8 of these regulations. Unlawful dissemination contrary to the provisions of these regulations is also a Class 2 misdemeanor (see § 9-195 of the Code of Virginia).

B. Procedures for responding to requests.

An agency disseminating criminal history record information shall adhere to the following regulations:

1. Allowable responses to requests. Local and regional criminal justice agencies may respond to requests for criminal history record information in two ways:

a. For offenses required to be reported to the Central Criminal Records Exchange (CCRE), they may refer the requester to the Central Criminal Records Exchange, which will directly provide the requester with the information, or shall themselves query the Central Criminal Records Exchange to obtain the most accurate and complete information available and provide the information to the requester. (See § 19.2-389 of the Code of Virginia.)

It should be noted that the Code of Virginia provides an exception to the above mentioned procedure for responding to information requests. The local law-enforcement agency may directly provide criminal history record information to the requester without making an inquiry to the Central Criminal Records Exchange or referring the requester to the Central Criminal Records Exchange if the time is of the essence and the normal response time of the exchange would exceed the necessary time period. (See § 19.2-389 of the Code of Virginia.) Under circumstances where an inquiry to the exchange is not made, the record provided by the local agency should be accompanied by an appropriate disclaimer indicating that the record may not be complete.

b. For nonreportable offenses (those offenses not reported to the Central Criminal Records Exchange), the law-enforcement agency shall provide the information requested, following the dissemination procedures as required by the regulations below.

2. Prior to dissemination. Prior to disseminating criminal history record information an agency shall:

a. Verify requester identity.

(1) Individual requester. For an individual requesting his own record and not known to the person responding to the request, the individual shall provide proper identification, to include at least two of the following: (i) a valid passport, (ii) drivers' license with photo, (iii) social security card, (iv) birth certificate, or (v) military identification, if there is more than one name match. Fingerprints or other additional information shall be required if the disseminating agency deems it appropriate or necessary to ensure a match of the record and the requesting subject.

(2) Criminal justice agencies. For personnel of criminal justice agencies requesting a record, the requester shall provide valid agency identification unless the disseminator recognizes the requesting individual as having previously been authorized to receive the information for the same purpose.

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(3) Noncriminal justice agencies or individuals. For an individual requesting the record of another, as in the case of an attorney requesting the record of his client, the individual shall provide a sworn written request from the record subject naming the requester as a recipient, as provided in § 19.2-389A of the Code of Virginia. Identification of the attorney or individual shall also be required unless the attorney or individual is known to the official responding to the request.

b. Verify record subject identity. Because serious harm could come from the matching of criminal history record information to the wrong individual, verification procedures shall be carefully managed, particularly when dissemination will be to noncriminal justice recipients. The following verification methods are the only acceptable methods:

(1) Individual requesters. The verification requirements for individuals requesting their own records and for individual requesters with sworn requests from the subject of the information shall be the same as the requirements for noncriminal justice agencies as described below. Only when information supplied and information in the Central Criminal Records Exchange or local files satisfactorily match shall information be disseminated.

(2) Criminal justice agencies. Criminal history record information which reasonably corresponds to the name, aliases, and physical identity of the subject can be disseminated to a legitimate requester when time is of the essence or if criminal justice interests will be best served by the dissemination. This includes the dissemination of records with similar but not identical name spellings, similar physical characteristics, and similar but not identical aliases. When criminal history record information is obtained in this manner and results in an apparent match between the identity of the subject and the record, the criminal history record should be verified using fingerprint identification prior to prosecution, adjudication or sentencing of the record subject. If an agency does not have the capability to classify fingerprints, it may submit them by mail to the Central Criminal Records Exchange.

(3) Noncriminal justice agencies. Full name, date of birth, race, and sex of the record subject must be provided by the requester for a criminal history record to be disseminated. Fingerprint identification may be required prior to dissemination if there is any doubt as to the match. If an agency does not have the capability to classify fingerprints, it may submit them by mail to the Central Criminal Records Exchange. Information supplied by the requester and available through the Central Criminal

Records Exchange (or in the local files where the request is for criminal history record information maintained only locally) must match to the satisfaction of the disseminator, or the dissemination shall not be made.

c. Notify requester of costs and restrictions. The official responsible for aiding the requester shall notify the requester of the costs involved and of restrictions generally imposed on use of the data, or be reasonably assured that the requester is familiar with the costs and restrictions, prior to beginning the search for the requested criminal history record information, and shall obtain the consent of the requester to pay any charges associated with the dissemination.

3. Locating and disseminating information requested. Once a request for a criminal history record has been made, and the responsible official is satisfied as to the legitimacy of the request and the identity of the subject and has informed the requester of costs and restrictions, the responsible official conducting the search for the record shall supply the information after querying the Central Criminal Records Exchange. However, if time is of the essence, or the offenses in a criminal history record are not required to be reported to Central Criminal Records Exchange, the responsible official may directly supply the information (see § 19.2-389 of the Code of Virginia).

4. Instructions regarding dissemination to requesters. The disseminated record must be accompanied by one of the three following messages in printed form, whichever matches the category of the requester:

a. Record subjects. Record subjects have a right to receive and disseminate their own criminal history record information, subject to these regulations and § 19.2-389(11) of the Code of Virginia. If a record subject or his attorney complies with the requirements of these sections, he shall be given the requested criminal history record information. However, if an agency or individual receives a record from the record subject, that agency or individual shall not further disseminate the record. The following printed message shall accompany the criminal history record information disseminated to a record subject:

"THIS RECORD PROVIDED AT THE REQUEST OF RECORD SUBJECT. FURTHER DISSEMINATION WILL SUBJECT THE DISSEMINATOR TO CRIMINAL AND CIVIL PENALTIES."

b. Criminal justice agencies. The following printed message shall accompany the criminal history record information disseminated to a criminal justice agency:

"UNAUTHORIZED OR FURTHER DISSEMINATION

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WILL SUBJECT THE DISSEMINATOR TO CRIMINAL AND CIVIL PENALTIES.”

c. Noncriminal justice agencies and individuals other than record subjects. Even with the sworn consent of the record subject, only criminal history record information that is conviction data shall be disseminated to a noncriminal justice agency or individual in compliance with the existing laws and shall not be disseminated further. The following printed message shall accompany the criminal history record information disseminated to an individual or a noncriminal justice agency receiving criminal history record information:

“UNAUTHORIZED OR FURTHER DISSEMINATION WILL SUBJECT THE DISSEMINATOR TO CRIMINAL AND CIVIL PENALTIES.”

5. Maintaining a dissemination log. A record of any dissemination shall be maintained at the disseminating agency or shall be accessible electronically for a period of at least two years from the date of the dissemination.

The dissemination log must list all requests for criminal history record information. The log may be automated or manual.

Records will include the following information on each dissemination:

- a. Date of inquiry;
- b. Requesting agency name and address;
- c. Identifying name and number (either FBI or state identification number of record subject, or notification of “no record found”);
- d. Name of requester within the agency requesting criminal history record information; and
- e. Name of disseminator (officer or civilian who provides the criminal history record information to the requester).

6. Reporting unauthorized disseminations. While individual agencies are not expected to audit agencies who receive criminal history record information that they provide, in order to identify unauthorized releases, they shall notify the Department of any violations observed of the above dissemination regulations. The department will investigate and respond to the violation in a manner deemed appropriate by the department.

An agency which knowingly fails to report a violation may be subject to immediate audit of its entire dissemination log to ensure that disseminations are being appropriately managed.

7. Interstate dissemination. Interstate dissemination of criminal history record information shall be subject to the procedures described herein. Dissemination to an agency outside of the Commonwealth shall be carried out in compliance with Virginia law and these regulations, as if the agency were within the jurisdiction of the Commonwealth.

8. Fees. Criminal justice agencies may charge a reasonable fee for search and copying time expended when dissemination of criminal history record information is requested by a noncriminal justice agency or individual. The schedule of fees to be charged shall be posted, and approval to incur such costs shall be obtained prior to initiating a search.

§ 1.5. § 2.4. Access and review.

A. Who can review.

Any An individual or his attorney, upon providing proper identification and in the case of an attorney representing a client, with a sworn written request from the record subject, shall have the right to inspect criminal history record information being maintained on that individual by the Central Criminal Records Exchange or any other criminal justice agency agencies. Completing a request form may be required by the Central Criminal Records Exchange or the local criminal justice agency.

Prior to any such inspection, the agency may request a verification of the individual's identity through the furnishing by the individual of a set of inked fingerprints. Should an agency receiving such a request not have the capabilities to handle the classification of the fingerprints, same may be submitted by mail to the Central Criminal Records Exchange, which in turn will make the appropriate search and return to the requesting agency. At a minimum, verification of identity shall be a valid motor vehicle operators' license, valid nonoperators' identification card, or valid photo identification of federal or state agency.

A fee not to exceed \$5.00 may be charged by the requested agency to cover administrative costs.

B. Review at local agency or central criminal records exchange.

Any An individual or his attorney may inspect his review the individual's criminal history record information arising from arrests for felonies and Class 1 and 2 misdemeanors maintained on him in the Central Criminal Records Exchange by applying at any law enforcement agency with terminal capabilities on the Virginia Criminal Information Network or to the Central Criminal Records Exchange of the Virginia Department of State Police, directly, during normal working hours.

The agency to which the request is directed shall provide reasonable assistance to the individual or his

attorney to help understand the record. The agency to which the request is directed shall inform the individual or his attorney of the procedures associated with the review.

Individuals shall be provided, at cost, one copy of their record. If no record can be found, a statement shall be furnished to this effect.

C. Timeliness and completeness.

An individual requesting his own record shall be advised when the record will be available. In no case shall the time between request and availability of the record exceed one week, except where fingerprint identification is required; then it shall not exceed 30 days. Agencies should seek to provide the record as soon as reasonably possible unless there are questions of identification.

The agency locating an individual's criminal history record information shall examine its own files and shall contact the Central Criminal Records Exchange for the most up-to-date criminal history record information, and supply both to the requester.

D. Assistance.

The agency to which the request is directed shall provide reasonable assistance to the individual or his attorney to help understand the record.

The official releasing the record shall also inform the individual of his right to challenge the record.

§ 1.6. § 2.5. Challenge.

Individuals who desire to challenge their own criminal history record information must execute complete the appropriate challenge form as required and forward it to the Central Criminal Records Exchange or the criminal justice agency maintaining the record. A duplicate copy of the form and the challenged record may be maintained by the individual initiating the challenge or review. A copy of the challenged record may be furnished to the requesting individual. This copy shall be prominently marked or stamped "NOT TO BE DISSEMINATED FURTHER EXCEPT AS PROVIDED BY LAW."

A fee not to exceed \$1.00 per page may be charged by the criminal justice agency. A challenge will be processed as described below.

§ 1.7. Challenge of criminal history A. Record maintained by the Central Criminal Records Exchange.

1. *Message flags.* If the challenge is made of a record maintained by the Central Criminal Records Exchange, both the manual and for the automated record shall be flagged with the message "CHALLENGED RECORD." All records A challenged record disseminated shall contain carry this message when

disseminated while under challenge.

2. *Review at exchange.* The Central Criminal Records Exchange shall compare the original input form and the information contained in the repository files and as reviewed by the individual with the original arrest or disposition form. If no error is located, the Central Criminal Records Exchange shall forward a copy of the original challenge form, a copy of the Central Criminal Records Exchange form record and any other relevant information to the agency or agencies which the Central Criminal Records Exchange records indicate as having originated the information under challenge, and shall request them to examine the relevant files to determine the validity of the challenge.

3. *Examination.* The agency or agencies responsible for originating the challenged record shall conduct an examination of the agency's their source data, the contents of the challenge, and information supplied by the Central Criminal Records Exchange for any discrepancies or errors, and shall advise the Central Criminal Records Exchange as to of the results of the examination.

4. *Correction.* If any modification of a Central Criminal Records Exchange record is required, the Central Criminal Records Exchange shall modify the record and shall then notify the agency in which the record was originally reviewed of the Central Criminal Records Exchange's its action, and supply it and other agencies involved in the review with a copy of the corrected record.

5. *Notification by Central Criminal Records Exchange.* The Central Criminal Records Exchange shall also provide notification of the correction to all recipients of the record within the last 24 months.

6. *Notification by other criminal justice agencies.* Criminal justice agencies which have disseminated an erroneous or incomplete record shall in turn notify agencies which have received the disseminated record or portion of the record in the last two years from the date of the Central Criminal Records Exchange modifications of the records. Notification shall consist of sending a copy of the original record, and corrections made, to the recipients of the erroneous record noted in the dissemination log for the two-year period prior to the date of correction by the Central Criminal Records Exchange. (See Section 9-192 C of the Code of Virginia.) The agency in which the review and challenge occurred shall notify the individual or his attorney of the action of Central Criminal Records Exchange's action.

Challenge of Criminal History B. Record maintained by a criminal justice agency other than the central Criminal Records Exchange.

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1. *Message flags.* If a challenge is made of a record maintained by an agency, both the manual and for the automated record shall be flagged with the message "CHALLENGED RECORD." All disseminated records shall contain this message while under challenge.

2. *Examination and correction agency.* If the challenged record pertains to the agency's arrest information, the arresting agency shall examine all the relevant files to determine the validity of the challenge. If no error(s) is found, the review demonstrates that modification is in order, the modification shall be completed and the erroneous information destroyed. The agency shall then notify and supply the corrected record to the agency where the review and challenge occurred, which shall notify the individual or his attorney of the action taken. If the challenged record pertains to the disposition information, the arresting agency shall compare contents of the challenge with the information originally supplied by the clerk of the court.

3. *Review by Clerk of Court.* If no error (s) is found in the agency's records, the arresting agency shall forward the challenge to the clerk of the court originating the that submitted the original disposition for examination of. The Clerk of the Court shall examine the court records pursuant to the challenge and shall, in turn, notify the agency of its findings. The arresting agency shall then proceed as described in Subsection B.2. of this section. The arresting agency shall then notify the individual or his attorney of the action. The clerk of the court shall cause the court records to be compared with the contents of the challenge to determine if there are discrepancies in the disposition segment of the record maintained by the arresting agency or record reviewed by the individual. The clerk of the court shall notify all those agencies that are party to the challenge, of the results and any corrective action. The agency in which the challenge occurred shall notify the individual or attorney of action taken.

§ 1.9. Administrative review.

After the aforementioned review and challenge has been made in either the Central Criminal Records Exchange or the arresting agency, the individual or his attorney may request in writing that the agency head review the challenge if he is not satisfied with the results of the review and challenge. The agency head or his designated official shall review the challenge and notify the individual or his attorney of the decision within 30 days of the receipt of the written request.

§ 1.10. Administrative appeal.

After the administrative review, the individual or his attorney may in writing within 30 days of notification of the decision of the administrative review, request that the

director of the department review the challenge and conduct an informal hearing before the director or a designated hearing officer. The decision of the hearing officer shall be communicated to the individual or his attorney.

§ 1.11. Correction.

If an error is discovered, all known copies of the record(s) shall be corrected by notifying appropriate criminal justice agencies, noncriminal justice agencies or individuals in writing of the corrections to be made. This communication shall include a request for the receiving criminal justice agencies to notify any and all additional agencies or individuals known to maintain such record(s) and to make the appropriate corrective action. Upon request, an individual or his attorney shall be given the name of all noncriminal justice agencies to whom data has been furnished.

4. *Notification.* The agency in which the challenge occurred shall notify the individual or his attorney of the action taken, and shall notify the Central Criminal Records Exchange and other criminal justice agencies receiving the erroneous information of the necessary corrections if required, as well as the noncriminal justice agencies to which it has distributed the information in the last 24 months, as noted in its dissemination log.

5. *Correction.* The Central Criminal Records Exchange will correct its records, and notify agencies that received erroneous information within the past 24 months. The agencies will be requested to correct their files and to notify agencies which have the disseminated information, as provided in subsection A.6. of this section.

6. *Appeal.* The record subject or his attorney, upon receiving the results of the record review, shall be informed of the right to review and appeal.

C. Administrative Review of Challenge Results.

1. *Review by agency head.* After the aforementioned review and challenge concerning a record either in the Central Criminal Records Exchange or another agency, the individual or his attorney may, within 30 days, request in writing that the head of the agency in which the challenge was made, review the challenge if the individual is not satisfied with the results of the review and challenge.

2. *Thirty-day review.* The agency head or his designated official shall review the challenge by reviewing the action taken by the agency, the Central Criminal Records Exchange, and other agencies, and shall notify the individual or his attorney in writing of the decision within 30 days of the receipt of the written request to review the challenge. The agency head shall also notify the individual of the option to

request an administrative appeal through the department within 30 days of the postmarked date of the notification of the decision. This notification of the appeal shall include the address of the Department of Criminal Justice Services.

3. *Correction and notification.* If required, correction and notification shall follow the procedures outlined in subsections A and B of this section.

4. *Notification of the department.* A copy of the notice required in subsection C 2 of this section shall be forwarded to the department by the agency at the same time it is provided to the individual.

D. Administrative Appeal.

1. *Departmental assessment.* The individual or his attorney challenging his record, within 30 days of the postmark of his notification of the decision of the administrative review, may request that the Director of the Department of Criminal Justice Services review the challenge and conduct an informal hearing. The director may designate a hearing officer for this purpose.

2. *Determination of merits of case.* The director of his designee shall contact the agencies involved and request any and all information needed. Agencies shall supply the information requested in a timely manner, to allow the department to respond to the individual within 30 days. The director will then rule on the merits of a hearing and notify the individual or his attorney that such hearing will or will not be held.

3. *Hearing.* The hearing, if held, shall be conducted within 30 days of the receipt of the request, and the decision of the hearing officer communicated to the individual or his attorney within 30 days of the hearing.

4. *Finding.* If the director or the hearing officer determines that correction and modification of the records are required, correction of the record and notification of all involved parties shall proceed according to the procedures outlined in subsections A and B of this section.

5. *Removal of a challenge designation.* When records and relevant action taken by the agencies involved are deemed to be correct, the department shall notify the affected agencies to remove the challenge designation from their files.

E. Department Notification Following Corrections.

For audit purposes, the Central Criminal Records Exchange shall annually forward the names and addresses of the agencies which originated erroneous record information or received erroneous information from the exchange in that year to the Department of Criminal

Justice Services.

§ 1.12. Audit.

The department shall conduct annual audits of a random representative sampling of state and local criminal justice agencies so as to ensure and verify adherence to rules and regulations and ensure completeness and accuracy of the criminal history records.

The audit reviews may include, but not be limited to, examination of record accuracy, completeness, effectiveness of the systematic audit procedures, evidence of dissemination limitations, security provisions and the individual's right of access and challenge.

§ 1.13. Expunging and sealing.

A. Court order.

The director, upon receipt of a court order for the expungement of criminal history record, pursuant to § 19.2-392.2 of the Code of Virginia, shall by letter with an enclosed copy of the order, direct the Central Criminal Records Exchange and those agencies and individuals known to maintain or to have obtained such a record, to remove the manual record from its repository and place it in a sealed, separate file identified by the Central Criminal Records Exchange number or other identifying number and mark "EXPUNGED RECORD TO BE UNSEALED ONLY BY COURT ORDER."

Should the record be maintained in an automated system, the Central Criminal Records Exchange or the agency known to possess such a record shall cancel the automated record in whatever manner necessary to preclude on-line or off-line access to the record. The automated record should be electronically erased if necessary to fully effect the cancellation. The procedures as outlined herein for manual records shall be followed.

Should an expungement court order be directed to a criminal justice agency other than the department, the directed criminal justice agency shall comply as outlined herein and without delay advise the director in writing of such order together with a copy of the order. The director shall upon receipt of such notification follow the procedure previously mentioned.

B. Sealed record.

No sealed record shall be subject to inspection by anyone, except pursuant to an appropriate court order.

C. Procedure.

Expungement of records shall be made pursuant to § 19.2-392.2 of the Code of Virginia, or as otherwise provided by law.

§ 2.6. Expungement and Sealing.

Proposed Regulations

A. Responsibility of the Director.

The expungement of a criminal history record or portion thereof is only permitted on the basis of a court order. Upon receipt of a court order, petition and other supporting documents for the expungement of a criminal history record, the director of the department, pursuant to § 19.2-392.2. of the Code of Virginia, shall by letter with an enclosed copy of the order, direct the Central Criminal Records Exchange and those agencies and individuals known to maintain or to have obtained such a record, to remove the electronic or manual record or portion thereof from its repository and place it in a physically sealed, separate file. The file shall be properly indexed to allow for later retrieval of the record if required by court order, and the record shall be labeled with the following designation: "EXPUNGED RECORD TO BE UNSEALED ONLY BY COURT ORDER."

B. Responsibility of agencies with a record to be expunged.

The record named in the department's letter shall be removed from normal access. The expunged information shall be sealed but remain available, as the courts may call for its reopening at a later date. (See § 19.2-392.3 of the Code of Virginia.) Access to the record shall be possible only through a name index of expunged records maintained either with the expunged records or in a manner that will allow subsequent retrieval of the expunged record as may be required by the court or as part of the department's audit procedures. Should the name index make reference to the expunged record, it shall be apart from normally accessed files.

C. Procedure For Expungement And Sealing Of Hard Copy Records.

1. The expungement and sealing of hard copy original records of entry (arrest forms) is accomplished by physically removing them from a file, and filing them in a physically secure location elsewhere, apart from normally accessed files. This file should be used only for expunged records and should be accessible only to the manager of records.

2. If the information to be expunged is included among other information that has not been expunged on the same form or piece of paper, the expunged information shall be obliterated on the original or the original shall be retyped eliminating the expunged information. The expunged information shall then be placed in the file for expunged records, in its original or copied form, and shall be accessible only to the manager of records.

3. If the expunged information is located on a criminal history record provided by the Central Criminal Records Exchange (i.e., "RAP sheet"), the criminal history record information shall be destroyed, and a new copy, not containing the expunged data,

shall be obtained when necessary.

D. Procedure For Expunging Automated Records.

Should the record to be expunged be maintained in an automated system, the Central Criminal Record Exchange or the agency known to possess such a record shall copy the automated record onto an off-line medium such as tape, disk or hard copy printouts. The expunged record, regardless of the type of medium on which it is maintained, shall then be kept in a file used for expunged records and sealed from normal use, accessible only to the manager of records. No notification that expunged data exists shall be left in the normally accessed files.

E. Department To Be Notified Following Expungement.

Upon receipt of a request from the department to expunge and seal a record, the affected agency or agencies shall perform the steps above, and notify the department of their action in writing within 120 days of their receipt of the request.

F. Expungement Order Not Received By Department.

Should a court ordered expungement be directed to a criminal justice agency other than the department, the directed criminal justice agency shall comply as outlined herein and advise the director without delay of such order. The director shall, upon receipt of such notification, obtain a copy of the order from the appropriate circuit court.

§ 2.7. Audit.

The department shall annually conduct an audit of a random representative sample of state and local criminal justice agencies to ensure and verify adherence to these regulations and to ensure that criminal history records are accurate and complete.

The audits may include, but will not be limited to: (i) examination of record accuracy, (ii) completeness, (iii) timely submission of information, (iv) evidence of dissemination limitation and adequate dissemination logs, (v) security provisions, (vi) evidence of notification of the individual's right of access and challenge, (vii) appropriate handling of record challenges, (viii) timely modification of erroneous records, (ix) evidence of timely notifications of required changes, and (x) appropriate notifications of the department as required.

§ 2.8. Administrative Sanctions.

Discovery of violations or failure to comply with these regulations in whole or in part will occasion the following sanctions. Additional criminal penalties and other sanctions may be invoked as provided in § 2.3 should the violation involve an unauthorized dissemination.

A. Law-Enforcement Agencies.

Proposed Regulations

1. Should a law-enforcement agency fail to comply with these regulations, a letter will be forwarded by the Department to either the chief or police or sheriff, citing the problem and notifying the police department or the sheriff's department that the matter will be referred to the chief official of the locality or commonwealth's attorney, respectively, if a satisfactory result is not forthcoming. The agency shall have 10 working days to respond with a letter describing how the situation was remedied or explaining why there is no need to do so.

2. Should there be no satisfactory response after the 10 working day period, the matter will be referred to the offices of the city, county or town manager or the local commonwealth's attorney requesting resolution of the matter within 30 days.

3. If 30 days have passed and the matter fails to be resolved to the satisfaction of the department, the matter will be referred to the Criminal Justice Services Board and the Office of the Attorney General for action.

B. Courts.

1. Should a court or officer of the court fail to comply with these regulations, a letter will be forwarded by the department to the court, citing the problem and notifying the court clerk that the matter will be referred to the chief judge of the locality and the local commonwealth's attorney if a satisfactory result is not forthcoming. The court shall have 10 working days to respond with a letter describing how the situation was remedied or explaining why there is no need to do so.

2. Should there be no satisfactory response after the 10 working day period, the matter will be referred to the chief judge requesting resolution of the matter within 30 days. The Executive Secretary of the Supreme Court of Virginia will also be notified.

3. If 30 days have passed and the matter fails to be resolved to the satisfaction of the department, the matter will be referred to the Criminal Justice Services Board and the Chief Justice of Virginia.

PART II. PART III. CRIMINAL HISTORY RECORD INFORMATION SECURITY.

§ 2-1. § 3.1. Applicability.

These regulations are applicable to all criminal justice information systems operated within the Commonwealth of Virginia. These rules and regulations on security are not applicable to court records or other records expressly excluded by § 9-184, Paragraph B B of the Code of Virginia.

These regulations establish a minimum set of security standards which shall apply to any manual or automated recordkeeping system which collects, stores, processes, or disseminates criminal history record information.

Where individuals or noncriminal justice agencies are authorized to have direct access to criminal history record information pursuant to a specific agreement with a criminal justice agency to provide service required for the administration of criminal justice, such the service support agreement will embody the restrictions on dissemination and the security requirements contained in these regulations and the Code of Virginia.

§ 2-2. § 3.2. Responsibilities.

A. In addition to those responsibilities mandated by state and federal laws, the Department of State Police shall have the responsibility for the implementation of these regulations in regard to the operation of the Central Criminal Records Exchange.

B. The implementation of these regulations, except as set forth in subsection A the above paragraph, shall be the responsibility of the criminal justice agency as designated and authorized by the county or municipality in cases of political subdivisions. Nothing in these rules and regulations shall be deemed to affect in any way the exercise of responsibility conferred on counties and municipalities of the state under Title 15.1 of the Code of Virginia. The determination of the suitability of the actual procedures instituted by the criminal justice agency will be the subject of study in any audit by the department, mandated by § 9-186 of the Code of Virginia.

§ 2-3. § 3.3. Physical access.

Access to any area areas in which criminal history record information is collected, stored, processed or disseminated shall be limited to authorized persons. Control of such access shall be ensured through the use of locks, guards and/or other appropriate means. Authorized personnel shall be clearly identified.

Procedures shall be established to detect an unauthorized attempt or access. Furthermore, a procedure shall be established to be followed in those cases in which an attempt or unauthorized access is detected. Such procedures shall become part of the orientation of any employee employees working in criminal history record information area(s) and shall be reviewed periodically to ensure their effectiveness.

Each criminal Criminal justice agency agencies shall provide that direct access to criminal history record information shall be available only to authorized officers or employees of a criminal justice agency and, as necessary, other authorized personnel essential to the proper operation of the criminal history record information system.

Proposed Regulations

Each ~~criminal~~ Criminal justice agency agencies shall institute ~~procedures~~ , where computer processing is not utilized, ~~procedures~~ to ensure that an individual or agency authorized to have direct access is responsible for : (i) the physical security of criminal history record information under its control or in its custody , and (ii) the protection of such information from unauthorized access, disclosure or dissemination.

Procedures shall be instituted to protect any central repository of criminal history record information from unauthorized access, theft, sabotage, fire, flood, wind or other natural or man-made disasters.

For criminal justice agencies that have their criminal history files automated, it is highly recommended that "backup" copies of criminal history information be maintained, preferably off-site. Further, for larger agencies having automated systems, it is recommended that the agencies develop a disaster recovery plan. The plan should be available for inspection and review by the Department.

All ~~system~~ System specifications and documentation shall be carefully controlled to prevent unauthorized access and dissemination.

§ 2.4. § 3.4. Personnel.

In accordance with applicable law, ordinances, and regulations, the criminal justice agency shall:

A. Screen and have the right to reject for employment, based on good cause, ~~all~~ personnel to be authorized to have direct access to criminal history record information ;

B. Have the right to initiate or cause to be initiated administrative action leading to the transfer or removal of personnel authorized to have direct access to such ~~this~~ information where such ~~these~~ personnel violate the provisions of these regulations or other security requirements established for the collection, storage, or dissemination of criminal history record information ; ;
and

C. Ensure that each ~~employee~~ employees working with or having access to criminal history record information shall be made familiar with the substance and intent of these regulations. ~~All~~ Designated employees shall be briefed on their roles and responsibilities in protecting the information resources in the agency. Special procedures connected with security shall be ~~documented and~~ disseminated to all those with a need to know. These ~~procedures shall~~ be reviewed periodically to ensure their relevance and continuing effectiveness.

§ 2.5. § 3.5. Telecommunications.

In those systems where terminal access of criminal history record information is permitted, ~~all~~ terminal devices must be secure. Any terminal device ~~Terminal~~

~~devices~~ capable of receiving or transmitting criminal history record information shall be attended during ~~all~~ periods of its operation. In ~~all~~ cases in which the terminal is unattended, the device ~~shall~~ , through ~~some~~ security means, ~~shall~~ be made inoperable.

Telecommunications facilities used in connection with the terminal shall also be secured. The terminal device shall be identified on a hardware basis to the host computer. In addition, appropriate identification of the terminal operator may be required. Equipment associated with the terminal device shall be reasonably protected from possible tampering or tapping. In ~~all~~ cases in which a computer system provides terminal access to criminal history record information, the use of dial-up lines shall be prohibited to access criminal history record information.

§ 2.6. § 3.6. Computer operations.

Where computerized data processing is employed, effective and technologically advanced software and hardware ~~designs~~ design shall be instituted to prevent unauthorized access to such ~~this~~ information.

Computer operations, whether dedicated or shared, which support criminal justice information systems shall operate in accordance with procedures developed or approved by the participating criminal justice agencies.

Criminal history record information shall be stored by the computer in such a manner that it cannot be modified, destroyed, accessed, changed, purged or overlaid in any fashion by noncriminal justice terminals.

Operational programs shall be used that will prohibit inquiry, record updates, or destruction of records, from any terminal ~~terminals~~ other than criminal justice system terminals which are so designated.

The destruction of record shall be limited to designated terminals under the direct control of the criminal justice agency responsible for creating or storing the criminal history record information.

Operational programs shall be used to detect ~~and store~~ for the output of designated criminal justice agency employees and log all unauthorized attempts to penetrate any criminal history record information system, program or file systems, programs, or files .

Programs designed for the purpose of prohibiting unauthorized inquiries, unauthorized record updates, unauthorized destruction of records, or for the detection and logging of unauthorized attempts to penetrate any criminal history record information system systems shall be known only to the criminal justice agency employees responsible for criminal history record information system control or individuals and agencies pursuant to a specific agreement with the criminal justice agency to provide such security programs. The program(s) shall be kept ~~continuously~~ under maximum security conditions.

Proposed Regulations

Criminal justice agencies having automated criminal history record files should designate a system administrator to maintain and control authorized user accounts, system management, and the implementation of security measures.

The criminal justice agency shall have the right to audit, monitor, and inspect procedures established pursuant to these rules and regulations.

§ 2-7. § 3.7. Effective date.

These rules and regulations shall be effective on and after , and until amended or rescinded. These rules and regulations are amended pursuant to § 9-6.14:7.1 of the Code of Virginia and the Criminal Justice Services Board will receive, consider, and respond to petitions by any interested person at any time for the reconsideration or revision thereof.

§ 2-8. § 3.8. Adopted:

July 27, 1977

§ 2-9. § 3.9. Amended:

April 20, 1978

April 10, 1981

September 6, 1983

January 8, 1986

/s/ Robert E. Shepherd, Jr.
Chairman, Criminal Justice Services Board
Date:

BOARD FOR HEARING AID SPECIALISTS

Title of Regulation: VR 375-01-02. Board for Hearing Aid Specialists Regulations.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Public Hearing Date: September 11, 1989 - 9 a.m.
(See Calendar of Events section
for additional information.)

Summary:

This regulation is proposed by the Board for Hearing Aid Specialists pursuant to § 54.1-210 of the Code of Virginia. The existing regulations of this board will be repealed.

The proposed regulation is divided into four parts dealing with (i) definitions, (ii) entry, (iii) renewal, and (iv) standards of practice.

Part I, "Definitions", clarifies terms applicable to the regulation; Part II, "Entry", sets forth requirements for entry into the industry to include reputation, criminal history, education, training and experience. Part II further seeks to set forth the criteria required to take the examination, to obtain temporary licensure including licensure by endorsement; Part III, "Renewal", establishes procedures for annual renewal of licenses including obligation of the licensee, fees, reinstatement of and denial of license; and Part IV, "Standards of practice", includes criteria required for the practice of the business, the receipt, disclosure form, medical statement and evaluation, purchase agreement and terminology used on the agreement, testing procedures, the requirement of a statement of calibration for all audiometers used in testing, and grounds for discipline.

VR 375-01-02. Board for Hearing Aid Specialists Regulations.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Audiologist" means any person who accepts compensation for examining, testing, evaluating, treating or counseling persons having or suspected of having disorders or conditions affecting hearing and related communicative disorders or who assists persons in the perception of sound and is not authorized by another regulatory or health regulatory board to perform any such services.

"Licensed sponsor" means a licensed hearing aid specialist who is responsible for training one or more individuals holding a temporary permit.

"Licensee" means any person holding a valid license under this chapter.

"Otolaryngologist" means a licensed physician specializing in ear, nose and throat diseases.

"Otologist" means a licensed physician specializing in disorders of the ear.

"Temporary permit holder" means any person who holds a valid temporary permit under this chapter.

PART II. ENTRY REQUIREMENTS.

§ 2.1. Entry requirements.

The applicant must meet the following entry requirements:

Proposed Regulations

1. The applicant must be at least 18 years of age.
2. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a hearing aid specialist in such a manner as to safeguard the interests of the public.
3. The applicant shall have successfully completed high school or a high school equivalency course.
4. The applicant shall not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.
5. The applicant shall have training and experience which covers the following subjects as they pertain to hearing aid fitting and the sale of hearing aids, accessories and services:
 - a. Basic physics of sound;
 - b. Basic maintenance and repair of hearing aids;
 - c. The anatomy and physiology of the ear;
 - d. Introduction to psychological aspects of hearing loss;
 - e. The function of hearing aids and amplification;
 - f. Visible disorders of the ear requiring medical referrals;
 - g. Practical tests of proficiency in the required techniques as they pertain to the fitting of hearing aids;
 - h. Pure tone audiometry, including air conduction, bone conduction, and related tests;
 - i. Live voice or recorded voice speech audiometry, including speech reception, threshold testing and speech discrimination testing.
 - j. Masking when indicated;
 - k. Recording and evaluating audiograms and speech audiology to determine the proper selection and adaptation of hearing aids;
 - l. Taking earmold impressions;
 - m. Proper earmold selection;

n. Adequate instruction in proper hearing aid orientation;

o. Necessity of proper procedures in after-fitting checkup; and

p. Availability of social service resources and other special resources for the hearing impaired.

6. The applicant shall provide one of the following as verification of completion of the above training and experience:

a. An affidavit on a form provided by the board signed by the licensed sponsor certifying that the requirements have been met; or

b. A certified true copy of a transcript of courses completed at an accredited college or university, or other notarized documentation of completion of the required experience and training.

§ 2.2. Examination.

A. The applicant shall pass an examination administered by the board with a minimum score of 75 on each section of the examination.

B. Any applicant failing to achieve a passing score on all sections in two successive attempts to take the examination must reapply.

C. If the temporary permit holder fails to achieve a passing score on any section of the examination in two successive attempts to take the examination, the temporary permit shall expire upon receipt of the examination failure letter resulting from the second attempt.

D. The examination fee shall be \$40. The reexamination fee shall be \$25 for each of the three sections taken.

E. Physicians licensed to practice in Virginia and certified by the American Board of Otolaryngology or eligible for such certification shall not be required to pass an examination as a prerequisite to obtaining a license as a hearing aid specialist.

§ 2.3. Temporary permit.

A. A temporary permit shall be issued for a period of 12 months and will be extended once for not longer than 6 months.

B. The application for a temporary permit shall include an affidavit signed by the licensed sponsor certifying that he assumes full responsibility for the competence and proper conduct of the temporary permit holder and will not assign the permit holder to carry out independent field work until he is adequately trained for such independent activity.

C. The licensed sponsor shall return the temporary permit to the board should the training program be discontinued for any reason.

D. The application fee for a temporary permit shall be \$60.

§ 2.4. License by endorsement.

Applicants holding a current license/certificate as a hearing aid specialist in another state or territory of the United States, based on requirements equivalent to and not conflicting with the provisions of these regulations, may be granted a license without further examination. The fee for endorsement shall be \$60.

PART III. RENEWAL.

§ 3.1. License renewal required.

A. Licenses issued under these regulations shall expire on December 31 of each even-numbered year. The Department of Commerce shall mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew.

B. Each licensee applying for renewal shall return the renewal notice and a fee of \$110 to the Department of Commerce prior to the expiration date shown on the license. If the licensee fails to receive the renewal notice, a copy of the license may be submitted with the required fee.

C. If the licensee fails to renew the license within 30 days after the expiration date, an additional fee of \$110 shall be required.

D. If the licensee fails to renew within six months of the expiration date on the license, the licensee must apply to have the license reinstated by submitting a reinstatement form and a renewal fee of \$110 plus an additional \$110 fee.

E. Upon receipt of the application for reinstatement and the fee, the board may grant reinstatement of the license if the board is satisfied that the applicant continues to meet the requirements for the license. The board may require requalification, reexamination, or both, before granting the reinstatement.

F. The board may deny renewal of a license for the same reasons as it may refuse initial licensure or discipline an extant licensee. Upon such denial, the applicant may request that a hearing be held.

G. All fees are nonrefundable.

PART IV. STANDARDS OF PRACTICE.

§ 4.1. Business records and practice.

The following regulations shall apply with reference to the licensee's official records and public access.

1. The licensee shall keep on record with the board the location of the licensee's records, which shall be accessible to the board, with or without notice, during reasonable business hours. The licensee shall notify the board in writing of any change of address within 30 days of such change.

2. The licensee shall be accessible to the public for expedient, reliable and dependable services, repairs, and accessories.

§ 4.2. The licensee shall deliver to each purchaser at the time of a sale, repair or service:

1. A receipt signed by the licensee and showing licensee's business address, license number and business telephone number, and

a. The make and model of the hearing aid to be furnished, repaired or serviced and, in addition, serial numbers on models to be repaired and serviced; and

b. The full terms of the sale clearly stated.

2. If an aid which is not new is sold or rented, the purchase agreement and the hearing aid container shall be clearly marked "used" or "reconditioned," whichever is applicable, with terms of warranty, if any.

§ 4.3. When first contact is established with any purchaser or prospective purchaser, the licensee shall:

1. Provide a DISCLOSURE FORM prescribed by the board containing information that the person will need to obtain service/maintenance when the order is taken outside the specialist's office. The DISCLOSURE FORM shall include:

a. Address and telephone number where the specialist can be reached.

b. Days and hours contact can be made;

c. Whether service/maintenance will be provided in the office or in the person's home;

d. If the specialist has an office, address of the office as listed with the board; and

e. If the specialist has no office in Virginia, a clear statement that there is no office in Virginia;.

2. Advise that person that hearing aid specialists are not licensed to practice medicine; and

Proposed Regulations

3. Advise that person that no examination or representation made by the specialist should be regarded as a medical examination, opinion, or advice.

a. A statement that this initial advice was given to the purchaser shall be entered on the purchase agreement in print as large as the other printed matter on the receipt.

b. Exemption: Specialists who are physicians licensed to practice medicine in Virginia are exempt from the requirements of subsection 2 and 3 of § 4.3.

§ 4.4. The following terminology shall be used on all purchase agreements:

1. The undersigned seller agrees to sell and the undersigned purchaser agrees to purchase hearing aid(s) and accessories, according to terms set forth below:

a. The purchaser was advised that the seller is not a physician licensed to practice medicine; and

b. No examination or representation made by the seller should be regarded as a medical examination, opinion, or advice.

2. Exemption: Specialists who are physicians licensed to practice medicine in Virginia are exempt from the requirements of subsection a and b § 4.4.

§ 4.5. Any person engaging in the fitting and sale of hearing aids for a child under 18 years of age shall:

1. Ascertain whether such child has been examined by a otolaryngologist for recommendation within six months prior to fitting; and

2. No child shall be fitted without such recommendation.

§ 4.6. Each licensee or holder of a temporary permit, in counseling and instructing adult clients and prospective adult clients related to the testing, fitting, and sale of hearing aids, shall be required to recommend that the client obtain a written statement signed by a licensed physician stating that the patient's hearing loss has been medically evaluated within the preceding six months and that the patient may be a candidate for a hearing aid. Should the client decline the recommendation:

1. A statement of such declination shall be obtained from the client over his signature.

2. Fully informed adult patients (18 years of age or older) may waive the medical evaluation because of personal or religious beliefs.

3. The hearing aid specialist is prohibited from

actively encouraging a prospective user to waive a medical examination.

§ 4.7. The information provided in subsection 1 and 2 of § 4.6. must be made a part of the client's record kept by the hearing aid specialist.

§ 4.8. Testing procedures.

It shall be the duty of each licensee and holder of a temporary permit engaged in the fitting and sale of hearing aids to use appropriate testing procedures for each hearing aid fitting. All tests and case history information must be retained in the records of the specialist. The established requirements shall be:

1. Air Conduction Tests A.N.S.I. standard frequencies of 500-1000-2000-4000 Hertz. Appropriate masking must be used if the difference between the two ears is 40 dB or more at any one frequency.

2. Bone Conduction Tests are to be made on every client—A.N.S.I. standards at 500-1000-2000-4000 Hertz. Proper masking is to be applied if the air conduction and bone conduction readings for the test ear at any one frequency differ by 15 dB or if lateralization occurs.

3. Speech testings shall be made before and after fittings, and the type of test(s), method of presentation, and results noted.

4. The specialist shall check for the following conditions and, if they are found to exist, shall refer the patient to a physician unless the patient can show that his present condition is under treatment or has been treated:

a. Visible congenital or traumatic deformity of the ear.

b. History of active drainage from the ear within the previous 90 days.

c. History of sudden or rapidly progressive hearing loss within the previous 90 days.

d. Acute or chronic dizziness.

e. Unilateral hearing loss of sudden or recent onset within the previous 90 days.

f. Audiometric air bone gap equal to or greater than 15 dB at 500 Hertz, 1000 Hertz, or 2000 Hertz.

g. Visible evidence or significant cerumen accumulation or a foreign body in the ear canal.

h. Tinnitus as a primary symptom.

i. Pain or discomfort in the ear.

5. All tests shall have been conducted no more than 6 months prior to the fitting.

§ 4.9. Calibration statement required.

1. Audiometers used in testing the hard of hearing must be in calibration.

2. Calibration must be done once a year or more often, if needed.

3. A certified copy of an electronic audiometer calibration made within the past twelve months must be submitted to the board annually no later than November 1.

§ 4.10. Grounds for discipline.

The board may fine any licensee or suspend or revoke any license issued under the provisions of Chapter 15 of Title 54.1 of the Code of Virginia and the regulations of the board at any time after a hearing conducted pursuant to the provisions of the Administrative Process Act, Chapter 1.1:1 of Title 9 of the Code of Virginia when the licensee has been found in violation of:

1. Improper conduct, including but not limited to:

a. Obtaining or renewing a license by false or fraudulent representation;

b. Obtaining any fee or making any sale by fraud or misrepresentation;

c. Employing to fit and sell hearing aids any person who does not hold a valid license or a temporary permit, or whose license or temporary permit is suspended;

d. Using, causing, or promoting the use of any misleading, deceptive, or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, whether disseminated orally or published;

e. Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type;

f. Representing that the service or advice of a person licensed to practice medicine or audiology will be used in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true; or using the words "physician," "audiologist," "clinic," "hearing service," "hearing center," or similar description of the services and products provided when such use is not accurate;

g. Directly or indirectly giving, or offering to give,

favors or anything of value to any person who in their professional capacity uses their position to influence third parties to purchase products offered for sale by a hearing aid specialist; or

h. Failing to provide expedient, reliable and dependable services when requested by a client or client's guardian.

2. Failure to include on the sales contract a statement regarding home solicitation, as required by federal and state law.

3. Incompetence or negligence in fitting or selling hearing aids.

4. Failure to provide required or appropriate training resulting in incompetence or negligence by a temporary permit holder under the licensee's sponsorship.

5. Violation of any other requirement or prohibition of Part IV of these rules.

6. Violating or cooperating with others in violating any provisions of Chapter 15 of Title 54.1 of the Code of Virginia or any regulation of the board.

7. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of any felony or of a misdemeanor involving moral turpitude there being no appeal pending therefrom or the time for appeal having elapsed. Any pleas of nolo contendere shall be considered a conviction for the purpose of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the law of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

All previous rules of the Board for Hearing Specialists are repealed.

COMMONWEALTH OF VIRGINIA
BOARD FOR HEARING AID SPECIALISTS

THE FOLLOWING FEES MUST ACCOMPANY THIS APPLICATION: 11: 47

<input type="checkbox"/> Application fee-\$60 <input type="checkbox"/> Reciprocity-\$60	<input type="checkbox"/> Application fee-\$60 <input type="checkbox"/> Temporary Permit-\$60	<input type="checkbox"/> Application fee-\$60 <input type="checkbox"/> Examination fee-\$40
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DEPARTMENT OF COMMERCE
P. O. Box 11066
Richmond, Virginia 23230-1066
804-367-8534 1-800-552-3016

MAKE ONE CHECK OR MONEY ORDER
PAYABLE TO THE "TREASURER OF VIRGINIA".

ALL FEES ARE NON-REFUNDABLE

APPLICATION FOR HEARING AID SPECIALIST

1. NAME IN FULL _____
2. DATE OF BIRTH _____ 3. SOCIAL SECURITY NUMBER _____
4. RESIDENCE ADDRESS _____

5. PHONE () _____
6. BUSINESS ADDRESS _____

7. PHONE () _____
8. PROFESSIONAL EXPERIENCE

DATES		NAME OF EMPLOYER AND ADDRESS	POSITION	DUTIES	NAME OF SUPV. OR DEPT. HEAD
FROM	TO				

9. What is your primary purpose in applying for this license and where will you practice upon being licensed?

10. Do you hold a current license/registration in another state? _____
If so, what state? _____ Has your license in another state been revoked, suspended, or expired? _____ If yes, provide an explanation on a separate sheet.

11. AFFIDAVIT (To be executed by every applicant)

STATE OF _____

COUNTY OR CITY OF _____

The undersigned being duly sworn deposes and says that he/she is the person who executed this application, that the statements herein contained are true, that he/she has not suppressed any information that might affect this application, and that he/she has read and understands this affidavit.

SIGNATURE OF APPLICANT

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

SIGNATURE OF NOTARY PUBLIC

12. STATEMENT OF LICENSED SPONSOR - A signed statement from the licensed sponsor indicating that the licensed sponsor assumes full responsibility for the competent and proper conduct of the temporary permit holder. (§ 54-524.110(b))

I hereby certify that I am a licensed, practicing Hearing Aid Specialist and on this date _____, 19____, _____ is sponsored by me. Should he or she, at any time, leave my employ or supervision, I will within forty-eight (48) hours notify the Secretary of the Virginia Board for Hearing Aid Specialists in writing and by returning the temporary permit to the Board by certified mail.

SIGNATURE OF LICENSED SPONSOR

LICENSE NUMBER

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-01-03. Survey Standards for the Inspection of Buildings Being Converted to Condominiums for the Presence of Asbestos.

Statutory Authority: § 36-99.1 of the Code of Virginia.

Public Hearing Date: August 21, 1989 - 10 a.m.
(See Calendar of Events section
for additional information)

Summary:

There has been a growing public awareness of the link between the inhalation of asbestos fibers and various diseases such as asbestosis, mesothelioma, lung and other cancers. As a result, legislation was enacted by the 1987 General Assembly, § 55-79.94 of the Code of Virginia, and was modified by the 1988 General Assembly which required the Department of General Services to develop survey standards for the inspection of buildings which are proposed to be renovated or converted to condominiums. These standards are provided to identify the presence of asbestos, and to the extent practicable, the relative hazard to health or safety posed by any asbestos identified. The amendments made in § 55-79.94 of the Code of Virginia by the 1989 General Assembly authorized the Board of Housing and Community Development to further amend these standards in accordance with the provisions of the Administrative Process Act.

The proposed amendments to these standards include:

- 1. Revision of § 1, definitions, to clarify their application within the scope of the standards to be consistent with the Code of Virginia;*
- 2. Elimination of the minimum competency requirements established for asbestos inspectors;*
- 3. Clarification of the intent of the standards where they have proven to be difficult to interpret and administer. Examples of these clarifications include revising the survey requirements found in Section VI; and*
- 4. Deletion of text which is inappropriate for use in a regulatory document. Examples of such text includes the use of permissive language such as the words "may" or "should."*

VR 394-01-03. Survey Standards for the Inspection of Buildings Being Converted to Condominiums for the Presence of Asbestos.

I. § 1. Definitions.

"Abatement contractor" means company or individual

properly licensed in the Commonwealth of Virginia who routinely conducts asbestos abatement activities such as, but not limited to removal, encapsulation or enclosure of asbestos containing materials in buildings.

"Administrator" shall mean the Property Registration Administrator, Virginia Department of Commerce.

"Asbestos" means any material containing more than one percent of the asbestiform varieties of:

- 1. Chrysotile (serpentine),*
- 2. Crocidolite (riebeckite),*
- 3. Amosite (cummingtonite-grunerite),*
- 4. Anthophyllite,*
- 5. Tremolite, or*
- 6. Actinolite.*

"Building manager" means contact person representing the owning entity at each facility.

"Building official" means an individual designated by the local government to issue building permits and enforce the USBC.

"Competent personnel" means personnel who are qualified by education and/or experience to determine the presence of asbestos and to assess its hazard, or to abate any such hazard by proper encapsulation, enclosure, removal, repair or operations and maintenance of the asbestos containing material and who are licensed by the Virginia Department of Commerce pursuant to the requirements of Chapter 7.01 (§ 54.1-45.4 et. seq.) of Title 54.1. In addition, asbestos inspectors must meet the minimum competency requirements specified in Section IV(3) of these Standards licensed by the Department of Commerce (D.O.C.) in accordance with the D.O.C. asbestos licensing regulations who performs duties in his licensing category.

"Encapsulation" means the treatment of asbestos-containing materials 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 about the asbestos-containing material of any solid or flexible coverings, which will not deteriorate or decompose for an extended period of time, so as to conceal the material, contain all asbestos fibers and render the asbestos-containing material inaccessible.

"Executive Director" shall mean the Executive

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Director, Virginia Department of Commerce.

"Facility" means any building included, or that may be included, in the condominium which was substantially completed prior to July, 1978.

"Friable" means material which is capable of being crumbled, pulverized, or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air.

"Homogenous material" means any material that appears similar in terms of color, texture, pattern, date of material application and functional use.

"Inspector" means an individual who physically inspects each building for materials that may contain asbestos, who is properly licensed to conduct building inspections for asbestos by the Virginia Department of Commerce pursuant to the requirements of Chapter 7.01 (§ 54.1-145.4 et. seq.) of Title 54 and who meet the additional requirements specified in Section IV(3) of these standards is licensed by the Department of Commerce, in accordance with the Department of Commerce asbestos licensing regulations to perform 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 .

"Management planner" means an individual who develops the plan to manage any identified or suspect asbestos containing materials in the facility, who is properly licensed by the Virginia Department of Commerce as an Asbestos Management Planner pursuant to the requirements of Chapter 7.01 (§ 54.1-45 et. seq.) of Title 54 is licensed by the Department of Commerce in accordance with the Department of Commerce asbestos regulations to develop and implement an asbestos management plan .

"Notification" means procedure used to inform building occupants and visitors of the location, description and condition of all asbestos containing materials identified or suspected in the facility and of the existence and location of a plan to manage the material.

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

"Renovation" altering in any way, one or more facility components. Operations in which load supporting structure members are wrecked, or taken out, are excluded means remodeling or altering interior partitions, interior portions of exterior walls or ceilings, wiring or other major portions of a building, altering or replacing roofing materials or major components and equipment of a building. Removing or disturbing any asbestos containing materials during demolition, alteration, renovation or additions to buildings or structures .

"Repair" means cause friable asbestos-containing material to be changed or modified to a condition where it is not friable.

"Response actions" means any action, including removal, encapsulation, enclosure, repair, method of operation, maintenance, record keeping or notification that protects human health from building materials containing asbestos.

"Significant hazard area" means any area where the asbestos containing material is highly friable, where more than 10% of the material is exposed, where the damage is widespread and the area is accessible to occupants including by any air handling system.

"Team leader Supervisor" means an individual who is properly licensed as an asbestos inspector and management planner pursuant to the requirements of Chapter 7.01 (§ 54.1-45.4 et. seq.) of Title 54 and who meet the minimum requirements specified in Section IV(3)(B) of these standards by the Department of Commerce as a supervisor under the Department of Commerce asbestos licensing regulations .

"Team leader" means an individual who is licensed as an asbestos inspector and management planner by the Department of Commerce in accordance with the asbestos regulations.

"Varying visible appearance" means any visible difference in size, color, texture, degree of hardness, etc., which may indicate differing material. This term is synonymous with "visually distinct material."

H. Background.

There has been a growing public awareness of the link between the inhalation of asbestos fibers and various diseases such as asbestosis, mesothelioma, lung and other cancers. As a result, Legislation was enacted by the 1987 General Assembly (Article 5.2 Sect. 2-1-526.12 through 2-1-526.17) and was modified by the 1988 General Assembly which required the Department of General Services to develop survey standards for the inspection of buildings other than school buildings in order to identify the presence of asbestos and to the extent practicable the relative hazard to health or safety posed by any asbestos identified.

III. § 2. Purpose.

The primary purpose of these standards is to establish the minimum requirements, relevant to the inspection of each facility for asbestos, the evaluation of the risk to human health, and the development of a specific schedule and plan to abate that risk prior to the conveyance of any unit in a building containing asbestos.

IV. § 3. Scope.

1. All condominiums shall be evaluated and a plan

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developed in accordance with the provisions of these standards after July 1, 1987 .

2. Any building substantially completed after July 1, 1978 is exempt from the requirements of these standards.

3. Minimum Competency Requirements:

A. Individuals conducting inspections of buildings for asbestos containing materials shall meet the following minimum requirements:

1. They shall have a valid Asbestos Inspector's License and Asbestos Management Planner's License issued by the Virginia Department of Commerce, pursuant to the requirements of Chapter 7.01 (§ 54.1-45.4 et. seq.) of Title 54, and have either:

- a) Successfully completed a minimum of two (2) weeks of intensive field training under the direction of a Team Leader or;
- b) Have a minimum of two (2) years experience in conducting field assessment surveys for asbestos containing materials in buildings.

B. Individuals filling positions of Team Leader shall meet the following minimum requirements.

1) They shall possess, at a minimum, a college degree (A.S. or B.S.) in a physical science or related scientific field (e.g. biology, environmental science, engineering, geology, etc.); and;

2) Have a minimum of three years experience in conducting field assessment surveys for asbestos containing materials in buildings; and;

3) Have a valid Asbestos Inspector's License and Management Planner's License issued by the Virginia Department of Commerce pursuant to Chapter 7.01 (§ 54.1-45.4 et. seq.) of Title 54.

V. Preliminary Assessment.

An initial assessment shall be made to determine which, if any, buildings were substantially completed prior to July, 1970. Any disagreement shall be resolved by the Executive Director.

All buildings being converted to condominiums must be evaluated after July 1, 1987 by competent personnel as defined herein unless they are deemed exempt by the Executive Director pursuant to Section IV.2 of these standards.

VI. § 4. Document review and on-site survey.

A. A review shall be made of all appropriate building construction documents (i.e., floor plans,

blueprints, microfilm record, previous inspection records, asbestos abatement projects, etc.) to facilitate the identification of areas where asbestos may be present if available. Any on-site inspections must be conducted by competent personnel who have the training to identify the presence of asbestos, and to assess, to the extent presence of asbestos, and to assess, to the extent practicable, the relative hazard or hazards to health and safety posed at each location at which asbestos is suspected or identified. Each on-site survey shall include at least the following and be documented in a report to the owners.

B. A basic sketch of the representative floor plan showing any major detail must be prepared to identify bulk sample locations and general asbestos material location.

1. Visual inspection Accessible building areas and spaces shall be visually inspected, including but not limited to the following means all suspected asbestos containing materials located in the work area that are or may become friable, as defined by these standards must be identified. These areas shall include, but are not limited to :

A- 1. Rooms, hallways, and offices

B- 2. Mechanical and electrical equipment rooms

C- 3. Pipe chases

D- 4. Basements

E- 5. Attics

F- 6. The space above ceilings, between walls, and below floors

G- 7. Steam tunnels

H- 8. Stairwells

I- 9. Closets and storage areas

J- 10. All occupied and unoccupied spaces

K- 11. Crawl spaces, including soil as appropriate

12. Floor covering and mastic

13. Exterior coverings and roofs

In addition, identify and document the location of all fire doors suspected of containing asbestos. These locations are to be designated on the building sketches and included in the inspection report.

Note: Areas where access is impossible or prohibitive should be which are not accessible for sampling shall be identified on the building sketches. In the plan A

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notation must be made *on the sketches* as to why the areas could not be investigated. All materials in these *inaccessible* areas are to be considered to contain asbestos and must be included in the plan. The area *inaccessible areas* must be evaluated according to the requirements of these standards when the area becomes accessible but before occupation.

2. C. Bulk sampling means representative bulk sampling of suspected asbestos-containing materials shall be conducted and submitted to a laboratory meeting the minimum requirements found in § 5 of these standards.

All sample areas shall be clearly marked and a permanent identification number corresponding to the respective samples and shall be identified on copies of the available construction drawings or the building sketches prepared by the inspector on the drawings required to be submitted.

A. D. Representative samples of each distinct type of friable asbestos material as defined herein shall be collected to confirm its asbestos content unless it is assumed to contain asbestos. Distinction between types of material shall be based on at least the following criteria:

1. Visual appearance, size;
2. Texture and hardness;
3. Functional use, including but not limited to insulation, ceilings, walls, boilers, tanks, furnace, other mechanical equipment, ceiling pipes, pipe wrapping, elbow material, valve material, structural members, decks, beams, duct materials, fire doors and/or stage curtains.
4. Information provided by documents, interviews, or any source as to prior renovation or patchwork.

B. E. The minimum number of samples to be taken for each distinct type of suspected asbestos material shall be as follows:

1. Sprayed or troweled material. Three random samples for each visually or functionally different material or known different application for up to 1,000 sq. ft., five random samples from 1,000 to 5,000 sq. ft., seven random samples from 5,000 to 10,000 sq. ft., and for every 5,000 sq. ft. over 10,000 sq. ft. one additional random sample will be taken. This rule applies to homogeneous material on each floor only.
2. Pipe and duct insulation. A minimum of one sample for every 50 linear feet of material of varying size or visual appearance per floor. Samples shall be taken where material is damaged or exposed where possible, to avoid breaching intact covering.
3. Valve or fitting muds. Three samples of valve material or elbow mud for each insulated line of

varying diameter or visual appearance per floor or area.

4. Boilers, tanks, and furnaces. Three samples per unit if homogeneous.
5. Patchwork. One sample of each patch or repair.
6. Ceiling or acoustical tile. Three samples for each material of varying visible appearance per floor.
7. Other friable materials. As determined as necessary by the inspector - but at least two samples per homogenous material per floor.
8. If the friable materials are not sampled but assumed to contain asbestos, then the inspector must complete the hazard assessment using 100% asbestos as the asbestos content value.
9. If the suspected asbestos-containing material is not friable as defined herein, a sample need not be taken. The location, type, and condition of the material shall be noted on the building layout documents or sketches provided by the inspector. The material shall be labeled according to the requirements of Section X for suspect material. These materials must be included in the specified schedule and plan and must be included in the Priority Level IV Response Action category.

C. F. Selection of sample location.

1. For sprayed on or troweled on material, the EPA guidelines located on pages 15-27 in "Asbestos - Containing Materials in School Buildings - Guidance for Analytical Programs" will be followed.
2. For other types of uses, visually distinct materials will be sampled.

D. G. Bulk sample size.

1. Samples shall be taken to penetrate all layers of the material. Samples should contain at least 15 cubic centimeters of material, and shall be placed in a container and sealed at the time of collection.

E. H. Sampling precautions.

All precautions shall be taken to prevent exposure to those present in or around the facility during the collection of samples. The survey team is responsible for protecting occupants of the area and for patching the sampling area.

1. All sampling shall be conducted when building occupants are not in the immediate area, and preference shall be given to time when the areas being sampled are not in use.

When it is not possible to collect samples during a

time when the facility is not being used, advance arrangements shall be made to evacuate the immediate sampling area(s) for the time necessary to collect the samples. The building manager is responsible for insuring that evacuation takes place.

2. Proper procedures and equipment shall be used during sampling to minimize fiber generation.

3. Area protection and cleanup:

Care should be taken to minimize fiber release; however, any visible debris or residue generated during the sampling shall be thoroughly removed by wet wiping the debris or HEPA vacuuming. An area at least four feet in each direction shall also be cleaned using the above methods.

4. Locations from which samples are taken shall be patched as soon as the sampling has been completed by using methods and materials which are acceptable to the Project Manager and which are both structurally sound and aesthetically compatible. Each such location may be treated by low pressure application of an approved encapsulation.

5. When samples are taken in areas where the material is in poor condition, care must be taken to prevent further deterioration or fiber release.

a. The sample location will be adequately patched to prevent fiber release or deterioration by the inspector unless otherwise noted by the Building Manager in writing.

VII. §-5. Bulk sample analysis.

1. A. Samples shall be analyzed by polarizing light microscopy using the EPA Interim Method for the Determination of Asbestos in Bulk Insulation Samples (EPA-600/M4-82-020).

2. B. The inspector shall submit bulk samples for analysis to a laboratory that successfully participates in the National Institute of Standards and Technology (NITS) Quality Assurance Program (or an approved equivalent) Quality Assurance Program, and have certification/accreditation by the American Industrial Hygiene Association (or an approved equivalent).

3. Sample Submissions:

A. Laboratory Analyst: Each analyst must have successfully completed a course in basic asbestos analysis, similar to that offered by Walter C. McCrone Associates of Chicago, Illinois. In addition, each analyst must have six months of on-the-job training with an analyst found acceptable through the NITS Quality Assurance Program/National Voluntary Laboratory Accreditation Program (NVLAP), or an approved equivalent.

VIII. § 6. Relative exposure potential assessment.

During the inspection for asbestos, each location where the presence of asbestos is suspected or identified shall be evaluated using the algorithm found in Appendix A.

The local building manager will be notified immediately by the inspector if significant hazard area is discovered. This notification may be verbal initially but must be reduced to writing within 24 hours. department shall not issue a building permit for renovation of a building constructed prior to 1978 until the owner or agent provides a certification that an inspection has been made and (1) no asbestos was found, or (2) the proper response action has been or will be taken. The owner or agent shall also certify that the inspector who performed is duly licensed by the Department of Commerce asbestos licensing regulations.

IX. § 7. Assessment of conditions and prioritization for remedial action.

Upon completion of the on-site inspections and the calculation of the Relative Exposure Potential Assessment, recommendations shall be made regarding future response actions.

A number of factors are used to determine the exposure number and, subsequently, the priority level. One of the most important factors among those listed in Appendix A of this Standard is the friability factor. Friability is the ability to crumble, pulverize, or powderize a dry material by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air. The determination of friability is straight forward and is explained in Appendix A of this Standard. Friability is a multiplicative factor and can increase the final exposure number as much as 33% to 100%.

Another factor important in determining exposure potential is the mechanism for fiber transportation. This transport mechanism may be an air plenum or it can be the simple opening and closing of a door. High occupant activity can cause fibers to become entrained, and even water damage can be a means of fiber transport. A number of the factors mentioned above are addressed in the field and scored on the algorithm. One of the most serious situations is to have a highly friable material in a non-ducted supply air plenum. Another serious concern is to have a highly friable material in a return air plenum. No matter what the transport mechanism is, corrective procedures will need to be designed and implemented to reduce or eliminate the transportation of fibers.

Five priority levels have been defined for those areas found to contain asbestos. These Priority Levels are a function of the exposure number. (For explanation of exposure numbers, please see Appendix A). A priority ranking is an excellent means of designing a phased abatement program.

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The following is a detailed explanation of each priority level:

Significant hazard area *means* areas placed in this category are those that are considered to pose a significant potential hazard to human health. The proper response to this priority is to immediately isolate the area and repair, encapsulate, enclose or remove the material before access is allowed. Any response other than removal must leave the material inaccessible or not friable.

Priority level I.

Areas placed in this Priority category are those that are felt to pose a high exposure potential. Materials in these areas are usually in very poor condition with material possibly laying about on the floor. However, there is the possibility for the material to be in good condition and still exhibit a high potential for exposure, depending on other factors such as friability, accessibility, air movement and vibration. Fireproofing is a material that can exhibit this condition. These are the areas that should be addressed first.

The response action recommended for items in this level are to repair the material by encapsulation, enclosure or by any other means which will render the material not friable and to institute a plan designed to insure that the material does not become friable, or remove the material using competent, licensed personnel.

Priority Level II:

Areas listed in this level have materials that are not in as poor condition as those listed in Priority Level I but still pose a relatively high potential for exposure. In some cases the difference between a Priority Level I area and Priority Level II may be access to the area and the material. The corrective action plan for these areas should be to properly repair of the material and to institute a plan to insure that the material does not become friable, or remove the material using competent, licensed personnel.

Priority Level III:

These areas pose a moderate exposure potential; however, with time these materials will deteriorate and should be abated. Corrective action should be aimed at eliminating the factors causing the material to deteriorate and to making repairs. A plan will be necessary to monitor the condition of these materials to insure that they do not become friable after repairs are made.

Priority Level IV:

These materials currently have a relatively low exposure potential. Make minor repairs to the material and institute a plan to insure the material remains not friable or remove the material using competent, licensed personnel.

Determination of Priority Levels:

The determination of Priority Level I areas and Priority Level II areas is based on considerable experience and compiled with standard, recognized approaches to prioritization based on industry standards.

The Priority Levels are graduational by design. An area that falls in the upper portion of Priority Level II should be considered to pose a higher exposure potential than an area that falls in the lower portion of Priority Level II.

Finally, it is strongly recommended that in any area that is scheduled to undergo renovation or demolition, a complete survey be conducted to confirm the asbestos content of all suspect materials that could contain asbestos. Materials that contain asbestos must be removed prior to commencement of any renovation or demolition work in which the asbestos containing material will be disturbed by the project. Any removal of asbestos materials must be by personnel properly licensed by the Department of Commerce.

X. § 8. Signs/labels/notification.

Every location at which asbestos is suspected or identified shall be clearly marked with suitably designed signs or labels or the building occupants, *owners and condominium management staff* shall be notified of the location and condition of the asbestos containing material within the building and the existence of a plan for its management, in writing.

1. Every mechanical room where asbestos is identified shall have at least one sign located in a conspicuous place at each entrance which contains appropriate wording (e.g., WARNING CEILING MATERIAL CONTAINS ASBESTOS. DO NOT DISTURB):

2. Locations containing any materials identified or suspected to contain asbestos shall be reported in order to provide a permanent record for future reference by the facility and shall be included in the plan.

3. All thermal system insulation with suspected or known asbestos-containing materials shall be labeled accordingly (e.g., WARNING SUSPECTED ASBESTOS. DO NOT DISTURB). The labels shall be painted on or affixed to the insulation or covering in a color that contrasts with the color of the material at intervals that would prevent someone from disturbing the material without knowing that it does or is likely to contain asbestos.

XI. Certification.

To determine compliance, documentation shall include at a minimum:

1. Qualifications of Inspector.

2. Qualifications of Laboratory and Analyst.
3. Documentation necessary to determine that the survey was conducted according to these standards.
4. Proposed action to comply with unmet requirements.

XII. § 9. Plan.

1. A. For those facilities where any action short of immediate removal has been recommended, the inspector shall develop a plan to manage the potential hazard. The plan shall include at a minimum:

- a. 1. A timetable and recommended response actions to be used to abate any risk to human health discovered during the survey.
- b. 2. Details for identifying and visually marking all asbestos in accordance with these standards.
- c. 3. Procedures for the written notification of persons occupying and/or using the facility as to the location and condition of the asbestos materials found in the facility and that a plan to manage the material has been implemented and its location.
- d. 4. A program for training persons who may be required to work on or in the vicinity of asbestos.
- e. 5. A program for notifying contractors as to the location of any known or suspected asbestos in the facility and control measures required to protect employees and building occupants.
- f. 6. An inspection procedure and training requirements for persons to conduct quarterly semi-annual maintenance inspections to identify any change in the friability or accessibility of each identified or suspect material within the facility.
- g. 7. A written description of the location where each sample was obtained, a copy of the laboratory report and a copy of the relative hazard assessment conducted for that material.
- h. 8. Signature of the inspector, the date of the survey, the date the report is submitted and the applicable license numbers required by this standard.

2. B. *The presence of any asbestos which has not been removed shall be disclosed to every potential purchaser of a unit.*

APPENDIX A

Instructions For Use Of The 20-Variable Algorithm

The 20-variable algorithm is an expansion on the old EPA or Sawyer algorithm. Where the primary variables

are identical to the Sawyer algorithm, the first 6 variables have 2 sub-variables used to adjust the subjective or general score. The subjective or general score can be adjusted to represent a more accurate reflection of the true value of that general variable.

ASSESS EACH OF THE FACTORS

Carefully consider each of the following seven factors (the eighth factor, asbestos content, must be determined from laboratory reports) and record your observations:

FACTOR ONE. MATERIAL CONDITION:

The condition of the asbestos-containing material is the most important indicator of whether fibers have been released in the past or may be released in the future.

An assessment of the condition should evaluate: the quality of the installation, the adhesion of the material to the underlying substrate, deterioration, destruction of the material by water, vandalism which has damaged the material, and any other damage. Evidence of debris on horizontal surfaces, material hanging, dislodged chunks, scrapings, indentations, or cracking are indicators of poor material condition.

Condition is closely related to other factors considered in the assessment inspection: if the asbestos-containing material is accessible, it is likely to be damaged; if the activity level is high in the area, the level of damage may be high; and materials which are exposed may be more likely to sustain damage.

Accidental or deliberate physical contact with the material can result in damage to the asbestos-containing material. Inspectors should look for any evidence that the asbestos-containing material has been disturbed such as finger marks in the material, graffiti, pieces dislodged or missing, scrape marks from movable equipment or furniture, or accumulation of the friable material on floors, shelves, or other horizontal surfaces.

Asbestos-containing material may deteriorate as a result of the quality of the installation as well as environmental factors which affect the cohesive strength of the asbestos-containing material or the strength of the adhesion to the substrate. Deterioration can result in dusting of the surface of the asbestos-containing material, delamination of the material (i.e., separating into layers), or an adhesive failure of the material where it pulls away from the substrate and either hangs loosely or falls to the floor and exposes the substrate. Inspectors should touch the asbestos-containing material and determine if dust is released when the material is lightly brushed or rubbed. If the coated surface "gives" when slight hand pressure is applied or the material moves up and down with light pushing, the asbestos-containing material is no longer tightly bonded to its substrate.

FACTOR ONE: MATERIAL CONDITION

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This factor is comprised of three levels:

A. NO DAMAGE: Material is intact and shows no sign of deterioration.

NUMERICAL VALUE: 0

B. MODERATE DAMAGE - SMALL AREAS: Through visual inspection and physical contact there are indications that 10% or less of the material is breaking up into layers or beginning to fall. There may be small areas where the material is deteriorating. There may be signs of accidental or intentional damage.

NUMERICAL VALUE: 2

C. WIDESPREAD SEVERE DAMAGE: Greater than 10% of the material is damaged. Large pieces are dislodged and/or debris in the area is evident. Parts of the material may be suspended from the ceilings or may have fallen to the floor. Evidence of severe accidental or intentional damage.

NUMERICAL VALUE: 5

After the subjective score is determined for material condition based on the standard EPA guidelines for determining such, the score should be adjusted up 1 point or down 1 point depending on the building area age. If the age of the material and/or building in question is greater than 30 years, the objective variable is increased by 1. If the area age is less than 15 years, it is subtracted by 1. If the age is between 15 and 30 years, the score does not change. Then if the type of material, in particular pipe coverings, is a magnesium or calcium silicate preformed pipe which has a tendency to deteriorate more rapidly, the score is up by 1; and if the material type is corrugated air cell or paper product, it is reduced by 1. For ceiling plasters or fireproofing, if the material type is a more cementitious Monokote Type it is reduced by 1. If it is a cotton candy Cafco type blaze shield or sound shield, it is up by 1. For standard acoustical plaster materials, there is no change in the subvariable.

FACTOR TWO: WATER DAMAGE

Water damage is usually caused by roof leaks, particularly in buildings with flat roofs or a concrete slab and steel beam construction. Skylights can also be significant sources of leaks. Water damage can also result from plumbing leaks and water in the vicinity of pools, locker rooms, and lavatories.

Water can dislodge, delaminate, or disturb asbestos-containing materials that are otherwise in satisfactory condition and can increase the potential for fiber release by dissolving and washing out the binders in the material. Materials which were not considered friable may become friable after water has dissolved and leached

out the binders. Water can also carry fibers as a slurry to other areas where evaporation will leave a collection of fibers that can become resuspended in the air.

Inspect the area for visible signs of water damage such as discoloration of the asbestos-containing material, stains on the asbestos-containing material, adjacent walls, or floor, buckling of the walls or floor, or areas where pieces of the asbestos-containing material have separated into layers (delaminated) or come loose and fallen down, thereby exposing the substrate.

Close inspection is required. In many areas staining may only occur in a limited area while water damage causing delamination may have occurred in a much larger area. In addition, the water damage may have occurred since the original inspection for friable material was conducted causing new areas to become friable and require an assessment inspection.

Delamination is particularly a problem in areas where the substrate is a very smooth concrete slab. Check to see if the material "gives" when pressure is applied from underneath.

FACTOR TWO: WATER DAMAGE

This factor is comprised of three levels:

A. NO WATER DAMAGE: No water stains or evidence of the material being disturbed by water. No stains on the floor or walls to indicate past water damage.

NUMERICAL VALUE: 0

B. MINOR WATER DAMAGE: Small areas of the material or adjacent floor and/or walls show water stains and ceiling material may be slightly buckled. However, pieces have not fallen from the ceiling and the damage affects 10% or less of the material.

NUMERICAL VALUE: 1

C. MODERATE TO MAJOR WATER DAMAGE: Water has dislodged some of the material and caused the material to break away, or has become saturated and has the potential to fall, and/or greater than 10% of the material has been affected. Asbestos fibers have been carried from the asbestos-containing material by water and evaporation has occurred, and/or the fibers have been deposited on other surfaces.

NUMERICAL VALUE: 2

After the general subjective determination has been made, if the roof above the material is a sloped or hipped roof, the subjective is reduced by 1/2. If it is a flat roof and built-up it is increased by 1/2. If the substrate type is metal or concrete, it is reduced by 1/2.

FACTOR THREE: EXPOSED SURFACE AREA

The amount of asbestos-containing material exposed to the area occupied by people can increase the likelihood that the material may be disturbed and determines whether the fibers can freely move through the area. An asbestos-containing material is considered exposed if it can be seen, i.e., if there are no physical barriers which must be moved in order to get to the material. For a material not to be exposed, the barrier must be complete, undamaged, and not likely to be removed or dislodged. An asbestos-containing material should be considered exposed if it is visible, regardless of the height of the material.

If the asbestos-containing material is located behind a suspended ceiling with movable tiles, a close inspection must be made of the condition of the suspended ceilings, the likelihood and frequency of access into the suspended ceiling, and whether the suspended ceiling forms a complete barrier or is only partially concealing the material.

Asbestos-containing material above a suspended ceiling is considered exposed if the space above the suspended ceiling comprises an air plenum. Suspended ceilings with numerous louvers, grids or other open spaces should be considered exposed. This factor is comprised of three levels:

FACTOR THREE: EXPOSED SURFACE AREA

A. MATERIAL NOT EXPOSED: Located above suspended ceiling. None visible without removing panels or ceiling sections. Suspended ceiling is not damaged.

NUMERICAL VALUE: 0

B. TEN PERCENT OR LESS OF THE MATERIAL IS EXPOSED: A few panels of a suspended ceiling have been removed. Spaces between ceiling tiles exist which would allow fibers to pass through the barrier.

NUMERICAL VALUE: 1

C. GREATER THAN 10 PERCENT OF THE MATERIAL IS EXPOSED.

NUMERICAL VALUE: 4

After the general determination is made, if there is an HVAC system that is part of the plenum area, the general determination is increased by 1. If there is no plenum but only an enclosed dead space, it is reduced by 1. If there is a semi- or permanent enclosure under the fireproofing or acoustical plaster isolating the mechanical system, the general determination is reduced by 1/2.

FACTOR FOUR: ACCESSIBILITY

If the friable asbestos-containing material can be reached by building users or maintenance people either directly or by impact from objects used in the area, it is

accessible and subject to accidental or intention contact and damage. Material which is accessible is most likely to be disturbed in the future.

Evidence of degree of accessibility can also be determined by examining asbestos-containing surfaces for impact marks, gouges, scrapes, finger marks, items thrown into the material, etc. Even coated ceilings 25 feet high have been observed with pencils, pens, forks and other items stuck in the material. Also note such practices as stacking boxes from floor to ceiling. The top box may scrape the asbestos-containing coating off the ceiling when it is moved.

The proximity of the friable asbestos-containing material to heating, ventilation, lighting and plumbing systems requiring maintenance or repair may increase its accessibility.

In addition, the activities and behavior of persons using the building should be included in the assessment of whether the material is accessible. For example, persons involved in athletic activities may accidentally cause damage to the material on the walls and ceilings of gymnasiums through contact by balls or athletic equipment. To become fully aware of the uses of the building by its occupants, the inspector should consult with building staff or personnel familiar with routine building activities. This factor is comprised of three levels:

ACCESSIBILITY

A. NOT ACCESSIBLE: The material is located above a tight suspended ceiling or is concealed by ducts or piping. The building occupants cannot contact the material.

NUMERICAL VALUE: 0

B. RARELY ACCESSIBLE: The material is contacted only during abnormal activity such as infrequent maintenance or repair of nearby heating ventilation, lighting or plumbing systems. Building occupants rarely touch the material or throw objects against it.

NUMERICAL VALUE: 1

C. HIGHLY ACCESSIBLE: Material is contacted frequently due to routine maintenance. The building occupants can contact the material during normal activity at which time they routinely touch and dislodge the materials or throw objects against it.

NUMERICAL VALUE: 4

If the ceiling height or material height is greater than 9 1/2 feet, the subjective score is reduced by 1. If it is under 9 1/2 feet it is increased by 1. Since the building occupancy and use status tells us a great deal about how often the material is going to be accessed, we adjust the subjective determination by 1 1/2+ depending on the

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amount of occupancy.

Pipe chases, crawl spaces, attics and mechanical air handling rooms are reduced by 1 1/2, whereas major boiler rooms, classrooms, secretarial pools, or offices are increased by 1 1/2.

FACTOR FIVE: ACTIVITY AND MOVEMENT

The level of activity and movement in the vicinity of the asbestos-containing material can affect both the potential for disturbance of the material as well as the level of resuspension of the fibers which have come loose from the material. Consider not only the movement caused by the activities of people in the area but also movement from other sources such as high vibration from adjacent rooms, highways, etc.

Another source of vibration is sound, such as music and noise. Sound sets airwaves in motion in certain frequencies. As these sound waves impact on asbestos-containing material, they may vibrate this material and contribute to fiber release. Therefore, fibers may be released to a greater extent in a band room, music practice room, or auditorium than in the remainder of the building. Aircraft noise also has the ability to vibrate buildings; therefore, the inspector should determine if the building is in a direct flight path. It has been reported that in several schools whose ceilings were coated with asbestos-containing acoustical plaster, the band rooms were dustier than any other room in the school and granular material was deposited on floors and desks after music practice sessions.

The level of activity can best be described by identifying the purpose of the area as well as estimating the number of persons who enter the area on a typical day.

ACTIVITY AND MOVEMENT

A. **NONE OR LOW ACTIVITY:** This level would normally include areas such as administrative offices, libraries, and those classrooms where the population is quiet and nondestructive.

NUMERICAL VALUE: 0

B. **MODERATE ACTIVITY:** This level describes corridors, classrooms or other areas where activities exist that could create undue vibration. This vibration could result in fibers being released from the material into the immediate area.

NUMERICAL VALUE: 1

C. **HIGH ACTIVITY LEVEL:** This level may be found in cafeterias and corridors whose occupants are vandalous or disruptive in their activities. This also includes all gymnasiums, swimming pools and rooms containing machinery.

NUMERICAL VALUE: 2

After the subjective determination is made, we must determine whether there is sedentary or nonsedentary movement. If the room in question is a library or other sedentary work environments, the subjective variable is reduced by 1/2. However, if the area in question has a great deal of activity such as in a hallway, a boiler room, a maintenance shed, etc., the variable will be increased by 1/2. If the room in question is subject to sound or mechanical vibration such as in an auditorium or a band hall or in an air handling or boiler room where there are constant vibrations, the variable is up by 1/2. If the area in question contains no recognizable sound or mechanical vibrations, or if no air handling systems are on the roof of the area, the subjective variable is reduced by 1/2.

FACTOR SIX: AIR PLENUM OR DIRECT AIR STREAM

An air plenum exists when the return (or, in rare cases, conditioned) air leaves a room or hall through vents in a suspended ceiling and travels at low speed and pressure through the space between the actual ceiling and the suspended ceiling or ducts. In evaluating whether an air plenum or direct air stream is present the inspector must look for evidence of ducts or cavities used to convey air to and from heating or cooling equipment or the presence of air vents or outlets which blow air directly onto friable material.

A typical construction technique is to use the space between a suspended ceiling and the actual ceiling as a return air plenum. In many cases you will have to lift the tiles in the suspended ceiling to check if this is the case. Inspection of the air handling or HVAC equipment rooms may also provide evidence of the presence of this material in the plenums.

Special attention should be paid to whether activities such as maintenance frequently occur which would disturb the material in the plenum. Also any evidence that the material is being released or eroded (i.e., is it damaged or deteriorated so that the material is free to circulate in the airstream) such as accumulations of the material in the plenum should be noted. The presence of a direct air stream is indicated by discoloration of the asbestos coating in the vicinity of a vent or erosion patterns may be evident in the asbestos-containing material.

AIR PLENUM OR DIRECT AIR STREAM

A. **NO AIR PLENUM OR DIRECT AIR STREAM PRESENT:**

NUMERICAL VALUE: 0

B. **AIR PLENUM OR DIRECT AIR STREAM PRESENT:** Look for dust patterns deposited by an air stream on surfaces next to air supply diffusers. Fan rooms coated with asbestos-containing material may be contributing asbestos fibers to the building air if the

circulation system draws air from such a coated room. Look for debris from the asbestos-containing material being deposited on dampers and filters of the air intake.

NUMERICAL VALUE: 1

After the general determination is made, we look at the velocity of the air flow if in fact there is an air flow. If the air flow is recognizable by human feeling rather than subtle, the variable is increased by 1/4. If it is nonrecognizable it is reduced by 1/4. If the air flow is a constant, steady stream it, again, is reduced by 1/4; whereas if the air flow is an impact air flow such as through thermostatic action where large gusts of air impact the material from time to time it is increased by 1/4.

FACTOR SEVEN. FRIABILITY

The term "friable" is applied to dry material that can be crumbled, pulverized, or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air. In order to evaluate the friability of the material it should be touched. The asbestos-containing material can vary in degree of friability. The more friable the material, the greater the potential for asbestos fiber release and contamination. A material that contains asbestos can be expected to emit fibers during use or maintenance if the original integrity of the material has been disturbed.

FRIABILITY

A. NOT FRIABLE: Material that is hard and cannot be damaged by hand. An object is required to penetrate material. The material integrity has been maintained.

NUMERICAL VALUE: 0

B. LOW FRIABILITY: Material that is difficult yet possible to damage by hand. Material can be indented by forceful impact. If the granular, cementitious asbestos-containing material is rubbed, it leaves granules on the hand but no powder. Material integrity has been disturbed.

NUMERICAL VALUE: 1

C. MODERATE FRIABILITY: Fairly easy to dislodge and crush or pulverize. Material may be removed in small or large pieces. Material is soft and can easily be indented by hand pressure. The granular, cementitious asbestos-containing material leaves a powder residue on the hands when rubbed.

NUMERICAL VALUE: 2

D. HIGH FRIABILITY: The material is fluffy, spongy, or flaking and may have pieces hanging down. Easily

crushed or pulverized by hand pressure. Material may disintegrate or fall apart when touched.

NUMERICAL VALUE: 3

FACTOR EIGHT: ASBESTOS CONTENT

The percentage for all types of asbestos present should be added for the total asbestos content. The numerical value is assigned based upon the report of analysis, not on appearance of the material.

With a high percentage of asbestos, there are more fibers that can be released and contaminate the building environment. Therefore, if certain areas are identical in their assessment using the other seven factors, this factor will be helpful in establishing priorities and indicating which area needs to be addressed first. This factor is comprised of three levels:

A. TRACE AMOUNTS TO ONE PERCENT.

NUMERICAL VALUE: 0

B. GREATER THAN ONE PERCENT TO FIFTY PERCENT. Ceiling and wall coatings most frequently encountered in this category are the granular, cementitious acoustical plasters.

NUMERICAL VALUE: 2

C. FIFTY PERCENT TO ONE HUNDRED PERCENT. Most frequently materials containing over 50% asbestos were pipe and boiler wrapping or the fibrous, cotton candy, type sprayed-on insulation.

NUMERICAL VALUE: 3

Step 2: Exposure Number Calculation

The Exposure Number is derived from the Factor Scores by a formula. After entering the chosen Factor Scores on lines 1 through 8:

- a) Sum factors 1 through 6 and enter opposite SUM;
- b) Multiply factor 7 times factor 8, and enter opposite PRODUCT;
- c) Multiply SUM times PRODUCT and enter opposite EXPOSURE NUMBER.

This number represents the result of your assessment for each area of the building. The values can range from 0 to 162. The higher the numerical value, the greater the potential for fiber release and therefore the more hazardous the situation. The Exposure Number must now be compared to the Corrective Action Scale, which is Step 3.

Step 3: Comparison of Exposure Number to Corrective

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Action Scale

Appendix B, Corrective Action Scale, presents five Priority Levels, and a range of Exposure Numbers for which that Priority Level is appropriate. Compare the Exposure Number derived in Step 2 to the Priority Levels in Appendix B. For example, an Exposure Number of 65 indicates that a Priority Level of I should be assigned. An Exposure Number of 10, however, indicates that a Priority Level of IV should be assigned. The proper response action for each Priority Level is found in Section IX of these standards.

APPENDIX B

CORRECTIVE ACTION SCALE

Priority Level	Exposure Number Range
I	61 - 162
II	40 - 60
III	20 - 39
IV	0 - 1
Significant Hazard Area	As Defined in Section I

* * * * *

Title of Regulation: VR 394-01-06. Virginia Statewide Fire Prevention Code/1987.

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

Public Hearing Date: August 21, 1989 - 10 a.m.
(See Calendar of Events section for additional information.)

NOTICE: Due to its length the Virginia Statewide Fire Prevention Code filed by the Board of Housing and Community Development is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Housing and Community Development.

Summary:

The 1987 edition of the Virginia Statewide Fire Prevention Code is a set of regulations adopted by the Board of Housing and Community Development pursuant to power mandated by § 27-94 of the Code of Virginia. The code is a mandatory, statewide set of regulations that must be complied with for the protection of life and property from the hazards of

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

Pursuant to SJR 190, the Board of Housing and Community Development proposes to amend those portions of the Virginia Uniform Statewide Fire Prevention Code regulations pertaining to: Application to Post-USBC and Pre-USBC buildings necessary to permit the proposed amendments to Volume II which requires retrofitting existing buildings of Use Group R-1 (Hotels, Motels) with automatic sprinkler systems and smoke detectors.

Pursuant to HB 550, the 1988 General Assembly empowered the Board of Housing and Community Development to promulgate and adopt regulations governing the handling, storage and use of explosives, ammunition, and blasting agents. The Ad Hoc Committee on Explosives, Ammunition and Blasting Agents drafted new regulations to replace Article 26 of the Uniform Statewide Fire Prevention Code. Due to the substantive nature of the public comments received on the proposed draft in 1988, the Board of Housing and Community Development enacted the then current Department of Labor and Industry regulations as emergency regulations governing explosives and blasting agents.

The Board of Housing and Community Development proposes to delete the current text of Article 26 in its entirety and replace it with a new Article 26, Explosives, Ammunition, and Blasting Agents which addresses issues and concerns expressed during the 1988 public hearing.

* * * * *

Title of Regulation: VR 394-01-7. Asbestos Survey Standards for Buildings to be Renovated or Demolished.

Statutory Authority: § 36-99.7 of the Code of Virginia.

Public Hearing Date: August 21, 1989 - 10 a.m.

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(See Calendar of Events section for additional information)

Summary:

There has been a growing public awareness of the link between the inhalation of asbestos fibers and various diseases such as asbestosis, mesothelioma, lung and other cancers. As a result, legislation was enacted by the 1987 General Assembly and was modified by the 1988 General Assembly which required the Department of General Services to develop survey standards for the inspection of buildings which are proposed to be renovated or demolished. These standards are provided to identify the presence of asbestos, and to the extent practicable, the relative hazard to health or safety posed by any asbestos identified. The amendments made in § 36-99.7 of the Code of Virginia, enacted by the 1989 General Assembly, authorized the Board of Housing and Community Development to further amend these standards in accordance with the provisions of the Administrative Process Act.

The proposed amendments to these standards include:

1. Revision of § 1, definitions, to clarify their application within the scope of the standards to be consistent with the Code of Virginia;
2. Elimination of the minimum competency requirements established for asbestos inspectors;
3. Clarification of the intent of the standards where they have proven to be difficult to interpret and administer. Examples of these clarifications include revising the exemption found in Section IV; and
4. Deletion of text which is inappropriate for use in a regulatory document. Examples of such text include the use of permissive language such as the words "may" or "should."

VR 394-01-7. Asbestos Survey Standards for Buildings to be Renovated or Demolished.

I. § 1. Definitions.

"Abatement contractor" means company or individual properly licensed in the Commonwealth of Virginia who routinely conducts asbestos abatement activities such as, but not limited to removal, encapsulation or enclosure of asbestos containing materials in buildings.

"Asbestos" means any material containing more than one percent of the asbestiform varieties of:

1. chrysotile (serpentine),
2. crocidolite (riebeckite),

3. amosite (cummingtonite-grunerite),
4. anthophyllite,
5. tremolite, or
6. actinolite.

"Building" means a combination of any materials having a roof to form a structure for the use or occupancy by persons or property. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning, except farm buildings not used for residential purposes and frequented generally by the owner, members of his family and farm employees.

"Building manager" means contact person representing the owning entity at each facility.

"Building official" means individual designated by the local building department to issue building permits for the renovation or demolition of buildings and enforce the Virginia Uniform Statewide Building Code, Volume I, New Construction Code (USBC).

"Central heating" means a heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms and water closet compartments from a source outside of the room served.

"Competent personnel" means personnel who are qualified by education and/or experience to determine the presence of asbestos and to assess its hazard, or to abate any such hazard by proper encapsulation, enclosure, removal, repair or operations and maintenance of the asbestos containing material and who are licensed by the Virginia Department of Commerce pursuant to the requirements of Chapter 5 (§ 54.1-500 et. seq.) of Title 54.1. In addition, asbestos inspectors must meet the minimum competency requirements specified in Section IV(3) of these Standards licensed by the Department of Commerce in accordance with the Department of Commerce asbestos licensing regulations.

"Demolition" the wrecking or taking out of any load supporting structure member of a facility together with any related handling operations means to take down and remove a building in accordance with the USBC following the issuance of a demolition permit by the building official.

"Director" shall mean means the Director, Virginia Department of Housing and Community Development.

"Encapsulation" means the treatment of asbestos-containing materials 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

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(penetrating encapsulant).

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

"Friable" means material which is capable of being crumbled, pulverized, or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air.

"Homogenous material" means any material that appears similar in terms of color, texture, pattern, date of material application and functional use.

"Inspector" means an individual who physically inspects each building for materials that may contain asbestos, who is properly licensed to conduct building inspections for asbestos by the Virginia Department of Commerce pursuant to the requirements of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 and who meet the additional requirements specified in Section IV(3) of these standards is licensed by the Department of Commerce in accordance with the Department of Commerce asbestos regulations to perform 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.

"Management planner" means an individual who is develops the plan to manage any identified or suspect asbestos containing materials in the facility, who is properly licensed by the Virginia Department of Commerce as an Asbestos Management Planner pursuant to the requirements of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 licensed by the Department of Commerce in accordance with the Department of Commerce asbestos regulations to develop and implement an asbestos management plan.

"NESHAPS" means National Emission Standard for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos, Sections Sect. 61.140 - 61.156.

"Notification" means procedure used to inform building occupants and visitors of the location, description and condition of all asbestos containing materials identified or suspected in the facility and of the existence and location of a plan to manage the material.

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

"Renovation" altering in any way, one or more facility components. Operations in which load-supporting structure members are wrecked, or taken out, are excluded means remodeling or altering interior partitions, interior portions

of exterior walls or ceilings, or a wing or other major portion of a building; altering or replacing roofing materials or major components and equipment of a building; re-roofing; removing or disturbing any asbestos containing materials during alteration, or renovation of additions to buildings or structures.

"Repair" means return friable asbestos containing material to a condition where it is not friable.

"Response actions" means any action, including removal, encapsulation, enclosure, repair, method of operation, maintenance, record keeping or notification that protects human health from building materials containing asbestos.

"Significant hazard area" means any area where the asbestos containing material is highly friable, where more than 10% of the material is exposed, where the damage is widespread and the area is accessible to occupants including by any air handling system.

"Supervisor" means an asbestos abatement worker licensed by the Department of Commerce as a supervisor in accordance with the Department of Commerce asbestos licensing regulations.

"Team leader" means an individual who is properly licensed as an asbestos inspector and management planner pursuant to the requirements of Chapter 7.01 (§ 54-145.4 et seq.) of Title 54 and who meets the minimum requirements specified in Section IV(3)(B) of these standards licensed as an asbestos inspector and management planner by the Department of Commerce in accordance with the asbestos licensing regulations.

"Varying visible appearance" means any visible difference in size, color, texture, degree of hardness, etc., which may indicate differing material. This term is synonymous with "visually distinct material."

II. Background.

There has been a growing public awareness of the link between the inhalation of asbestos fibers and various diseases such as asbestosis, mesothelioma, lung and other cancers. As a result, Legislation was enacted by the 1987 General Assembly (Article 5.2 Sect. 2-1-526.12 through 2-1-526.17) and was modified by the 1988 General Assembly which required the Department of General Services to develop survey standards for the inspection of buildings other than school buildings in order to identify the presence of asbestos and to the extent practicable the relative hazard to health or safety posed by any asbestos identified.

III. Purpose.

The primary purpose of these standards is to establish the minimum requirements, relevant to the inspection of each covered facility for asbestos, and the evaluation of the risk to human health within that facility.

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IV. § 2. Scope.

1. A. According to Sect. 36-00-7 of the Code of Virginia, after January 1, 1989 the local building official shall not issue a building permit for a non-exempted building to be renovated or demolished until the building has been inspected according to these standards and the owner or his agent presents a statement signed by the inspector conducting the inspection that states either (1) no asbestos was detected or (2) asbestos was detected and response actions to abate any risk to human health have been completed or (3) asbestos was detected and response actions to abate any risk to human health have been or will be undertaken as a part of the renovation or demolition project. The inspection report must be signed by the inspector. The primary purpose of these standards is to establish the minimum requirements relevant to the inspection of each covered facility for asbestos and the evaluation of the risk to human health within the facility.

2. B. Exemptions.

Any building meeting any one of the following conditions is exempt from the requirements of these standards.

- a. 1. built after Any building for which a permit was issued after January 1, 1978, or;
- b. 2. that is a Single-family dwelling; or dwellings ,
- c. 3. that is Residential housing with less than four or fewer units; or dwellings ,
- d. that is a farm building; or;
- e. 4. that is a building Buildings with less than 3,500 square feet ; or ,
- f. 5. that is a building Buildings with no central heating system; or,
- g. 6. that is a building Buildings owned by a public utility that is required by law to give notification to the Commonwealth of Virginia and to the Environmental Protection Agency prior to removing asbestos in connection with the renovation or demolition of a building.

§ 3. Building permit requirements.

The local building department shall not issue a building permit for renovation or demolition of a building constructed prior to 1978 until the owner or agent provides a certification that an inspection has been made and (i) no asbestos was found, or (ii) the proper response action has been or will be taken. The owner or agent shall also certify that the inspector who performed the inspection is duly licensed by the Department of Commerce asbestos licensing regulations.

3. Minimum Competency Requirements:

A. Individuals conducting inspections of buildings for asbestos containing materials shall meet the following minimum requirements:

1. They shall have a valid Asbestos Inspector's License and Asbestos Management Planner's License issued by the Virginia Department of Commerce pursuant to the requirement of Chapter 5 (§ 54.1-500 et. seq.) of Title 54.1, and have either;

a. successfully completed a minimum of two (2) weeks of intensive field training under the direction of a Team Leader or;

b. have a minimum of two (2) years experience in conducting field assessment surveys for asbestos containing materials in buildings.

B. Individuals filling positions of Team Leader shall meet the following minimum requirements.

1. They shall possess, at a minimum, a college degree (A.S. or B.S.) in a physical science or related scientific field (e.g. biology, environmental science, engineering, geology, etc.); and;

2. have a minimum of three years experience in conducting field assessment surveys for asbestos containing materials in buildings, and;

3. have a valid Asbestos Inspector's License and Management Planner's License issued by the Virginia Department of Commerce pursuant to Chapter 7.01 (§ 54.145-4 et. seq.) of Title 54.1.

V. Preliminary Assessment.

An initial assessment shall be made to determine if the building was built prior to January 1, 1978. Any disagreement shall be resolved according to the Appeals Process established by the Uniform Statewide Building Code. All buildings covered by these standards must be inspected for asbestos prior to receiving a building permit for a renovation or demolition after January 1, 1989, by competent personnel as defined herein unless they are deemed exempt pursuant to Section IV.2 of these standards.

VI. § 4. Document review and on-site survey.

A review should be made of all appropriate building construction documents (i.e., floor plans, blueprints, microfilm record, previous inspection records, asbestos abatement projects, etc.) to facilitate the identification of areas where asbestos may be present if available. A basic sketch of the representative floor plan showing any major detail must be prepared to identify bulk sample locations and general asbestos material location. Any on-site inspections must be conducted by competent personnel properly licensed by the Virginia Department of Commerce who have the training to identify the presence

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of asbestos, and to assess, to the extent practicable, the relative hazard or hazards to health and safety posed at each location at which asbestos is suspected or identified. Each on-site survey shall include at least the following and be documented in a report to the owners:

A. A basic sketch of the representative floor plan showing any major detail must be prepared to identify bulk sample locations and general asbestos material location.

1. B. Visual inspection.

All suspect asbestos-containing materials located in the renovation or demolition area that are or may become friable, as defined by these standards, during the renovation or demolition project must be identified. These areas may include but not be limited to:

- A. 1. Rooms, hallways, and offices
- B. 2. Mechanical and electrical equipment rooms
- C. 3. Pipe chases
- D. Basements
- E. 4. Attics
- F. 5. The space above ceilings, between walls, and below floors
- G. 6. Steam tunnels
- H. 7. Stairwells
- I. 8. Closets and storage areas
- J. 9. All occupied and unoccupied spaces
- K. 10. Crawl spaces, including soil as appropriate
- L. 11. Floor covering and mastic
- M. 12. Exterior coverings and roofs

In addition, identify and document the location of all fire doors suspected of containing asbestos. These locations are to be designated on the building sketches and included in the inspection report.

Note: C. Areas where access is impossible or prohibitive which are not accessible for sampling shall be identified on the building sketches. A notation must be made in the inspection report as to why the areas could not be investigated. All materials in these areas are to be considered to contain asbestos.

2. D. Bulk sampling.

Representative bulk sampling of suspected

asbestos-containing materials shall be conducted and submitted to a laboratory meeting the minimum requirements found in Section VII of these standards.

All sample areas shall be clearly marked and a permanent identification number corresponding to the respective samples and shall be identified on copies of the available construction drawings or the building sketches prepared by the inspector on the drawings required by these regulations.

A. E. Representative samples of each distinct type of suspect asbestos-containing material shall be collected to confirm its asbestos content unless it is assumed to contain asbestos. Distinction between types of material shall be based on at least the following criteria:

1. Visual appearance, size;
2. Texture and hardness;
3. Functional use, including but not limited to insulation, ceilings, walls, boilers, tanks, furnace, other mechanical equipment, ceiling pipes, pipe wrapping, elbow material, valve material, structural members, decks, beams, duct materials, roofs, exterior coverings, fire doors and/or stage curtains.
4. Information provided by documents, interviews, or any source as to prior renovation or patchwork.
5. Patchwork. One sample of each patch or repair.

B. F. The minimum number of samples to be taken for each distinct type of suspected asbestos material shall be as follows:

1. Sprayed or troweled material. Three random samples for each visually or functionally different material or known different application for up to 1,000 sq. ft., five random samples from 1,000 to 5,000 sq. ft., seven random samples from 5,000 to 10,000 sq. ft., and for every 5,000 sq. ft. over 10,000 sq. ft. one additional random sample will be taken. This rule applies to homogeneous material on each floor only.
2. Pipe and duct insulation. A minimum of one sample for every 150 linear feet of material of varying size or visual appearance per floor. Samples shall be taken where material is damaged or exposed where possible, to avoid breaching intact covering.
3. Valve or fitting muds. Three samples of valve material or elbow mud for each insulated line of varying diameter or visual appearance per floor or area.
4. Boilers, tanks, and furnaces - three samples per unit if homogeneous.
5. Patchwork. One sample of each patch or repair.

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6. Ceiling or acoustical tile. Three samples for each material of varying visible appearance per floor.

7. Roofs and other exterior materials. Three samples per 10,000 sq. ft. plus 1 additional sample per each additional 5000 sq. ft. per homogenous area or level.

8. Other materials. As determined as necessary by the inspector but at least two samples per homogenous material per floor or level.

Note: Additional concerns should be addressed when sampling roof materials, such as proper patching procedures and "warranty" considerations.

G. Selection of sample location:

1. For sprayed on or troweled on material, the EPA and REPO guidelines on pages 15-27 in "Asbestos - Containing Materials in School Buildings - Guidance for Analytical Programs" will be followed located in Appendix "A" shall be followed.

2. For other types of uses, visually distinct materials will be sampled.

D. H. Bulk sample size.

1. Samples shall be taken to penetrate all layers of the material. Samples should contain at least 15 cubic centimeters of material, and shall be placed in a container and sealed at the time of collection.

E. I. Sampling precautions.

All precautions shall be taken to prevent exposure to those present in or around the facility during the collection of samples. The survey team is responsible for protecting occupants of the area and for patching the sampling area.

1. All sampling shall be conducted when building occupants are not in the immediate area, and preference shall be given to time when the areas being sampled are not in use. When it is not possible to collect samples during a time when the facility is not being used, advance arrangements shall be made to evacuate the immediate sampling area(s) for the time necessary to collect the samples. The immediate area shall be evacuated prior to taking samples for the time necessary to collect samples. The building manager is responsible for insuring that evacuation takes place.

2. Proper procedures and equipment shall be used during sampling to minimize fiber generation.

3. Area protection and cleanup. Care should be taken to minimize fiber release; however, any visible debris or residue generated during the sampling shall be thoroughly removed by wet wiping the debris or

HEPA vacuuming. An area at least four feet in each direction adjacent to the sample area shall also be cleaned using the above methods.

4. Locations from which samples are taken shall be patched as soon as the sampling has been completed by using methods and materials which are acceptable to the Project Manager and which are both structurally sound and aesthetically compatible immediately upon removal of the sample. Each such location may be treated by low pressure application of an approved encapsulation.

5. When samples are taken in areas where the material is in poor condition, care must be taken to prevent further deterioration or fiber release.

a. The sample location will be adequately patched to prevent fiber release or deterioration by the inspector unless otherwise noted by the Building Manager in writing.

VII. Bulk Sample Analysis.

1. 6. Samples shall be analyzed by polarizing light microscopy using the EPA Interim Method for the Determination of Asbestos in Bulk Insulation Samples (EPA-600/M4-82-020).

2. 7. The inspector shall submit Representative bulk samples shall be sent for analysis to a laboratory that successfully participates in the AHERA, National Institute of Standards and Technology (NITS) Quality Assurance Program, or an other approved equivalent Quality Assurance Program and have certification/accreditation by the American Industrial Hygiene Association.

3. Sample submissions:

A. Laboratory Analyst.

Each analyst must have successfully completed a course in basic asbestos analysis, similar to that offered by Walter C. McCrone Associates of Chicago, Illinois. In addition, each analyst must have six months of on-the-job training with an analyst found acceptable through the NITS Quality Assurance Program/National Voluntary Laboratory Accreditation Program (NVLAP), or an approved equivalent.

VIII. Certification.

To determine compliance, documentation shall include at a minimum;

1. Qualifications of Inspector.

2. Qualifications of Laboratory and Analyst.

3. Documentation necessary to determine that the

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survey was conducted according to these standards.

4. Proposed action to comply with unmet requirements.

APPENDIX A

Instructions For Use Of The 20-Variable Algorithm

The 20-variable algorithm is an expansion on the old EPA or Sawyer algorithm. Where the primary variables are identical to the Sawyer algorithm, the first six variables have two sub-variables used to adjust the subjective or general score. The subjective or general score can be adjusted to represent a more accurate reflection of the true value of that general variable.

ASSESS EACH OF THE FACTORS

Carefully consider each of the following seven factors (the eighth factor, asbestos content, must be determined from laboratory reports) and record your observations:

FACTOR ONE. MATERIAL CONDITION:

The condition of the asbestos-containing material is the most important indicator of whether fibers have been released in the past or may be released in the future.

An assessment of the condition should evaluate: the quality of the installation, the adhesion of the material to the underlying substrate, deterioration, destruction of the material by water, vandalism which has damaged the material, and any other damage. Evidence of debris on horizontal surfaces, material hanging, dislodged chunks, scrapings, indentations, or cracking are indicators of poor material condition.

Condition is closely related to other factors considered in the assessment inspection: if the asbestos-containing material is accessible, it is likely to be damaged; if the activity level is high in the area, the level of damage may be high; and materials which are exposed may be more likely to sustain damage.

Accidental or deliberate physical contact with the material can result in damage to the asbestos-containing material. Inspectors should look for any evidence that the asbestos-containing material has been disturbed such as finger marks in the material, graffiti, pieces dislodged or missing, scrape marks from movable equipment or furniture, or accumulation of the friable material on floors, shelves, or other horizontal surfaces.

Asbestos-containing material may deteriorate as a result of the quality of the installation as well as environmental factors which affect the cohesive strength of the asbestos-containing material or the strength of the adhesion to the substrate. Deterioration can result in dusting of the surface of the asbestos-containing material, delamination of the material (i.e., separating into layers), or an adhesive

failure of the material where it pulls away from the substrate and either hangs loosely or falls to the floor and exposes the substrate. Inspectors should touch the asbestos-containing material and determine if dust is released when the material is lightly brushed or rubbed. If the coated surface "gives" when slight hand pressure is applied or the material moves up and down with light pushing, the asbestos-containing material is no longer tightly bonded to its substrate.

FACTOR ONE: MATERIAL CONDITION

This factor is comprised of three levels:

A. NO DAMAGE: Material is intact and shows no sign of deterioration.

NUMERICAL VALUE: 0

B. MODERATE DAMAGE - SMALL AREAS: Through visual inspection and physical contact there are indications that 10% or less of the material is breaking up into layers or beginning to fall. There may be small areas where the material is deteriorating. There may be signs of accidental or intentional damage.

NUMERICAL VALUE: 2

C. WIDESPREAD SEVERE DAMAGE: Greater than 10% of the material is damaged. Large pieces are dislodged and/or debris in the area is evident. Parts of the material may be suspended from the ceilings or may have fallen to the floor. Evidence of severe accidental or intentional damage.

NUMERICAL VALUE: 5

After the subjective score is determined for material condition based on the standard EPA guidelines for determining such, the score should be adjusted up 1 point or down 1 point depending on the building area age. If the age of the material and/or building in question is greater than 30 years, the objective variable is increased by 1. If the area age is less than 15 years, it is subtracted by 1. If the age is between 15 and 30 years, the score does not change. Then if the type of material, in particular pipe coverings, is a magnesium or calcium silicate preformed pipe which has a tendency to deteriorate more rapidly, the score is up by 1; and if the material type is corrugated air cell or paper product, it is reduced by 1. For ceiling plasters or fireproofing, if the material type is a more cementitious Monokote Type it is reduced by 1. If it is a cotton candy Cafco type blaze shield or sound shield, it is up by 1. For standard acoustical plaster materials, there is no change in the subvariable.

FACTOR TWO: WATER DAMAGE

Water damage is usually caused by roof leaks,

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particularly in buildings with flat roofs or a concrete slab and steel beam construction. Skylights can also be significant sources of leaks. Water damage can also result from plumbing leaks and water in the vicinity of pools, locker rooms, and lavatories.

Water can dislodge, delaminate, or disturb asbestos-containing materials that are otherwise in satisfactory condition and can increase the potential for fiber release by dissolving and washing out the binders in the material. Materials which were not considered friable may become friable after water has dissolved and leached out the binders. Water can also carry fibers as a slurry to other areas where evaporation will leave a collection of fibers that can become resuspended in the air.

Inspect the area for visible signs of water damage such as discoloration of the asbestos-containing material, stains on the asbestos-containing material, adjacent walls, or floor, buckling of the walls or floor, or areas where pieces of the asbestos-containing material have separated into layers (delaminated) or come loose and fallen down thereby exposing the substrate.

Close inspection is required. In many areas staining may only occur in a limited area while water damage causing delamination may have occurred in a much larger area. In addition, the water damage may have occurred since the original inspection for friable material was conducted causing new areas to become friable and require an assessment inspection.

Delamination is particularly a problem in areas where the substrate is a very smooth concrete slab. Check to see if the material "gives" when pressure is applied from underneath.

FACTOR TWO: WATER DAMAGE

This factor is comprised of three levels:

A. **NO WATER DAMAGE:** No water stains or evidence of the material being disturbed by water. No stains on the floor or walls to indicate past water damage.

NUMERICAL VALUE: 0

B. **MINOR WATER DAMAGE:** Small areas of the material or adjacent floor and/or walls show water stains and ceiling material may be slightly buckled. However, pieces have not fallen from the ceiling and the damage affects 10% or less of the material.

NUMERICAL VALUE: 1

C. **MODERATE TO MAJOR WATER DAMAGE:** Water has dislodged some of the material and caused the material to break away, or has become saturated and has the potential to fall, and/or greater than 10% of the material has been affected. Asbestos fibers have been carried from the asbestos-containing material by

water and evaporation has occurred, and/or the fibers have been deposited on other surfaces.

NUMERICAL VALUE: 2

After the general subjective determination has been made, if the roof above the material is a sloped or hipped roof, the subjective is reduced by 1/2. If it is a flat roof and built-up it is increased by 1/2. If the substrate type is metal or concrete, it is reduced by 1/2.

FACTOR THREE: EXPOSED SURFACE AREA

The amount of asbestos-containing material exposed to the area occupied by people can increase the likelihood that the material may be disturbed and determines whether the fibers can freely move through the area. An asbestos-containing material is considered exposed if it can be seen, i.e., if there are no physical barriers which must be moved in order to get to the material. For a material not to be exposed, the barrier must be complete, undamaged, and not likely to be removed or dislodged. An asbestos-containing material should be considered exposed if it is visible, regardless of the height of the material.

If the asbestos-containing material is located behind a suspended ceiling with movable tiles, a close inspection must be made of the condition of the suspended ceilings, the likelihood and frequency of access into the suspended ceiling, and whether the suspended ceiling forms a complete barrier or is only partially concealing the material.

Asbestos-containing material above a suspended ceiling is considered exposed if the space above the suspended ceiling comprises an air plenum. Suspended ceilings with numerous louvers, grids or other open spaces should be considered exposed. This factor is comprised of three levels:

FACTOR THREE: EXPOSED SURFACE AREA

A. **MATERIAL NOT EXPOSED:** Located above suspended ceiling. None visible without removing panels or ceiling sections. Suspended ceiling is not damaged.

NUMERICAL VALUE: 0

B. **TEN PERCENT OR LESS OF THE MATERIAL IS EXPOSED:** A few panels of a suspended ceiling have been removed. Spaces between ceiling tiles exist which would allow fibers to pass through the barrier.

NUMERICAL VALUE: 1

C. **GREATER THAN 10 PERCENT OF THE MATERIAL IS EXPOSED.**

NUMERICAL VALUE: 4

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After the general determination is made, if there is an HVAC system that is part of the plenum area, the general determination is increased by 1. If there is no plenum but only an enclosed dead space, it is reduced by 1. If there is a semi- or permanent enclosure under the fireproofing or acoustical plaster isolating the mechanical system, the general determination is reduced by 1/2.

FACTOR FOUR: ACCESSIBILITY

If the friable asbestos-containing material can be reached by building users or maintenance people either directly or by impact from objects used in the area, it is accessible and subject to accidental or intention contact and damage. Material which is accessible is most likely to be disturbed in the future.

Evidence of degree of accessibility can also be determined by examining asbestos-containing surfaces for impact marks, gouges, scrapes, finger marks, items thrown into the material, etc. Even coated ceilings 25 feet high have been observed with pencils, pens, forks and other items stuck in the material. Also note such practices as stacking boxes from floor to ceiling. The top box may scrape the asbestos-containing coating off the ceiling when it is moved.

The proximity of the friable asbestos-containing material to heating, ventilation, lighting and plumbing systems requiring maintenance or repair may increase its accessibility.

In addition, the activities and behavior of persons using the building should be included in the assessment of whether the material is accessible. For example, persons involved in athletic activities may accidentally cause damage to the material on the walls and ceilings of gymnasiums through contact by balls or athletic equipment. To become fully aware of the uses of the building by its occupants, the inspector should consult with building staff or personnel familiar with routine building activities. This factor is comprised of three levels:

ACCESSIBILITY

A. NOT ACCESSIBLE: The material is located above a tight suspended ceiling or is concealed by ducts or piping. The building occupants cannot contact the material.

NUMERICAL VALUE: 0

B. RARELY ACCESSIBLE: The material is contacted only during abnormal activity such as infrequent maintenance or repair of nearby heating ventilation, lighting or plumbing systems. Building occupants rarely touch the material or throw objects against it.

NUMERICAL VALUE: 1

C. HIGHLY ACCESSIBLE: Material is contacted

frequently due to routine maintenance. The building occupants can contact the material during normal activity at which time they routinely touch and dislodge the materials or throw objects against it.

NUMERICAL VALUE: 4

If the ceiling height or material height is greater than 9 1/2 feet, the subjective score is reduced by 1. If it is under 9 1/2 feet it is increased by 1. Since the building occupancy and use status tells us a great deal about how often the material is going to be accessed, we adjust the subjective determination by 1 1/2+ depending on the amount of occupancy.

Pipe chases, crawl spaces, attics and mechanical air handling rooms are reduced by 1 1/2, whereas major boiler rooms, classrooms, secretarial pools, or offices are increased by 1 1/2.

FACTOR FIVE: ACTIVITY AND MOVEMENT

The level of activity and movement in the vicinity of the asbestos-containing material can affect both the potential for disturbance of the material as well as the level of resuspension of the fibers which have come loose from the material. Consider not only the movement caused by the activities of people in the area but also movement from other sources such as high vibration from adjacent rooms, highways, etc.

Another source of vibration is sound, such as music and noise. Sound sets airwaves in motion in certain frequencies. As these sound waves impact on asbestos-containing material, they may vibrate this material and contribute to fiber release. Therefore, fibers may be released to a greater extent in a band room, music practice room, or auditorium than in the remainder of the building. Aircraft noise also has the ability to vibrate buildings; therefore, the inspector should determine if the building is in a direct flight path. It has been reported that in several schools whose ceilings were coated with asbestos-containing acoustical plaster, the band rooms were dustier than any other room in the school and granular material was deposited on floors and desks after music practice sessions.

The level of activity can best be described by identifying the purpose of the area as well as estimating the number of persons who enter the area on a typical day.

ACTIVITY AND MOVEMENT

A. NONE OR LOW ACTIVITY: This level would normally include areas such as administrative offices, libraries, and those classrooms where the population is quiet and nondestructive.

NUMERICAL VALUE: 0

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B. MODERATE ACTIVITY: This level describes corridors, classrooms or other areas where activities exist that could create undue vibration. This vibration could result in fibers being released from the material into the immediate area.

NUMERICAL VALUE: 1

C. HIGH ACTIVITY LEVEL: This level may be found in cafeterias and corridors whose occupants are vandalous or disruptive in their activities. This also includes all gymnasiums, swimming pools and rooms containing machinery.

NUMERICAL VALUE: 2

After the subjective determination is made, we must determine whether there is sedentary or nonsedentary movement. If the room in question is a library or other sedentary work environments, the subjective variable is reduced by 1/2. However, if the area in question has a great deal of activity such as in a hallway, a boiler room, a maintenance shed, etc., the variable will be increased by 1/2. If the room in question is subject to sound or mechanical vibration such as in an auditorium or a band hall or in an air handling or boiler room where there are constant vibrations, the variable is up by 1/2. If the area in question contains no recognizable sound or mechanical vibrations, or if no air handling systems are on the roof of the area, the subjective variable is reduced by 1/2.

FACTOR SIX: AIR PLENUM OR DIRECT AIR STREAM

An air plenum exists when the return (or, in rare cases, conditioned) air leaves a room or hall through vents in a suspended ceiling and travels at low speed and pressure through the space between the actual ceiling and the suspended ceiling or ducts. In evaluating whether an air plenum or direct air stream is present the inspector must look for evidence of ducts or cavities used to convey air to and from heating or cooling equipment or the presence of air vents or outlets which blow air directly onto friable material.

A typical construction technique is to use the space between a suspended ceiling and the actual ceiling as a return air plenum. In many cases you will have to lift the tiles in the suspended ceiling to check if this is the case. Inspection of the air handling or HVAC equipment rooms may also provide evidence of the presence of this material in the plenums.

Special attention should be paid to whether activities such as maintenance frequently occur which would disturb the material in the plenum. Also any evidence that the material is being released or eroded (i.e., is it damaged or deteriorated so that the material is free to circulate in the airstream) such as accumulations of the material in the plenum should be noted. The presence of a direct air stream is indicated by discoloration of the asbestos coating in the vicinity of a vent or erosion patterns may be

evident in the asbestos-containing material.

AIR PLENUM OR DIRECT AIR STREAM

A. NO AIR PLENUM OR DIRECT AIR STREAM PRESENT:

NUMERICAL VALUE: 0

B. AIR PLENUM OR DIRECT AIR STREAM PRESENT: Look for dust patterns deposited by an air stream on surfaces next to air supply diffusers. Fan rooms coated with asbestos-containing material may be contributing asbestos fibers to the building air if the circulation system draws air from such a coated room. Look for debris from the asbestos-containing material being deposited on dampers and filters of the air intake.

NUMERICAL VALUE: 1

After the general determination is made, we look at the velocity of the air flow if in fact there is an air flow. If the air flow is recognizable by human feeling rather than subtle, the variable is increased by 1/4. If it is nonrecognizable it is reduced by 1/4. If the air flow is a constant, steady stream it, again, is reduced by 1/4; whereas if the air flow is an impact air flow such as through thermostatic action where large gusts of air impact the material from time to time it is increased by 1/4.

FACTOR SEVEN. FRIABILITY

The term "friable" is applied to dry material that can be crumbled, pulverized, or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air. In order to evaluate the friability of the material it should be touched. The asbestos-containing material can vary in degree of friability. The more friable the material, the greater the potential for asbestos fiber release and contamination. A material that contains asbestos can be expected to emit fibers during use or maintenance if the original integrity of the material has been disturbed.

FRIABILITY

A. NOT FRIABLE: Material that is hard and cannot be damaged by hand. An object is required to penetrate material. The material integrity has been maintained.

NUMERICAL VALUE: 0

B. LOW FRIABILITY: Material that is difficult yet possible to damage by hand. Material can be indented by forceful impact. If the granular, cementitious asbestos-containing material is rubbed, it leaves granules on the hand but no powder. Material integrity has been disturbed.

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NUMERICAL VALUE: 1

C. MODERATE FRIABILITY: Fairly easy to dislodge and crush or pulverize. Material may be removed in small or large pieces. Material is soft and can easily be indented by hand pressure. The granular, cementitious asbestos-containing material leaves a powder residue on the hands when rubbed.

NUMERICAL VALUE: 2

D. HIGH FRIABILITY: The material is fluffy, spongy, or flaking and may have pieces hanging down. Easily crushed or pulverized by hand pressure. Material may disintegrate or fall apart when touched.

NUMERICAL VALUE: 3

FACTOR EIGHT: ASBESTOS CONTENT

The percentage for all types of asbestos present should be added for the total asbestos content. The numerical value is assigned based upon the report of analysis, not on appearance of the material.

With a high percentage of asbestos, there are more fibers that can be released and contaminate the building environment. Therefore, if certain areas are identical in their assessment using the other seven factors, this factor will be helpful in establishing priorities and indicating which area needs to be addressed first. This factor is comprised of three levels

A. TRACE AMOUNTS TO ONE PERCENT.

NUMERICAL VALUE: 0

B. GREATER THAN ONE PERCENT TO FIFTY PERCENT. Ceiling and wall coatings most frequently encountered in this category are the granular, cementitious acoustical plasters.

NUMERICAL VALUE: 2

C. FIFTY PERCENT TO ONE HUNDRED PERCENT. Most frequently materials containing over 50% asbestos were pipe and boiler wrapping or the fibrous, cotton candy, type sprayed-on insulation.

NUMERICAL VALUE: 3

Step 2: Exposure Number Calculation

The Exposure Number is derived from the Factor Scores by a formula. After entering the chosen Factor Scores on lines 1 through 8:

- a) Sum factors 1 through 6 and enter opposite SUM;
- b) Multiply factor 7 times factor 8, and enter opposite PRODUCT;

c) Multiply SUM times PRODUCT and enter opposite EXPOSURE NUMBER;

This number represents the result of your assessment for each area of the building. The values can range from 0 to 162. The higher the numerical value, the greater the potential for fiber release and therefore the more hazardous the situation. The Exposure Number must now be compared to the Corrective Action Scale, which is Step 3.

Step 3: Comparison of Exposure Number to Corrective Action Scale

Appendix B, Corrective Action Scale, presents five Priority Levels, and a range of Exposure Numbers for which that Priority Level is appropriate. Compare the Exposure Number derived in Step 2 to the Priority Levels in Appendix B. For example, an Exposure Number of 65 indicates that a Priority Level of I should be assigned. An Exposure Number of 10, however, indicates that a Priority Level of IV should be assigned. The proper response action for each Priority Level is found in Section IX of these standards.

APPENDIX B

CORRECTIVE ACTION SCALE

<u>Priority Level</u>	<u>Exposure Number Range</u>
I	61 - 162
II	40 - 60
III	20 - 39
IV	0 - 1
Significant Hazard Area	As Defined in Section IX

Title of Regulation: VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I, New Construction Code, 1987 Edition.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Public Hearing Date: August 21 - 10 a.m.
(See Calendar of Events section for additional information)

NOTICE: Due to its length the 1987 Edition of the Virginia Uniform Statewide Building Code, Volume I - New Construction Code filed by the Board of Housing and Community Development is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The

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full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Housing and Community Development.

Summary:

Volume I - New Construction Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide uniform regulation which must be complied with in all buildings or additions hereafter constructed, altered, enlarge, repaired, or converted to another use group. Its purpose is to protect the health, safety and welfare of building users, and to provide for energy conservation, water conservation and accessibility for the physically handicapped and aged. Technical requirements of the New Construction Code are based on the BOCA Model Building Code. The New construction code specifies the enforcement procedures to be used by local governments. Enforcement by local governments is mandatory. Provision is made for modifications by the building official when alternate means will provide equivalent health and safety. An administrative appeals system is established for resolution of disagreements between the building owner and the building official.

The proposed changes to the regulations are summarized as follows:

1. Fee levy. The Board of Housing and Community Development proposes to add a new § 104.5 which will require local governing bodies to assess building permit applicants a one percent levy on the total cost of each building permit. The text will require this levy to be transmitted quarterly to the Department of Housing and Community Development, and mandates that it be used to support the training programs of the Virginia Building Code Academy. The new text will allow those localities which maintain a training academy that is accredited by the Department of Housing and Community Development to retain this levy. These new provisions will also require the board to conduct an annual review of the costs associated with the academy in order to determine if any adjustment to the percentage of the levy is necessary.

2. Building accessibility for the physically disabled. The board of Housing and Community Development proposes to amend § 512.0 of the regulations for the purpose of incorporating the mandatory construction requirements of the 1988 Amendments to the Civil Rights Act of 1968. These amendments are known as the Fair Housing Act of 1988 (FHA). The FHA mandates that certain multifamily dwelling units, scheduled for first occupancy on or after March 1, 1991, be designed and constructed so that they can be readily converted to units that are fully accessible to the physically disabled. Pursuant to the recommendation of the State Building Code Technical Review Board, and completion of the committee work

noted in the existing text of the regulations, the board also proposes to amend the current scoping provisions of § 512.0. The proposed amendments include: (i) clarification of which buildings and structures are to be made accessible; (ii) adoption of the 1986 ANSI A117.1 Standard by reference; (iii) mandating 2% of multifamily residential parking spaces to be accessible; and (iv) clarification of what portions of the ANSI A117.1 Standard apply to the design of adaptable dwellings.

3. Underground storage tanks (USTs). The federal Environmental Protection Agency (EPA) has promulgated final regulations by which to govern the installation, up grade and closure of all USTs which contain an accumulation of regulated substances. EPA's final regulations became effective on December 22, 1988, and these supersede the existing text of § 627.0 of the USBC. The Virginia State Water Control Board is currently proposing adoption of EPA's final regulations. Section 36-99.6 of the Code of Virginia authorizes the Board of Housing and Community Development to incorporate the UST regulations promulgated by the State Water Control Board into the USBC. Therefore, the Board of Housing and Community Development proposes to amend § 627.0 by deleting all current text and adopting by reference the regulations promulgated by the State Water Control Board.

4. Fire protection systems. Pursuant to HJR 374, the Board of Housing and Community Development proposes to amend Articles 5, 8, 9, and 10 to mandate the installation of fire sprinkler and smoke detection systems for certain buildings of Use Groups R-1 and R-2 (Multifamily dwellings). These amendments also establish exceptions to existing code requirements based on the installation of such systems. Examples of these exceptions include reductions in fire resistance ratings for fire separation assemblies, and increased sizes for buildings of combustible construction.

5. Boat storage facilities. HSR 337 (1989 General Assembly Session) requests the Board of Housing and Community Development to study the need to improve the level of fire protection required for boat storage facilities. Therefore, the Board proposes to amend the regulations by incorporating the fire protection system requirements specified in the National Fire Protection Association Standard Number 303, Fire Protection Standard for Boatyards and Marinas for new boat storage facilities.

6. Asbestos inspections. The 1989 Virginia General Assembly enacted HB 1651, which amended § 36-99.7 of the Code of Virginia. This amendment will require local building officials to receive a certification from the building owner that the building has been properly inspected for asbestos prior to issuing a building permit to renovate or demolish the building.

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The proposed text for the regulations merely reflects the language of the amended law.

* * * * *

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1987.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Effective Date: August 21, 1989 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

Volume II - Building Maintenance Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Technical requirements of the Building Maintenance Code are based on the BOCA National Existing Structures Code, a companion document to the BOCA National Building Code which serves as the basis for Volume I of the USBC, the New Construction Code. Enforcement procedures are provided that must be used when the Building Maintenance Code is enforced by local agencies. Local enforcement of the Code is optional. An administrative appeals system is established for resolution of disagreements between the building owner and the code official.

Pursuant to Senate Joint Resolution 190, the Board of Housing and Community Development proposes to amend those portions of the Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code/1987 Edition pertaining to: Application to Pre-USBC and Post-USBC buildings; Fire Protection Systems for Use Group R-1 (hotels, motels). These proposed amendments require all existing Use Group R-1 buildings to be retrofitted with automatic sprinkler systems and smoke detectors. These amendments provide for a three year phase-in period and exempts all hotels and motels four or less stories in height which have exterior exit access balconies.

VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1987.

Article 1.

Adoption, Administration and Enforcement.

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as Volume II

- Building Maintenance Code of the 1987 edition of the Virginia Uniform Statewide Building Code. Except as otherwise indicated, Building Maintenance Code or Code, shall mean Volume II - Building Maintenance Code of the 1987 edition of the Virginia Uniform Statewide Building Code.

Note: See Volume I - New Construction Code for regulations applicable to new construction. See Volume III - Fire Prevention Code for fire safety requirements applying to existing public buildings used by 10 or more persons.

100.2. Authority: The Building Maintenance Code is adopted according to regulatory authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia.

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

100.4. Effective date: The Building Maintenance Code shall become effective on March 1, 1988.

100.5. Effect on other codes: The Building Maintenance Code shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36 of the Code of Virginia. The Building Maintenance Code supersedes all building maintenance codes and regulations of the counties, municipalities political subdivisions and state agencies that may have been or may be enacted or adopted, except as modified by § 100.5.1, below.

Note: This will not prevent adoption in accordance with Chapter 1, Title 15 of the Code of Virginia or other special or general legislation, of other requirements by local governments which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a building or structure.

100.5.1. Application to pre-USBC buildings: Buildings or portions thereof constructed, altered, converted or repaired before the effective date of the initial edition of the Virginia Uniform Statewide Building Code (USBC) shall be maintained in compliance with the Building Maintenance Code; provided, however, that the code official shall exempt from the provisions of the Uniform Statewide Building Code, Volume II, Building Maintenance Code, alterations of building uses, designs and equipment existing under a current certificate of occupancy unless an unsafe or unhealthy condition exists ; and except as provided in § 100.5.3 .

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100.5.2. Application to post-USBC buildings: Buildings or portions thereof that were subject to the Uniform Statewide Building Code when constructed, altered, converted or repaired shall be maintained in compliance with the Building Maintenance Code and with the edition of the USBC that was in effect at that time, except as provided in Section 100.5.3.

100.5.3. Fire protection systems for existing buildings: Existing buildings and structures of Use Group R-1 shall comply with provisions of Sections 100.5.3.1 and 100.5.3.2.

100.5.3.1. Automatic Sprinkler Systems: An automatic sprinkler system shall be installed in accordance with § 1002.7 of the 1987 Uniform Statewide Building Code, Volume I, by either March 1, 1993, or within 3 years of the date upon which an adequate public water supply is made available to meet the needs of the suppression system, whichever is later.

100.5.3.2. Smoke detectors: Single and multiple station smoke detectors shall be installed in accordance with § 1019.1 through 1019.3 of the 1987 Uniform Statewide Building Code, Volume I, by March 1, 1993.

100.6. Exemptions for certain equipment: The provisions of the Building Maintenance Code shall not apply to distribution equipment installed by a provider of publicly regulated utility services, or to electrical equipment used for radio and television transmission. However, the buildings, including their service equipment, housing such utility services shall be subject to this Code. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights.

100.7. Exemptions for farm structures: Farm structures not used for residential purposes shall be exempt from the provisions of the Building Maintenance Code. However, such structures lying within a flood plain or in a mudslide-prone area shall be subject to the applicable floodproofing regulations or mudslide regulations.

100.8. Purpose: The purpose of the Building Maintenance Code is to ensure public safety, health and welfare through proper building maintenance and use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance shall be deemed to include the maintenance and inspection of building equipment defined by § 36-97(13) of the Code of Virginia.

100.9. Workmanship: All repairs, maintenance work, alterations or installations which are required for compliance with this code shall be executed and installed in a workmanlike and acceptable manner so as to secure the results intended by this code.

SECTION 101.0. REQUIREMENTS.

101.1. Adoption of model code: The following model code, as amended by §§ 101.2 and 101.3, is hereby adopted and incorporated in the Building Maintenance Code.

° THE BOCA NATIONAL EXISTING STRUCTURES CODE/ 1987 EDITION

Published by:

Building Officials and Code
Administrators International, Inc.
4051 West Flossmoor Road
County Club Hills, Illinois 60477-5795

101.2. Administrative and enforcement amendments to the referenced model code: All requirements of the referenced model code and of standards referenced therein that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the Building Maintenance Code.

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

101.4. Limitation of application of model code: No provision of the model code may be used to require alterations to the design or equipment of any portion of a building that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC. In the application of the model code to other buildings, no requirement of the current edition of the USBC shall be exceeded.

Note: Efforts have been made to remove conflicts between Volume I - New Construction Code and Volume II - Building Maintenance Code. However, although the two codes are compatible, they may not always be comparable. The purpose of this section is to resolve any unforeseen conflicts with Volume I.

SECTION 102.0. LOCAL ENFORCING AGENCY.

102.1. Enforcement by local governments: Any local government may, after official action, enforce the Building Maintenance Code, or any portion of the Code. The local governing body may assign responsibility for enforcement of the Building Maintenance Code, or any portion thereof, to a local agency or agencies of its choice. The terms "enforcing agency" and "code official" are intended to apply to the agency or agencies to which responsibility for enforcement has been assigned. However, the terms "building official" or "building department" apply only to the local building official or building department.

102.2. Right of inspection: The local governing body may inspect existing buildings to enforce the Building

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Maintenance Code, as authorized by § 36-105 of the Code of Virginia.

102.3. Interagency coordination: Where enforcement of any portion of the Building Maintenance Code is assigned to an agency other than the building department, such as the fire prevention bureau, such agency shall coordinate its reports of inspection with the building department. All required alterations, repairs, installations or constructions shall be subject to the building permit and certificate of use and occupancy provisions of the Uniform Statewide Building Code, Volume I, New Construction Code.

102.4. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the code official.

102.4.1. Appointment: The code official shall be appointed by the local government.

102.5. Qualifications of local enforcing agency personnel: The local government shall establish qualifications for the code official and his *technical* assistants adequate to ensure proper administration and enforcement of the Building Maintenance Code.

Note: Detailed requirements for the qualifications of the building official and technical assistants are provided in Volume I - New Construction Code of the Uniform Statewide Building Code. However, if a person from another agency is appointed as the code official to enforce the Building Maintenance Code, the requirements of Volume I - New Construction Code would not apply. In such cases, it is recommended that the code official have at least five years of related experience. Consideration should be given to the use of certification programs approved by the Department of Housing and Community Development and of the Fire Inspection Certification Program of the State Department of Fire Programs in the selection and training of enforcing agency personnel.

102.6. Relief from personal responsibility: The local enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The code official or the code official's subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by such officer or employee in the discharge of official duties and under the provisions of the Building Maintenance Code may be defined *defended* by the enforcing agency's legal

representative.

102.7. Control of conflict of interest: The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the Virginia Comprehensive Conflict of Interest Act.

102.8. Assistance by state: Upon notification of appointment of a code official, the Office of State Building Code shall advise the official of all services offered and will keep the official continually informed of developments affecting the Code and its interpretation and administration.

SECTION 103.0. DUTIES AND POWERS OF THE CODE OFFICIAL.

103.1. General: The code official shall enforce the provisions of the Building Maintenance Code as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

Note: Section 36-105 of the Code of Virginia provides that fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

103.2. Notices and orders: The code official shall issue all necessary notices or orders to ensure compliance with the requirements of this Code for the health, safety and general welfare of the public.

103.3. Delegation of duties and powers: The code official may delegate his duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the Code.

103.4. Maintenance inspections: When the local government has acted under § 36-105 of the Code of Virginia to enforce the requirements of this Code, the code official may inspect buildings to which it applies to assure continued compliance.

103.5. Unsafe conditions not related to maintenance: When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in a building which was constructed, altered, converted, or repaired before the effective date of the initial edition of the Uniform Statewide Building Code, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, the official may order the minimum changes needed to remedy the hazardous condition. Such order shall be in writing and shall be made a part of the permanent records of the code official relating to the building affected.

Note: The Building Maintenance Code does not generally provide for retrofitting existing buildings. However, conditions may exist in older buildings, because of faulty

design or equipment, that constitute such serious and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the Uniform Statewide Building Code. Only those changes that are needed to remedy the serious and dangerous hazards to life or health may be required by the code official. Reference is also made to section 103.2 of the administrative provisions of the Uniform Statewide Building Code - Volume I, which provides authority for modifications to be issued for alternate means to be used that provide the same level of safety.

103.6. Annual report: At least annually, the code official shall submit to the authority designated by the local government a written statement of operations in the form and content prescribed by such local government. A copy shall be forwarded to the Office of Professional Services for use in studies to improve the Virginia Uniform Statewide Building Code system.

103.7. Enforcing agency records: The code official shall keep records of reports of inspections, notices and orders issued and such other matters as directed by the local government. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act and, (i) after retention for one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, and (ii) after retention for three years in the case of all other buildings.

SECTION 104.0. APPLICATIONS AND PERMITS.

104.1. Procedures: Applications for permits for construction or alterations necessary to comply with this code shall be made to the building official under the procedures prescribed in Volume I - New Construction Code of the Uniform Statewide Building Code.

SECTION 105.0. MODIFICATIONS.

105.1. Modifications: When there are practical difficulties involved in carrying out any provision of the Code, the owner or the owner's agent, or the code official, may apply to the building official for a modification under the procedures of Volume I - New Construction Code of the Uniform Statewide Building Code when the proposed modification involves alterations or construction for which a building permit would be required. When the proposed modification does not involve any alterations or construction for which a building permit would be required, the code official may issue the modification.

105.2. Records: A copy of the application for modification and a copy of the final decision of the official to whom the application was made shall be kept in the permanent records of the enforcing agency.

SECTION 106.0. VIOLATIONS.

106.1. Code violations prohibited: No person, firm or

corporation shall maintain or use any building or equipment in conflict with or in violation of any of the provisions of this Code.

106.2. Notice of violation: The code official shall serve a notice of violation on the person responsible for maintenance or use of a building in violation of the provisions of this Code. Such order shall direct the discontinuance and abatement of the violation.

106.3. Prosecution of violation: If the notice of violation is not complied with promptly, the code official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation; or to require the removal or termination of the use of the building in violation of the provisions of this Code.

106.4. Violation penalties: Violations of this Code are a misdemeanor in accordance with § 36-106 of the Code of Virginia, and upon conviction, may be punished by a fine of not more than \$1,000.

106.5. Abatement of violation: Conviction of a violation of this Code shall not preclude the institution of appropriate legal action to prevent other violations or recurring violations of this Code relating to maintenance and use of the building or premises.

SECTION 107.0. UNSAFE BUILDINGS.

107.1. General: This section shall apply to buildings and their equipment that fail to comply with the Building Maintenance Code through damage, deterioration, infestation, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, and which constitute a hazard, or are otherwise dangerous to human life, health or safety, or the public welfare. All such buildings shall be declared by the code official to be a public nuisance and unfit for human habitation and shall be made safe through compliance with this code or shall be vacated, and either secured against public entry, or taken down and removed as directed by the code official. A vacant building, unsecured or open at door or window, may be deemed a fire hazard and unsafe within the meaning of this section.

107.2. Inspection of unsafe buildings: The code official shall examine every such building reported as unsafe, and shall prepare a report to be filed in the records of the enforcing agency. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any, caused by a collapse or failure.

107.3. Notice of unsafe buildings: If a building is found to be unsafe, the code official shall serve a notice to the owner, the owner's agent or person in control of the unsafe building. The notice shall specify the required repairs or improvements to be made to the building, or require the unsafe building, or portion of the building to

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be taken down and removed within a stipulated time. Such notice shall require the person notified to declare to the designated official without delay his acceptance or rejection of the terms of the notice.

Note: Whenever possible, the notice of unsafe building should also be given to the tenants of the unsafe building.

107.4. Posting of unsafe building notice: If the person named in the notice of unsafe building cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

107.5. Disregard of notice: Upon refusal or neglect of the person served with a notice of unsafe building to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the certificate of occupancy. In the case of a vacant building, including one vacated through revocation of the certificate of occupancy, the code official may cause the building to be closed through any available means.

107.6. Authority to vacate building: When in the opinion of the code official, there is actual and immediate danger of failure or collapse of a building or any part of a building which would endanger life; or when any building or part of a building has fallen and life is endangered by occupancy of the building; or when any other hazardous condition poses an immediate and serious threat to life; or when a building is declared a public nuisance, and unfit for human habitation, the code official may order the occupants to vacate the building. The code official shall post a notice at each entrance to such building that reads: "THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such a building except upon authorization of the code official for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections.

107.7. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a building or any part of a building which would endanger life, or when a violation of this code results in a hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, the code official shall have the necessary work done to the extent permitted by the local government to make such building or part of the building temporarily safe, whether or not legal action to force compliance has begun.

SECTION 108.0. APPEAL TO THE LOCAL BOARD OF BUILDING CODE APPEALS.

108.1. Grounds for appeal: The owner of a building or the

owner's agent may appeal from a decision of the code official to the local Building Code Board of Appeals established under Volume I - New Construction Code of the Uniform Statewide Building Code within 20 days after the day the notice was served when it is claimed that:

1. The code official has refused to grant a modification of the provisions of the code;
2. The true intent of this code has been incorrectly interpreted;
3. The provisions of this code do not fully apply;
4. The use of a form of compliance that is equal to or better than that specified in this code has been denied.

108.2. Form of application: Applications for appeals shall be submitted in writing to the Local Building Code Board of Appeals.

108.3. Notice of meeting: The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 20 working days of the filing of an appeal.

108.4. Hearing open to public: All hearings shall be public in accordance with the Virginia Freedom of Information Act. The appellant, the appellant's representative, the code official of the jurisdiction and any other person whose interest may be affected by the matter on appeal, shall be given an opportunity to be heard.

108.5. Postponement of hearing: A quorum shall be more than 50% of the board. When a quorum of the board, as represented by members or alternates, is not present to consider a specific appeal, either the appellant, the building official or their representatives may, prior to the start of the hearing, request a single postponement of the hearing of up to 10 working days. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the building official.

108.6. Form of decision, notification: Every action of the board on an appeal shall be by resolution. Certified copies shall be furnished to the appellant, to the building official, and to the code official.

108.7. Enforcement of decision: The code official shall take immediate action in accordance with the decision of the board.

SECTION 109.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

109.1. Appeal to the State Building Code Technical Review Board: Any person aggrieved by a decision of the local Board of Building Code Appeals, who was a party to the appeal, may appeal to the State Building Code Technical Review Board. Application for review shall be made to the

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State Building Code Technical Review Board within 15 days of receipt of the decision of the local appeals board by the aggrieved party.

109.2. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the code official shall take immediate action in accordance with the decision.

109.3. Court review: Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board shall be to the circuit court of original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4 of Chapter 1.1:1 of Title 9 of the Code of Virginia.

SECTION 110.0. DEMOLITION OF BUILDINGS.

110.1. Procedures for demolition: Whenever a building is to be demolished pursuant to any provision of this Code, the work shall be carried out in compliance with the requirements of Volume I - New Construction Code of the Uniform Statewide Building Code.

ADDENDA.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL EXISTING STRUCTURES CODE/ 1987 EDITION.

As provided in section 101.3 of Volume II - Building Maintenance Code of the 1987 edition of the Virginia Uniform Statewide Building Code, the amendments noted in this Addendum shall be made to the BOCA National Existing Structures Code/ 1987 edition for use as part of the Building Maintenance Code.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

1. Article 1, Administration and Enforcement, is deleted in its entirety and replaced with Article 1 of the Building Maintenance Code.

ARTICLE 3. ENVIRONMENTAL REQUIREMENTS.

1. Delete Section ES-301.1.
2. Delete Section ES-301.1.1.
3. Delete Section ES-301.3.
4. Delete Section ES-301.4.
5. Delete Section ES-301.6.
6. Delete Section ES-301.7.

Note: The above sections of this code have been deleted because the agency's Attorney General representative advises that they cannot be interpreted as building regulations under the current language of § 36-99(7) of the Code of Virginia.

7. Delete Section ES-301.10.
8. Delete Section ES-301.10.1.
9. Delete Section ES-301.10.2.

ARTICLE 4. LIGHT, VENTILATION AND SPACE REQUIREMENTS.

Change Section ES-401.2 to read:

ES-401.2. Habitable spaces: Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable space shall be 4.0% of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the building code. Whenever walls or other portions of a structure face a window of any other room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

ARTICLE 5. PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.

Change section ES-503.5 to read:

ES-503.5. Water conservation: Plumbing fixtures which are replaced shall be of water saving construction and use as required by the energy and plumbing codes listed in the Virginia Uniform Statewide Building Code, Volume I, New Construction.

ARTICLE 6.

1. Delete section ES-601.5 Boiler inspections:

Note: See § 36-97(13) of the Code of Virginia for equipment definition.

ARTICLE 7.

Add new section ES-704.2.1

ES-704.2.1. Visual and audible alarms: Visual and audible alarms meeting the requirements of ANSI/UL Standard 1638 and ANSI/NFPA 72G shall be provided in occupancies housing the hard of hearing as required by §

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36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be accepted.

ARTICLE 8.

1. Delete Section ES-801.2
2. Delete Section ES-801.3

ARTICLE 9.

Delete Article 9.

APPENDIX A.

Change Appendix A as follows:

1. Delete standard reference number NECC-87 National Energy Conservation Code.
2. Delete standard reference number NFPC-87 National Fire Prevention Code and substitute the Uniform Statewide Fire Prevention Code as adopted by the Virginia Department of Housing and Community Development.

ADDENDUM 3

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Chairman

Douglas E. Fahl
8401 Arlington Blvd.
Fairfax, VA 22031

Vice Chairman

Marian P. Whitehurst
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Chesapeake, VA 23320

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Secretary (Non-Member)
Neal J. Barber, Director
Department of Housing and Community Development
205 North Fourth Street
Richmond, VA 23219

ADDENDUM 4

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Chairman

Curtis R. Jennings, Jr.
6835 Sugar Rum Bridge, SW
Roanoke, VA 24018

Vice Chairman

Leo J. Cantor
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Richmond, VA 23230

Stanley C. Harris
4210 South Haven Rd.
Richmond, VA 23235

Peter V. Henderson
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4 Frances Street
Newport News, VA 23601

Secretary (Non-Member)

Jack A. Proctor
Deputy Director
Division of Building Regulatory Services
205 North Fourth St.
Richmond, VA 23219

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulations:

VR 325-01. DEFINITIONS AND MISCELLANEOUS.

VR 325-01-1. Definitions and Miscellaneous.

VR 325-02. GAME.

VR 325-02-1. In General.

VR 325-02-2. Bear.

VR 325-02-6. Deer.

VR 325-02-8. Fox.

VR 325-02-9. Grouse.

VR 325-02-16. Pheasant.

VR 325-02-17. Quail.

VR 325-02-18. Rabbit and Hares.

VR 325-02-19. Raccoon.

VR 325-02-21. Squirrel.

VR 325-02-22. Turkey.

VR 325-02-25. Firearms.

VR 325-04. WATERCRAFT.

VR 325-04-4. Accident and Casualty Reporting.

Statutory Authority: §§ 29.1-501, 29.1-502 and 29.1-701 of the Code of Virginia.

Effective Date: July 1, 1989

Summary:

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

VR 325-01. DEFINITIONS AND MISCELLANEOUS.

VR 325-01-1. Definitions and Miscellaneous.

§ 10. Prohibited use of vehicles on department-owned lands.

It shall be unlawful on department-owned lands to drive through or around gates designed to prevent entry with any type of motorized vehicle or to use such vehicles to travel anywhere on such lands except on roads open to vehicular traffic. *Any motor-driven conveyance shall conform with all state laws for highway travel; provided, that this requirement shall not apply to the operation of motor vehicles for administrative purposes by*

department-authorized personnel on department-owned lands.

§ 14. Structures on department-owned lands.

A. *It shall be unlawful to construct, maintain or occupy any permanent structure, except by permit, on department-owned lands. This provision shall not apply to structures, stands or blinds provided by the department.*

B. *It shall be unlawful to maintain any temporary dwelling on department-owned lands for a period greater than 14 consecutive days. Any person constructing or occupying any temporary structure shall be responsible for complete removal of such structures when vacating the site.*

C. *It shall be unlawful to construct, maintain or occupy any tree stand on department-owned lands; provided, that portable tree stands which are not permanently affixed may be used.*

VR 325-02. GAME.

VR 325-02-1. In General.

§ 3. Recorded wild animal or wild bird calls or sounds prohibited in taking game; coyotes and crows excepted.

It shall be unlawful to take or attempt to take wild animals and wild birds, with the exception of coyotes and crows, by the use or aid of recorded wild animal or wild bird calls or sounds or recorded or electrically amplified imitation of wild animal or wild bird calls or sounds; provided, that the use of electronic calls for hunting coyotes requires the written permission of the landowner; and further provided, that the authority granted by this section for use of electronic calls for the taking of coyotes will expire on June 30, ~~1990~~ 1991 .

§ 6. Hunting with dogs or possession of weapons in certain locations during closed season.

A. National forests and ~~commission~~ department lands.

It shall be unlawful to hunt with a dog or gun or have in possession a strung bow, or a gun which is not unloaded and cased or dismantled, in the national forests and on the department-owned lands and on lands managed by the department under cooperative agreement except during the period when it is lawful to hunt bear, deer, grouse, pheasant, quail, rabbit, raccoon, squirrel, turkey, waterfowl in all counties west of the Blue Ridge Mountains and on National Forest lands east of the Blue Ridge

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Mountains and migratory game birds in all counties east of the Blue Ridge Mountains. The provisions of this subsection shall not prohibit the establishment and operation of archery and shooting ranges on national forest lands for the purpose of sighting in rifles and general shooting within established and identified range boundaries. The use of firearms and bows in such ranges during the closed hunting period will be restricted to the area within established range boundaries. Such weapons shall be required to be unloaded and cased or dismantled in all areas other than within the range boundaries. The use of firearms or bows during the closed hunting period in such ranges shall be restricted to target practice only and no birds or animals shall be molested.

B. Certain counties.

It shall be unlawful to have either a shotgun or a rifle in one's possession when accompanied by a dog in the daytime in the fields, forests or waters of the counties of Augusta, Clarke, Frederick, Page, Shenandoah and Warren, and in counties east of the Blue Ridge Mountains, except Patrick, at any time except the periods prescribed by law to hunt game birds and animals.

C. Meaning of "possession" of bow or firearm.

For the purpose of this section the word "possession" shall include having any bow or firearm in one's car or conveyance.

[~~D. It shall be unlawful to hunt, or attempt to hunt, by the aid of a dog in a strike cage, or a dog on or outside any portion of a vehicle forward of the driver, except during the open season for the hunting of bear with dogs.~~]

§ 11. Hog Island Wildlife Management Area; possession of loaded gun prohibited; exception.

It shall be unlawful to have in possession at any time on the Hog Island Wildlife Refuge a gun which is not unloaded and cased or dismantled on that portion of the Hog Island Wildlife Management Area bordering on the James River and lying north of the Surry Nuclear Power Plant, except while hunting deer or waterfowl in conformity with a special permit issued by the department pursuant to VR 325-02-06, § 3 .

§ 21. Use of deadfalls prohibited; restricted use of snares.

It shall be unlawful to trap, or attempt to trap, on land any wild bird or wild animal with any deadfall or snare ; provided, however, that nonlocking snares with loops no more than eight 12 inches in diameter and with the top of the snare loop set not to exceed 10 12 inches above ground level may be used with the written permission of the landowner .

VR 325-02-2. Bear.

§ 1-2. Open season; Cities of Chesapeake and Suffolk east of Dismal Swamp Line.

Rescind this section in its entirety.

§ 1-3. Open season; Cities of Suffolk west of Dismal Swamp Line.

Rescind this section in its entirety.

§ 2. Open season; Russell County and Clinch Mountain and Hidden Valley Wildlife Management Area Areas .

It shall be lawful to hunt bear from ~~December 5 through December 17~~ the first Monday in December and for 11 consecutive hunting days following , both dates inclusive, in Russell County (south and east of U.S. Route 19) and on the Clinch Mountain and Hidden Valley Wildlife Management Area Areas .

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

It shall be unlawful to hunt bear at any time in the counties of Accomack, Amelia, Appomattox, Brunswick, Buchanan, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, Culpeper, Cumberland, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Gloucester, Goochland, Grayson, Greensville, Halifax, Hanover, Henrico, Henry, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, Montgomery (South of U.S. Route I-81), New Kent, Northampton, Northumberland, Nottoway, Orange, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski (South of U.S. Route I-81), Richmond, Roanoke (South of U.S. Route I-81), Russell (North and West of U.S. Route 19), Scott, Smyth (South of U.S. Route I-81), Southampton, Spotsylvania, Stafford, Surry, Sussex, Tazewell (North of U.S. Route 19), Washington (South of U.S. Route I-81 and West of U.S. Route 19, Westmoreland, Wise, Wythe (South of U.S. Route I-81) and York; and in the Cities of Hampton, Newport News, Norfolk and Virginia Beach ; and on the Hidden Valley Wildlife Management Area .

VR 325-02-6. Deer.

§ 2. Open season; Counties west of Blue Ridge Mountains and certain counties or parts thereof east of Blue Ridge Mountains.

It shall be lawful to hunt deer on the third Monday in November and for 11 consecutive hunting days following in the counties west of the Blue Ridge Mountains (except on the Radford Army Ammunition Plant in Pulaski County), and in the counties of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern

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Railroad); and on the Leesville Chester F. Phelps Wildlife Management Area.

§ 2-1. Open season; Cities of Virginia Beach, Chesapeake and Suffolk east of Dismal Swamp Line.

[~~Rescind this section in its entirety. Note: Proposed rescission of this section was rejected by the board. Delete proposed rescission. No change to be made in this section.~~]

§ 2-3. Open season; Back Bay National Wildlife Refuge and False Cape State Park.

It shall be lawful to hunt deer on the Back Bay National Wildlife Refuge and on False Cape State Park from October 1 through October 31.

§ 3. Open season; Hog Island Wildlife Management Area.

Rescind this section in its entirety.

§ 5. Muzzle-loading gun hunting.

A. Season.

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

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

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

C. Muzzle-loading gun defined.

A muzzle-loading gun for the purpose of this section means a single shot flintlock or side lock percussion weapon, 45 caliber or larger, firing a single projectile loaded from the muzzle of the weapon and propelled by at least 50 grains of black powder. If telescopic sights are used, such weapon shall not be deemed to be a muzzle-loading gun.

D. Unlawful to have other firearms in possession.

It shall be unlawful to have in immediate possession any other firearm while hunting with a muzzle-loading gun in a special muzzle-loading season.

§ 7. Bag limit; One a day, two a license year, either sex last two days in certain counties and areas.

The bag limit for deer shall be one a day, two a license year, either sex last two hunting days only, in the Counties of Alleghany, Augusta, Bath, Bland, Botetourt, Carroll, Clarke, Craig, Floyd, Frederick, Giles, Grayson, Highland, Montgomery, Page, Pulaski (except on the Radford Army Ammunition Plant), Roanoke, Rockbridge, Rockingham, Shenandoah, Smyth (except on Clinch Mountain Wildlife Management Area); Warren, and Wythe.

§ 8. Bag limit; One a day, two three a license year, one of which must be an antlerless deer, either sex last three days, in certain counties and areas.

The bag limit for deer shall be one a day, two a three per license year, one of which must be an antlerless deer, either sex on the last three hunting days only, in the counties of Amherst, Botetourt, Buckingham (except on Buckingham-Appomattox State Forest), Campbell, Clarke, Craig, Cumberland (except on the Cumberland State Forest), Fluvanna, Franklin (except on Philpott Reservoir), Frederick, Goochland, Hanover, Henrico, Henry (except on Fairystone Wildlife Management Area and Philpott Reservoir), Louisa, Mathews, Middlesex, Nelson, Patrick (except on Fairystone Park, Fairystone Wildlife Management Area and Philpott Reservoir) and , Spotsylvania and Warren ; and on Fort A.P. Hill (nonimpact training areas) and Fort Pickett , and on the Powhatan, G. Richard Tompson ; Leesville and White Oak Mountain Wildlife Management Areas.

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

Rescind this section in its entirety.

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

The bag limit for deer shall be one a day, three a license year, either sex, one of which must be an antlerless deer, in the County of Fairfax, and on Back Bay National Wildlife Refuge, Caledon Natural Area, Camp Peary, Cheatham Annex, Chincoteague National Wildlife Refuge, Dahlgren Naval Surface Weapons Warfare Center, Dam Neck Amphibious Training Base, Dismal Swamp National Wildlife Refuge, Eastern Shore of Virginia National Wildlife Refuge, False Cape State Park, Fisherman's Island National Wildlife Refuge, Fort Belvoir, Fort Eustis, Fort Lee, Fort Pickett, Harry Diamond Laboratory, Langley Air Force Base, Northwest Naval Security Group, Presquille National Wildlife Refuge, Quantico Marine Corps Reservation, Radford Army Ammunition Plant, the City of Suffolk (except west of the

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~~Dismal Swamp Line~~), Sky Meadows State Park, York River State Park and Yorktown Naval Weapons Station.

§ 11. Bag limit; One a day, ~~two~~ *three* a license year, *one of which must be an antlerless deer*, either sex last day, in certain counties and areas.

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

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

Rescind this section in its entirety.

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

The bag limit for deer shall be one a day, three a license year, one of which must be an antlerless deer, either sex last six days, in the Counties of Accomack (except on Chincoteague National Wildlife Refuge), Albemarle, Amelia, Bedford, Brunswick (except on Fort Pickett), Caroline, Charles City (except on Chickahominy Wildlife Management Area), Charlotte, Culpeper (except on Chester F. Phelps Wildlife Management Area), Dinwiddie (except on Fort Pickett), Gloucester, Halifax, James City, King William, Lunenburg, Mecklenburg, New Kent, Northampton (except Eastern Shore of Virginia National Wildlife Refuge and Fisherman's Island National Wildlife Refuge), Nottoway (except on Fort Pickett), Orange, Pittsylvania (east of Norfolk Southern Railroad, except on White Oak Mountain Wildlife Management Area), Powhatan (except on Powhatan Wildlife Management Area), Prince Edward (except on Prince Edward State Forest), and Prince George (except on Fort Lee), Prince William (except on Harry Diamond Laboratory and Quantico Marine Reservation), Stafford (except on Quantico Marine Reservation) and York (except on Camp Peary, Cheatham Annex and Naval Weapons Station); and in the Cities of Chesapeake (except on Dismal Swamp National Wildlife Refuge and on the Northwest Naval Security Group), Hampton (except on Langley Air Force Base), Newport News (except on Fort Eustis) and Virginia Beach (except on Back Bay National Wildlife Refuge, Dam Neck Amphibious Training Base and False Cape State Park).

§ 14. Bag limit; One a day, three a license year, one of which must be an antlerless deer, either sex last 24 days, in certain counties and cities.

The bag limit for deer shall be one a day, three a license year, one of which must be an antlerless deer, either sex last 24 days, in the counties of Greenville, Isle of Wight, Southampton, Surry, Sussex, and in the City of Suffolk (west of Dismal Swamp Line except on the Dismal Swamp National Wildlife Refuge).

§ 14-1. Bag limit; One a day, three a license year, one of which must be an antlerless deer, either sex last 12 days, in certain counties and areas.

The bag limit for deer shall be one a day, three a license year, one of which must be an antlerless deer, either sex last 12 days, in the counties of Essex, Fauquier (except on the G. Richard Thompson and Chester F. Phelps Wildlife Management Areas), King and Queen, King George, Lancaster, Loudoun, Northumberland, Rappahannock, Richmond and Westmoreland, and on Fort A.P. Hill (controlled access area).

§ 17. Hunting prohibited in certain counties or parts thereof.

It shall be unlawful to hunt deer at any time in the counties of Arlington, Buchanan, and Dickenson and Fairfax (in that section closed to all hunting).

§ 18. Hunting with dogs prohibited in certain counties and areas.

A. Generally.

It shall be unlawful to hunt deer with dogs in the Counties of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Fairfax, Franklin, Henry, Loudoun, Nelson (west of Route 151), Northampton, Patrick and Pittsylvania (west of Norfolk Southern Railroad); and on the Amelia, Chester F. Phelps, and [Chickahominy,] G. Richard Thompson, Pettigrew and White Oak Mountain Wildlife Management Areas.

B. Special provision for Greene and Madison counties.

It shall be unlawful to hunt deer with dogs during the first 12 hunting days in the counties of Greene and Madison.

VR 325-02-8. Fox.

PART II. HUNTING WITH GUNS.

§ 2.1-1. Open season; Buchanan County.

Rescind this section in its entirety.

§ 2.1-2. Open season; Counties of Scott, Washington and Wythe.

Rescind this section in its entirety.

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PART III. TRAPPING.

§ 3.2. Prohibited in certain counties.

It shall be unlawful to trap foxes in the counties of Clarke (except on the G. Richard Thompson Wildlife Management Area), Fauquier (except on the Chester F. Phelps and G. Richard Thompson Wildlife Management Areas), Goochland, Lee, Loudoun and Rappahannock.

VR 325-02-9. Grouse.

§ 1. Open season.

Except as otherwise specifically provided in the sections appearing in this regulation, it shall be lawful to hunt grouse from the first Monday in November through ~~January 31~~ the second Saturday in February, both dates inclusive.

§ 3. Continuous closed season.

There shall be continuous closed season for the hunting or shooting of grouse in all counties and portions of counties lying east of U.S. Route I-95.

VR 325-02-16. Pheasant.

§ 1. Open season; Counties east of Blue Ridge Mountains. -

[A. East of U.S. Route I-95.-] Except as otherwise specifically provided in the sections appearing in this regulation, it shall be lawful to hunt pheasant in all counties [and portions of counties] east of the Blue Ridge Mountains [and east of U.S. Route I-95] from the ~~third~~ second Monday in November through ~~January 31~~ the second Saturday in February, both dates inclusive.

[B. West of U.S. Route I-95.-] Except as otherwise specifically provided in the sections appearing in this regulation, it shall be lawful to hunt pheasant in all counties and portions of counties east of the Blue Ridge Mountains and west of U.S. Route I-95 from the second Monday in November through January 31, both dates inclusive.]

§ 4. Continuous closed season in certain counties.

There shall be a continuous closed season for the hunting or shooting of pheasant in the counties of Lancaster, Northumberland, Richmond and Westmoreland.

VR 325-02-17. Quail.

§ 1. Open season ; Generally .

Except as otherwise specifically provided by the sections appearing in this regulation, it shall be lawful to hunt quail from the ~~third~~ [first second] Monday in November through January 31, both dates inclusive.

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

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

§ 5. Hunting in snow prohibited.

[Rescind this section in its entirety. Note: Proposed rescission of this section was rejected by the board. Delete proposed rescission. No change to be made in this section.]

VR 325-02-18. Rabbit [and Hares].

§ 6. Continuous closed season for Varying hare.

There shall be a continuous closed season for the hunting, shooting or trapping of Varying (snowshoe) hare (*Lepus americanus*).

VR 325-02-19. Raccoon.

PART I. CHASING.

§ 1.1. Open season; Counties east of Blue Ridge Mountains; possession of certain devices unlawful.

Except as otherwise specifically provided in the sections appearing in this regulation, it shall be lawful to chase raccoon with dogs, without capturing or taking, in all counties east of the Blue Ridge Mountains (except on the George Washington and Jefferson National Forests) from August 1 through May ~~31~~ [~~March 10~~ May 31], both dates inclusive. It shall be unlawful to have in immediate possession a firearm, bow, axe, saw, or any tree climbing device while hunting during this chase season.

PART II. HUNTING AND TRAPPING.

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

Except as otherwise provided by local legislation and with the specific exceptions provided in the sections appearing in this regulation, it shall be lawful to take raccoon by hunting in all counties east of the Blue Ridge Mountains from ~~November 1~~ October 15 through March 10, both dates inclusive.

VR 325-02-21. Squirrel.

PART I. GRAY AND RED SQUIRREL.

§ 1.3. Season; Certain counties; September 1 through

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September 15 and the first Monday in November through January 31.

It shall be lawful to hunt squirrel from September 1 through September 15, both dates inclusive, and from the first Monday in November through January 31, both dates inclusive, in the counties of Brunswick (except Fort Pickett), Dinwiddie (except Fort Pickett), Greenville, Lunenburg, Nottoway (except on Fort Pickett) and Southampton.

§ 1.5. Season; Certain counties; September 15 through October 14 and the first Monday in November through January 31.

It shall be lawful to hunt squirrel from September 15 through October 14 and from the first Monday in November through January 31, both dates inclusive, in the counties of Bedford, Campbell, Carroll, Charlotte, Floyd, Franklin, Halifax, Henry, Patrick, and Pittsylvania.

§ 1.6. Season; Certain counties; October 1 through October 14 and the first Monday in November through January 31.

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

PART II. FOX SQUIRREL.

§ 2.5. Open season; Certain counties; October 1 through October 14 and from the first Monday in November through January 31.

It shall be lawful to hunt fox squirrel from October 1 through October 14, both dates inclusive, and from the first Monday in November through January 31, both dates inclusive, in the counties of Alleghany, Augusta, Clarke, Fairfax, Fauquier (except on the Chester F. Phelps Wildlife Management Area), Frederick, Loudoun, Page, Rappahannock, Rockbridge, Rockingham, Shenandoah and Warren.

VR 325-02-22. Turkey.

§ 2. Open season; Certain counties and areas ; First Monday in November and for 11 hunting days following .

It shall be lawful to hunt turkeys on the first Monday in

November and for eleven consecutive hunting days following in the counties of Charles City, Chesterfield, Greenville Gloucester ,[Greenville,] Henrico, Isle of Wight, King George, Lancaster, Meeklenburg, Middlesex, New Kent, Northumberland, Prince George, Richmond, Surry, Sussex, Westmoreland and York, and on Camp Peary.

§ 2-1. Open season; Certain counties and areas; First Monday in November through Saturday prior to third Monday in November and fourth Monday in November through first Saturday in January.

It shall be lawful to hunt turkeys on the first Monday in November through the Saturday prior to the third Monday in November and from the fourth Monday in November through the first Saturday in January, both dates inclusive, in the counties of Alleghany, Augusta, Bath, Clarke, Frederick, Highland, Page, Rockbridge, Rockingham, Shenandoah and Warren.

§ 3. Open season; Spring season for bearded turkeys.

It shall be lawful to hunt bearded turkeys only from the second Saturday in April through the second Saturday in May Saturday nearest the 15th of April and for 30 consecutive hunting days following , both dates inclusive, from 1/2 hour before sunrise to 11 a.m. 12:00 noon prevailing time . Bearded turkeys may be hunted by calling. It shall be unlawful to use dogs or organized drives for the purpose of hunting.

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

There shall be continuous closed turkey season, except where a special spring season for bearded turkeys is provided for in § 3 of this regulation, in the counties of Accomack, Arlington, Buchanan, Dickenson, Gloucester, Isle of Wight, James City, Mathews, Northampton and Southampton; and in the cities of Chesapeake, Hampton, Newport News, Suffolk and Virginia Beach.

VR 325-02-25. Firearms.

§ 7. Use of shotguns with rifled barrels.

Where the use of shotguns with slugs is permitted, shotguns with barrels that are partially or entirely rifled may be used unless otherwise prohibited by local ordinance.

VR 325-04. WATERCRAFT

VR 325-04-4. Accident and Casualty Reporting.

§ 3. Written casualty or accident reports required; time for making.

A. In addition to the notification required by § 2 of this regulation, the operator of a vessel shall submit a written

casualty or accident report to the department when, as a result of an occurrence that involves the vessel or its equipment :

1. A person dies;
2. A person is unable to perform normal or usual activities;
3. Damage to the vessel and other property damage totals more than ~~\$200~~ \$500 or complete loss of the vessel ; or
4. A person disappears from the vessel under circumstances that indicate probable death or injury.

B. A written report required by this section must be made :

1. Within 48 hours of the occurrence if a person dies within 24 hours of the occurrence;
2. Within 48 hours of the occurrence if a person is unable to perform normal or usual activities or disappears from a vessel; and
3. Within 10 days of the occurrence or death if an earlier report is not required by the foregoing provisions of this section.

C. When the operator of a vessel cannot submit the report required by this section, the owner shall submit the required report.

DEPARTMENT OF HEALTH (STATE 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 4(c) of the Code of Virginia, which excludes from Article 2 regulations which are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 355-39-01. Regulations Governing Eligibility Standards and Charges for Medical Care Services.

Statutory Authority: § 32.1-12 of the Code of Virginia

Effective Date: July 19, 1989

Summary:

The purpose of revision No. 14 to the regulations is to allow the Board of Health to adopt the same language as published in the Federal Register issued on February 16, 1989, by the Department of Health and

Human Services regarding update of the poverty income guidelines. The revised definition of "income" now includes emergency assistance payments.

The Regulations Governing Eligibility Standards and Charges for Medical Care Services are based on criteria set by the Department of Health and Human Services as required by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). The changes in federal law must be included in these regulations in order for the Board of Health to administer these regulations. These same guidelines are those used by other state agencies such as the Department of Social Services and the teaching hospitals (UVA and MCV) for determining medically indigent clients. Definitions of family units and income criteria are major components to these regulations and must be consistent with other agencies which provide medical services and determine eligibility.

VR 355-39-01. Regulations Governing Eligibility Standards and Charges for Medical Care Services.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Applicant" means the person requesting medical care services for themselves or on behalf of a dependent family member or foster child.

"Automatic eligibility" means applicants who are recipients of public assistance programs:

Aid to Dependent Children (ADC)

General Relief

Title XIX - MEDICAID

Food Stamp Benefits

Dental services for children who qualify for the national school lunch program or its equivalent.

Identifying information shall be collected on these persons in order to make the above determinations.

"Board" means the State Board of Health.

"Charges for services" means the reasonable charges established by the board for medical care services. In calculating service charges consideration will be given to (i) patient caseloads, (ii) manpower requirements, and (iii) the cost of support services, supplies and equipment. These charges shall be based on the state average cost for providing the services. The charges may be further

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adjusted when cost changes occur.

"Child" means a biological or adopted child, and any child placed for adoption or foster care unless otherwise treated as a separate unit by these regulations.

"Commissioner" means the Commissioner of Health.

"Department" means the State Department of Health and includes central office, regional offices and health districts, and local health departments.

"Disabled" means any person crippled or otherwise incapacitated from earning a living. Incapacity must be supported by a physician's determination.

Adult disabled children (persons) may or may not be included in the family unit depending on the support received from the parents. If the adult disabled child operates as a separate economic unit, he will be excluded even though he shares the parent's residence.

"Family - family unit" means the economic unit which may include the patient, the spouse of the patient, the parent or parents of a patient who is an unemancipated minor, the parents of a patient who has been declared by a physician to be disabled, and any other person actually and properly dependent upon or contributing to the family's income for subsistence.

Parent includes a biological, adoptive, or step parent, or a cohabiting partner included in the family unit.

A husband and wife who have been separated and are not living together, and who are not dependent on each other for support shall be considered separate family units.

The family unit which is based on cohabitation is considered to be a separate family unit for determining eligibility for services. The cohabiting partners and any children shall be considered a family unit. (§ 63.1-90.1 of the Code of Virginia.)

Eligible Medicaid children shall be considered a separate family unit.

"Free services" means services which the Health Department provides to all persons without charge as mandated by the Code of Virginia (see Part IV).

The department may also provide certain free services to all citizens, i.e., hypertension check-ups, pregnancy testing, etc., which are not necessarily required by the Code of Virginia.

"Gross income" means total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from

nonfarm or farm self-employment (e.g., receipts from own business or farm after deductions for business or farm expenses). They include regular payments from public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, *emergency assistance money payments* and federally funded General Assistance or General Relief money payments), social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; and income from dividends, interest, net rental income, net royalties, or periodic receipts from estates or trusts, college or university scholarships, grants, fellowships, assistantships, and net gambling or lottery winnings.

"Gross income" does not include the value of food stamps, WIC checks, fuel assistance, housing assistance money borrowed, tax refunds, gifts, lump sum settlements, inheritances or one-time insurance payments or compensation for injury, withdrawal of bank deposits, earnings of minor children, money received from the sale of property.

"Income scales" means scales based on individual or family gross income which will be established: one for Northern Virginia and one for the remainder of the Commonwealth as follows:

Income Level A - will be set at 100% of the poverty income guidelines, except for Northern Virginia where the Income Level A will be set at 110% of the poverty income guidelines.

Income Level B - will be set at 110% of the poverty income guidelines, except for Northern Virginia where the Income Level B will be set at 133.3% of the poverty income guidelines.

Income Level C - will be set at 133.3% of the poverty income guidelines, except Northern Virginia where the Income Level C will be set at 166.6% of the poverty income guidelines.

Income Level D - will be set at 166.6% of the poverty income guidelines, except Northern Virginia where the Income Level D will be set at 200% of the poverty income guidelines.

Income Level E - will be set at 200% of the poverty income guidelines, except Northern Virginia where the Income Level E will be set at 233.3% of poverty income guidelines.

Income Level F - will be set at 233.3% of the poverty income guidelines, except Northern Virginia where the Income Level F will be set at 266.6% of poverty

Income guidelines.

"Medically indigent" means applicants whose family gross income is defined at Income Level A and below.

"Minor" means a person less than 18 years of age whose parents are responsible for his care. A minor will be considered a separate family unit when married, or when 15 years of age and over and not living with any relatives or deemed an adult.

A minor shall be deemed an adult for the purposes of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious and contagious disease which the State Board of Health requires to be reported.

2. Medical and health services required in case of birth control, pregnancy, or family planning except for the purposes of sexual sterilization. (§ 54-325 of the Code of Virginia.)

"Northern Virginia" means the area which includes the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the counties of Arlington, Fairfax, Loudoun, and Prince William.

"Students" means individuals, regardless of their residence, who are supported by their parents or others related by birth, marriage, or adoption are considered to be residing with those who support them.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

Section 32.1-12 of the Code of Virginia establishes the responsibility of the board as follows: "The board may formulate a program of environmental health services, laboratory services and preventive, curative and restorative medical care services, including home and clinic health services described in Titles V, XIII and XIX of the United States Social Security Act and amendments thereto, to be provided by the department on a regional, district or local basis. The board shall define the income limitations within which a person shall be deemed to be medically indigent. Persons so deemed to be medically indigent shall receive the medical care services of the department without charge. The board may also prescribe the charges to be paid for the medical care services of the department by persons who are not deemed to be medically indigent and may, in its discretion and within the limitations of available funds, prescribe and scale of such charges based upon ability to pay. Funds received in payment of such charges are hereby appropriated to the board for the purpose of carrying out the provisions of this title. The board shall review periodically the program and charges adopted pursuant to this section.

§ 2.2. Purpose of regulations.

The board has promulgated these regulations to: (i) establish financial eligibility criteria to determine if a person is medically indigent and therefore qualified to receive medical care services of the department without charge; and (ii) to establish income scales and charges for services for medical care provided by the department to individuals who are not medically indigent, based upon their ability to pay. The regulations are constructed to assure that eligibility criteria remain appropriate for changing economic conditions.

§ 2.3. Administration of regulations.

These regulations are administered by the following:

A. State Board of Health. The Board of Health is the governing body of the State Department of Health.

B. State Health Commissioner. The State Health Commissioner is the chief executive officer of the State Department of Health. The commissioner has the authority to act for the board when it is not in session. The commissioner shall publish specific income levels expressed in dollar amounts for determining eligibility for medical care services of the department. The income levels shall be based on the official poverty guidelines updated annually by the Department of Health and Human Services in accordance with §§ 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 (P. L. 97-35).

§ 2.4. Recipients of services.

These regulations shall apply to all persons seeking laboratory and preventive, curative and restorative services including medical and dental clinic services provided by the department, except where other eligibility criteria are required for programs administered under federal statute.

§ 2.5. Effective date of regulations.

These regulations will be effective August 4, 1988 July 19, 1989 .

§ 2.6. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act govern the adoption of these regulations and any subsequent amendments.

§ 2.7. Powers and procedures of regulations not exclusive.

The board reserves the right to authorize any procedure necessary for the enforcement of the provisions set forth herein under the provisions of § 32.1-12 of the Code of Virginia.

PART III. CHARGES FOR SERVICES.

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§ 3.1. Income levels.

A. Applicants for medical care services, who are found to be medically indigent as defined by Part I of these regulations shall be provided care at no charge to the applicant.

B. Applicants for medical care services, including those in Northern Virginia as defined in Part I, whose family income exceeds Income Level A shall be assessed a fee as follows:

1. Income Level A - No charge for service.
2. Income Level B - 10% of the established charge for the service.
3. Income Level C - 25% of the established charge for the service.
4. Income Level D - 50% of the established charge for the service.
5. Income Level E - 75% of the established charge for the service.
6. Income Level F - 100% of the established charge for the service.

PART IV. FREE SERVICES.

§ 4.1. The following services are provided without charge and without an eligibility determination to all citizens regardless of income as required by the Code of Virginia.

1. Immunization of children against diphtheria, tetanus, whooping cough, poliomyelitis, measles (rubeola), german measles (rubella) and mumps as required by § 32.1-46 of the Code of Virginia, and of persons up to the age of 21 when the person lacks evidence of complete and appropriate immunizations for these diseases.
2. Examination of persons suspected of having or known to have tuberculosis as required by § 32.1-50 of the Code of Virginia.
3. Examination, testing and treatment of persons for venereal disease as required by § 32.1-57 of the Code of Virginia.
4. Screening of persons for the disease of sickle cell anemia or the sickle cell trait as required by § 32.1-68 of the Code of Virginia.
5. Screening for phenylketonuria, hypothyroidism homocystinuria, galactosemia and Maple Syrup Urine Disease as required by §§ 32.1-65 and 32.1-67 of the Code of Virginia.

§ 4.2. The department may provide immunization services free of charge to all individuals in the event of an epidemic or when declared necessary by the commissioner to protect the public health of all citizens of the Commonwealth.

§ 4.3. The department may elect to provide other medical services at no charge to all citizens of the Commonwealth when directed by the commissioner.

PART V. CHARGEABLE SERVICES.

§ 5.1. Chargeable services.

The department may prescribe charges for certain medical services to be paid by persons who are not deemed to be medically indigent and may within the limitations of available funds prescribe a scale of such charges based upon ability to pay.

PART VI. EXCEPTIONS.

§ 6.1. Exceptions.

A. A continuing exception to the above standard principles for assessing charges/fees for clinic services will exist for patients determined to be eligible for services under the Handicapped Children's Services Program, the Special Supplemental Food Program for Women, Infants and Children (WIC), the Child Development Clinic Network, and to recipients of treatment and medical food products under the Phenylketonuria (PKU) Program. The conditions under which each of these programs is operated constitute unusual circumstances which dictate the following special principles for determining the charges to be made as reimbursement for those programs' services.

B. The Handicapped Children's Services Program shall charge the annual patient fee for those persons determined to be above Income Level A. Charges shall be imposed in accordance with regulations as stated in the latest State Plan for Provision of Crippled Children's Services approved by the Board of Health.

C. The Phenylketonuria (PKU) Program shall impose no charges for screening, clinic, or laboratory services which are necessary to establish a diagnosis or to recommend treatment of PKU. Charges for specific medical food products will not be made to families in Income Level A nor will charges for these products be made to persons financially eligible for the services authorized under the Women, Infants and Children (WIC) Program.

D. Specific medical food products which from time to time may be required by recipients of other programs offered by the department, and which may be provided by the department will be supplied in the same manner as provided in subsection C of § 6.1 of these regulations.

E. The Child Development Clinic Network shall impose no charges for services provided children from families in Income Level A.

§ 6.2. When necessary, the health or medical program director can deny certain medical services to full-paying patients (Income Levels F and above). Such denial is appropriate when the following situations exist:

1. The demand is great for providing services to lower income patients or when local restrictions apply to giving certain services; and
2. The same services are available in the community by the private sector.

PART VII. ELIGIBILITY DETERMINATION.

§ 7.1. Upon request for medical services by an individual, the department will require information as to the family size, financial status and other related data as described on the application for health care (CHS-1). The applicant shall be informed during the interviewing process of the provisions as described in this section of the regulations. This process does not apply to services described in § 4.1 of these regulations.

A. An application date is established when the applicant, his authorized representative, or other persons acting in his behalf, completes and signs the application for medical care services.

1. For the Special Supplemental Food Program for Women, Infants and Children (WIC), the application date is established when an individual visits the health department during office hours to make an oral or written request for WIC Program benefits.

B. When an applicant is in need of emergency medical care services, the district director, or his designee shall waive this application process for that individual until such time as the individual is able to respond normally to the interviewing process.

C. It is the applicant's responsibility to furnish the department with the correct financial data in order to be appropriately classified according to income level and to determine applicable charges for medical care services. The applicant shall be required to provide written verification of financial income such as check stubs, written letter from an employer, W-2 or W-4 forms, etc., in order to provide documentation for the application.

D. Any individual who is acting on behalf of a minor will be held responsible for the accuracy of all financial data provided the department.

§ 7.2. If the patient's family gross income is such that a partial or full charge for service is determined to be required, an explanation of the charges shall be provided

to the patient prior to services being rendered.

§ 7.3. A person's financial eligibility to receive chargeable medical care services shall be redetermined every 12 months, except when the department has reason to believe an applicant's financial or family status has changed sooner or when laws or regulations dictate otherwise.

§ 7.4. The department's policy is to require that a reasonable effort shall be made to collect any fees due for chargeable services.

The department should request payment for a chargeable service at the time the service is given.

When payments are not made at the time of service, the department will present to the patient, guardian or other authorized person, a bill each 30, 60, 90 and 120 calendar days.

If the payment is not made within 120 calendar days of the date of service, additional chargeable services will be discontinued to individuals whose income levels have been determined Income Levels B through F, until arrangements for payment have been made.

A written notice, including the development of a payment plan, on overdue payments, shall be presented to the patient at least 30 days prior to the effective date on which additional chargeable services will be refused because of payment delinquency.

The notice shall describe how a temporary waiver can be obtained in order for the individual to have a fair opportunity to settle on an overdue account.

If a waiver is denied, the department will continue to bill the patient, guardian, or the authorized person according to the above criteria.

§ 7.5. The individual, family unit, or other authorized person, may seek relief from the application of the above provisions by using Parts VIII and IX of these regulations.

PART VIII. WAIVER OF PAYMENTS.

§ 8.1. When an unusual family or individual health problem or financial hardships are demonstrated to exist, and there are no other avenues of care, the patient, guardian or other authorized person may request a waiver of payment for chargeable services for up to 90 calendar days. A waiver may be requested orally or in writing to the Health Department. A new eligibility determination will be completed on the patient at this time. If the new eligibility determination places the patient in a lower payment plan, the amount of service payments incurred before the new eligibility determination and subsequent to the bona fide change in circumstances will be considered for possible discharge by the department or for payment at a level consistent with the newly determined income

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level. If complete waiver is allowed, during the waiver period the patient will not be charged for continued medical care. If partial waiver is allowed in the form of reduced payments, during the waiver period the patient will be charged at the reduced rate. Once the waiver period has elapsed, or earlier if the reason for the waiver no longer exists, if the patient's eligibility determination status has returned to its previous status or has improved to a higher payment level, the patient will be required to make payments on future medical care at the original or other appropriate level.

If the new eligibility determination made in response to the waiver request reveals no change in income level status, extraordinary circumstances may be taken into account to allow complete or partial waiver for up to 60 days, at which time the continuation of the extraordinary circumstances will be reassessed and the waiver terminated or extended for an additional period up to 30 days, with a repeat reassessment at the end of that time. Extraordinary circumstances will include but not necessarily be limited to natural disasters, uninsured real or personal property damage or legal liability to another for the same, obligatory and unavoidable expenditures for close relatives outside the family unit. Waivers shall not be accorded in the absence of a finding of hardship.

If the new eligibility determination proves that the patient's income level status has not changed, the department will continue to charge the patient at the appropriate level for medical care. At this time, the department will work with the patient, guardian, or other authorized person to assure that a reasonable payment plan for services received is established as described in subsection D of § 7.1. Documentation shall be made in the patient's medical file that proper procedures have been taken to assist the patient.

§ 8.2. The Commissioner of Health is designated to act for the Board of Health to grant or deny requested waivers.

§ 8.3. At his discretion, the commissioner may delegate the authority to grant or deny waivers to medical directors in the central, regional and district offices.

§ 8.4. Medical directors may designate other individuals within their supervision to grant or deny waivers of patient payments in accordance with § 8.1.

§ 8.5. In the event of an adverse decision, the patient, guardian or other authorized person will be advised of their rights to appeal under Part IX.

§ 8.6. At the time of request in a waiver, the applicant should provide information regarding the length of time he anticipates the waiver may be in force, with a justification for that estimate. The medical director or his designee will then determine and specify a reasonable time period based on the facts and circumstances of the particular case. The time specified should serve only as a guide; in operation the waiver should apply only for the duration of

the change in the applicant's circumstances. Prior to the expiration date of the waivers, each case will be reviewed by the medical director or his designee for further determination. A waiver may be requested orally or in writing to the Health Department. No waiver can be extended beyond a six-month period without review.

After the waiver period has elapsed, a new eligibility determination will be performed to determine the patient's new income level status, or whether another waiver needs to be extended for continued care.

Services to patients shall continue pending a final decision on a request for a waiver.

PART IX. APPEAL PROCESS.

§ 9.1. If applicant for or recipient of medical care services as defined in these regulations is denied such services, has services terminated, or is denied a waiver as defined in Part VIII of these regulations, the applicant/recipient is entitled to appeal that action as set forth under this part. There are no further rights of appeal except as set forth in this part.

A. The applicant/recipient has the right to be informed in writing of the appeal process, including time limits; and the right to receive a written statement of the reasons for denial. If a person already receiving services is denied those services, a written notice of termination shall be given 30 days in advance of discontinuing services. The person has the right to confront any witnesses who may have testified against him.

B. An individual or his representative may make a written or oral appeal to the district health director or program medical director within 30 days of the denial of service.


C. Upon receipt of the appeal, the district health director shall review and make written recommendations to the regional medical director and commissioner within 15 days. The regional medical director shall submit his recommendations to the commissioner within 15 days of the receipt of the local health director's recommendations. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

D. Upon receipt of the appeal, the program medical director shall review and make written recommendations to the division director and the commissioner within 15 days. The division director shall submit his recommendations to the commissioner within 15 days of the receipt of the division director's recommendation. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

E. Services to applicants/recipients shall continue during an appeal process.

PART X. FRAUD.

§ 10.1. If the district health director finds a pattern of abuse of services such as willful misrepresentation, withholding or falsification of information in an attempt to obtain medical services free or at a reduced rate, he may discontinue services to the affected person 30 days after notification to the person of the intended discontinuation. Such recipient is entitled to the appeal process set forth in Part IX of these regulations.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

JOAN W SMITH
REGISTRAR OF REGULATIONS

POST OFFICE BOX 23-40
RICHMOND, VIRGINIA 23208
(804) 786-2531

June 2, 1989

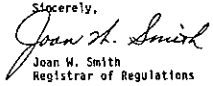
C.M.G. Buttery, M.D., M.P.H.
State Health Commissioner
Department of Health
James Madison Building
Richmond, Virginia 23219

Re: VR 355.39-01. Regulations Governing Eligibility Standards
and Charges For Medical Care Services

Dear Dr. Buttery:

This will acknowledge receipt of the above-referenced regulations from the Department of Health.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:s11

MARINE RESOURCES COMMISSION

NOTE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:1 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: VR 450-01-0034. Pertaining to the Taking of Striped Bass.

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: June 1, 1989

Preamble:

This regulation establishes a moratorium and other restrictions on the taking or possession of striped bass in Virginia. The purpose of this regulation is to provide sufficient protection for the Chesapeake Bay stocks of striped bass to ensure that 95% of the females of the 1982 and subsequent year classes have an opportunity to reproduce at least once. These changes comply with the recommendations of the Interstate Fishery Management Plan for Striped Bass.

Section 5 of this regulation authorizes the aquaculture of striped bass and hybrid striped bass and sets forth the terms and conditions required for their culture.

VR 450-01-0034. Pertaining to the Taking of Striped Bass.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-50 of the Code of Virginia.

B. This regulation amends previous regulation VR 450-01-0034, which was promulgated and made effective on ~~November 7, 1988~~ *January 1, 1989*.

C. The effective date of this regulation is ~~January 1, 1989~~ *June 1, 1989*.

§ 2. Purpose.

The purpose of this regulation is to provide for the immediate protection of Virginia's striped bass stocks and to ~~reduce harvest pressure on the~~ *prevent the harvest of female striped bass of 1982 year class and subsequent year classes of striped bass*.

The provisions pertaining to aquaculture serve to prevent escapement of cultured hybrid striped bass into the natural environment and to minimize the impact of cultured fish in the market place on the enforcement of other provisions in this regulation.

§ 3. Definitions.

A. Striped bass - any fish of the species *Morone saxatilis* including any hybrid striped bass.

B. Spawning rivers - the James, Pamunkey, Mattaponi and Rappahannock Rivers including all their tributaries.

C. Spawning reaches - sections within the spawning rivers as follows:

1. James River: From a line connecting Dancing Point and New Sunken Meadow Creek upstream to a line connecting City Point and Packs Point;

2. Pamunkey River: From the Route 33 bridge at West

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Point upstream to a line connecting Liberty Hall and the opposite shore;

3. Mattaponi River: From the Route 33 bridge at West Point upstream to the Route 360 bridge at Aylett;

4. Rappahannock River: From the Route 360 bridge at Tappahannock upstream to the Route 3 bridge at Fredericksburg.

§ 4. Closed areas, seasons, and gear limitations.

A. During the period ~~December 1 to May 31, June 1, 1989, to May 31, 1990~~, inclusive, a person may not take, catch, possess, transport, process, sell or offer for sale any striped bass.

B. During the period April 1 to May 31, inclusive, a person may not set or fish any anchored or staked gill net within the spawning reaches. Drift (float) gill nets may be set or fished within the spawning reaches during the closed season, but the fisherman must remain with such net while that net is in the fishing position.

§ 5. Minimum size limits.

A. During the open season, June 1 to November 30, inclusive, it shall be unlawful for any person to take, catch, or have in possession any striped bass less than 24 inches in length, except as provided in paragraph B, below.

B. During the open season, June 1 to November 30, inclusive, it shall be unlawful for any person to take, catch, or retain possession of any striped bass from the Territorial Sea that is less than 36 inches in length.

C. Length is measured in a straight line from tip of nose to tip of tail.

§ 6. Creel limit.

A possession limit of five striped bass per person per day is imposed on all hook-and-line fishermen taking striped bass from the tidal waters of Virginia during the open season, June 1 to November 30, inclusive.

§ 7. § 5. Aquaculture of striped bass and hybrid striped bass.

A. Permit required.

It shall be unlawful for any person, firm, or corporation to operate an aquaculture facility without first obtaining a permit from the Marine Resources Commission. Such permit shall authorize the purchase, possession, sale, and transportation of striped bass or hybrid striped bass in accordance with the other rules contained in this section.

B. Application for and term of permit.

The application for a striped bass aquaculture facility shall state the name and address of the applicant, the type and location of the facility, type of water supply, location of nearest tidal waters or tributaries to tidal water, and an estimate of production capacity. All aquaculture permits shall expire on December 31 of the year of issue and are not transferable. Permits shall be automatically renewed by the Marine Resources Commission provided no structural changes in the facility have been made, the facility has been adequately maintained, and the permittee has complied with all of the provisions of this regulation.

C. Display of permit.

1. The original of each permit shall be maintained and prominently displayed at the aquaculture facility described therein.

2. A copy of such permit may be used as evidence of authorization to transport striped bass or hybrid striped bass to sell the fish away from the permitted facility under the conditions imposed in paragraph G in this section.

D. Water supply; outfall; prevention of entry and escapement.

1. A striped bass or hybrid striped bass aquaculture facility may consist of one or more ponds, artificial impoundments, closed recirculating systems or a combination of the above.

2. No pond or impoundment used for striped bass or hybrid striped bass aquaculture may be constructed or situated on a natural water course that originates beyond the boundaries of private land upon which the pond or impoundment is located.

3. There shall be no direct and unscreened discharge from any facility to any natural watercourse. Except as provided in subdivision 4, below, outfall from any pond or impoundment shall be processed according to one of the following systems:

a. The outfall shall pass over a dry ground percolation system in which ground absorption of the water is sufficient to prevent the formation of a watercourse which is capable of reaching any natural watercourse. The outfall shall pass through a screened filter box prior to entering the percolation area.

b. The outfall shall pass through a chlorination process and retention pond for dechlorination. The outfall shall pass through a filter box prior to entering the chlorination system. Such facilities must also comply with regulations of the State Water Control Board.

4. If the outfall from an aquaculture facility may not conform to the systems described in subdivision 3 a or

subdivision 3 b, above, then all of the following conditions shall be required:

a. The aquaculture of striped bass or hybrid striped bass shall be restricted to the use of cage culture. Such cages shall be constructed of a vinyl coated wire or high density polyethylene mesh material sufficient in size to retain the fish and all cages must be securely anchored to prevent capsizing. Covers shall be required on all cages.

b. The outfall from the pond or impoundment shall pass through a screened filter box. Such filter box shall be constructed of a mesh material sufficient in size to retain the fish and shall be maintained free of debris and in workable condition at all times; and

c. The outfall from the screened filter box shall pass into a containment basin lined and filled with quarry rock or other suitable material to prevent the escapement of the fish from the basin.

5. Those facilities utilizing embankment ponds shall maintain sufficient freeboard above the spillway to prevent overflow.

E. Acquisition of fish, fingerlings, fry, and eggs.

Striped bass or hybrid striped bass fingerlings, fry, or eggs, may be obtained only from state permitted fish dealers and must be certified by the seller as striped bass or hybrid striped bass having a disease free status. Each purchase or acquisition, of striped bass or hybrid striped bass must be accompanied by a receipt or other written evidence showing the date, source, species, quantity of the acquisition and its destination. Such receipt must be in the possession of the permittee prior to transportation of such fish, fingerlings, fry, or eggs to the permitted facility. All such receipts shall be retained as part of the permittee's records. The harvesting of striped bass from the tidal waters of Virginia for the purpose of artificially spawning in a permitted aquaculture facility shall comply with all of the provisions of this regulation and state law including minimum size limits, maximum size limits, and closed harvesting seasons and areas.

F. Inspection of facilities.

1. Inspection. Agents of the Marine Resources Commission and the Department of Game and Inland Fisheries are authorized to make periodic inspection of the facilities and the stock of each operation permitted under this section. Every person engaged in the business of striped bass aquaculture shall permit such inspection at any reasonable time.

2. Diseased fish. No person permitted under this section shall maintain in the permitted facility any fish which shows evidence of any contagious disease listed in the then current list by the United States

Fish and Wildlife Services as "certifiable diseases" except for the period required for application of standard treatment procedures or for approved disposition.

3. Disposition. No person permitted under this section shall sell or otherwise transfer possession of any striped bass or hybrid striped bass which shows evidence of a "certifiable disease" to any person, except that such transfer may be made to a fish pathologist for examination and diagnosis.

G. Sale of fish.

All striped bass or hybrid striped bass except fingerlings, fry, and eggs, which are the product of an aquaculture facility permitted under this section shall be packaged with a printed label bearing the name, address, and permit number of the aquaculture facility. When so packaged and labelled such fish may be transported and sold at retail or at wholesale for commercial distribution through normal channels of trade until reaching the ultimate consumer. Every such sale must be accompanied by a receipt showing the date of sale, the name, address and permit number of the aquaculture facility, the numbers and species of fish sold, and the name of the purchaser. Each subsequent resale must be accompanied by a receipt clearly identifying the seller by name and address, showing the number and species of the fish sold, the date sold, the permit number of the aquaculture facility and, if the sale is to other than the ultimate consumer, the name and address of the purchaser. The purchaser in possession of such fish must exhibit the receipt on demand of any law-enforcement officer. A duplicate copy of each such receipt must be retained for one year by the seller as part of the records of each transaction.

H. Records.

Each permitted aquaculture facility operator shall maintain a chronological file of the receipts or copies thereof showing the dates and sources of acquisitions of striped bass or hybrid striped bass and quantities thereof, and a chronological file of copies of the receipts of his sales required under paragraph G of this section. Such records shall be segregated as to each permit year, shall be made available for inspection by any authorized agent of the Marine Resources Commission or Department of Game and Inland Fisheries, and shall be retained for at least one year following the close of the permit year to which they pertain.

I. Revocation and nonrenewal of permit.

In addition to the penalties prescribed by law, any violation of § 7 § 5 shall be grounds for revocation or suspension of the permit for the aquaculture facility for the balance of the permit year. No person whose permit has been revoked shall be eligible to apply for an aquaculture facility permit for a period of two years after

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the date of such revocation.

J. Importation of striped bass for the consumer market.

Striped bass or hybrid striped bass which are the product of an approved and state permitted aquaculture facility in another state may be imported into Virginia for the consumer market. Such fish shall be packaged and labelled in accordance with the provisions contained in paragraph G of this section. Any sale of such fish also shall be accompanied by receipts as described in paragraph G of this section.

K. Release of live fish.

Under no circumstance shall striped bass or hybrid striped bass which are the product of a commercial aquaculture facility located within or outside the Commonwealth of Virginia be placed into the waters of the Commonwealth without first having notified the commission and having received written permission from the commissioner.

§ 8. § 6. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt, Commissioner

* * * * *

Title of Regulation: VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: May 4, 1989

Preamble:

This regulation describes three time restrictions on commercial crabbing in Virginia. The purpose of these restrictions is to allow for conservation of crabs and to improve the enforceability of other laws pertaining to crabbing. VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to authority contained in § 28.1-23 of the Code of Virginia.

B. Related restrictions on commercial crabbing are found in Title 28.1, Chapter 6 of the Code of Virginia and in VR 450-01-0007, VR 450-01-0012, VR 450-01-0041, and VR 450-01-0049.

C. Sections 3 and 4 of this regulation were added and made effective by Commission action on May 23, 1988; the

original regulation was promulgated on November 26, 1985. *The effective date of this regulation as amended is May 4, 1989.*

§ 2. Sunday prohibition.

It shall be unlawful to take or catch crabs for commercial purposes on Sunday. This section shall not apply to the fishing of peeler crab traps or the harvest of peeler crabs by crab traps or peeler pots or to the working of floats, pens, or onshore facilities for soft crab shedding operations.

§ 3. Daily time limits.

It shall be unlawful to take or catch crabs for commercial purposes between sunset and three hours before sunrise.

§ 4. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-8903. Closure of All Public Oyster Grounds in the James River.

Statutory Authority: §§ 28.1-82 and 28.1-85 of the Code of Virginia.

Effective Dates: June 1, 1989 to October 1, 1989

Preamble:

The following order of the Marine Resources Commission closes all public oyster grounds in the James River to the taking of oysters.

VR 450-01-8903. Closure of All Public Oyster Grounds in the James River.

§ 1. Authority and effective date.

A. This order is promulgated pursuant to authority contained in §§ 28.1-82 and 28.1-85 of the Code of Virginia.

B. The effective date of this order is June 1, 1989.

§ 2. Purpose.

The purpose of this order is to close all public oyster grounds in the James River to the taking of oysters in order to protect and promote the oyster resource in the area.

§ 3. Closed area.

All public oyster grounds in the James River are hereby closed to the taking of oysters.

§ 4. Expiration date.

This order shall terminate October 1, 1989.

/s/ William A. Pruitt
Commissioner

DEPARTMENT OF MINES, MINERALS AND ENERGY (DIRECTOR OF THE DIVISION OF MINERAL MINING)

REGISTRAR'S NOTICE: Due to its length, the Safety and Health Regulation for Mineral Mining filed by the Department of Mines, Minerals and Energy is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of 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 Mines, Minerals and Energy.

Title of Regulation: VR 480-05-1.2. Safety and Health Regulation for Mineral Mining.

Statutory Authority: §§ 45.1-33 and 45.1-104 of the Code of Virginia.

Effective Date: July 19, 1989

Summary:

This amendment to the Safety and Health Regulation for Mineral Mining clarifies, reformats and reorganizes metal/nonmetal safety and health regulations. The revisions make the regulation more easily read and understood. For example, all of the requirements pertaining solely to underground noncoal mines have been grouped into one section. Currently, these are mixed within sections governing surface mines throughout the 22 parts. Also, the language of the regulation was changed where necessary to become gender neutral.

Outdated sections of the regulation are being eliminated or revised. This includes deleting requirements for aerial tramways, deleting procedures for requesting a variance from federal requirements that have been eliminated, and revising worker training and general site safety provisions. Certain housecleaning revisions are being made to conform with recent changes to the Code of Virginia. The other changes reflect an internal reorganization of the Department of Mines, Minerals and Energy and the delegation of authority from the Chief of the Division of Mines to the Commissioner of the Division of Mineral Mining.

The following changes were made since the proposed regulation was published:

1. In § 1.1, the definitions of "permissible" and "potable" have been changed based on comments from industry to clarify the definitions.
2. The radon exposure limit for surface mines in § 5.7 has been deleted because the standard was intended for underground mines. The radon exposure limits for underground mines remain in §§ 15.53 to 15.56.
3. A requirement that accident reports must be kept for three years has been added to § 1.2 D 5 based on comment from industry. The current regulation does not provide any retention time limit.
4. As requested in industry comment, a 30-day time limit has been established for response by the DMM Director to request for approval of a person, equipment, material or practice in § 1.2 F 2, and for response by the DMM Director to an appeal of a violation or order in § 1.2 G 3.
5. The sound exposure limits in § 5.6 have been changed in response to industry comment to be consistent with the U.S. Mine Safety and Health Administration (MSHA) regulatory standards.
6. Sections originally found in Part XVI, Miscellaneous Provisions, have been moved to other parts of the regulation so that all regulatory standards on a topic are grouped together. This change is based on comments from industry and will clarify the regulation.

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

Title of Regulation: VR 647-01-01. Public Participation Guidelines.

Statutory Authority: § 18.2-271.2 of the Code of Virginia

Effective Date: August 1, 1989

Summary:

The public participation guidelines outline the manner in which the Commission on VASAP will encourage participation of citizens in the formation and development of regulatory proposals under the Virginia Administrative Process Act. The guidelines are to be used by the commission to identify and notify interested parties of its intent to enact regulations and to provide an opportunity for public participation.

VR 647-01-01. Public Participation Guidelines.

§ 1. Purpose.

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When developing any proposed or amended regulation, or when considering the repeal of an existing regulation, the Commission on VASAP will solicit input and comments from interested citizens, organizations, associations and industry. These guidelines outline the manner in which the Commission on VASAP will encourage participation of citizens in the formation and development of regulatory proposals under the Virginia Administrative Process Act.

The guidelines are based on the principle that citizens have both a right and a responsibility to take part in governmental processes, that government functions best when it provides for participation by the public, and that state agency regulations should impose only those requirements which are necessary and do not unreasonably burden private businesses or individual citizens.

These guidelines shall apply to all regulations administered by the commission which are subject to the Administrative Process Act. The guidelines are to be used by the commission to identify and notify interested parties of its intent to enact regulations and to provide an opportunity for public participation.

§ 2. Initiation of regulation.

Rulemaking may be initiated at any time by the commission. A petition for a new regulation or for amendment, addition, or repeal of any existing regulation may be filed with the commission at any time by any agency, group, or individual. The commission will consider any regulatory change at its discretion.

§ 3. Identification of interested parties.

Prior to the development of any regulation, the commission shall identify persons or groups whom it believes would be interested in or affected by the proposal.

The above will be accomplished largely by identification of those who have expressed interest in specific regulatory matters. In addition, the commission will use the following:

1. A directory of the 26 local ASAP programs;
2. A listing of persons who request to be placed on the mailing list; and
3. A listing of persons who previously participated in public proceedings concerning related subjects or issues.

All mailing lists will be revised every year to ensure that they are up-to-date.

§ 4. Notification of interested parties.

A. Notice of intended regulatory action.

[At least ~~30~~ No less than seven] days prior to the development of any regulation, the commission shall prepare a Notice of Intended Regulatory Action Form RR01. The notice will contain a brief and concise statement in plain terms as to the purpose of the regulation and shall invite all persons to provide written comments and will specify a deadline for receipt of responses. Such notices shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register. The commission may also use other mailing lists as it deems appropriate to notify persons of its intent.

B. Regulation proposal.

After consideration of public comments, the commission shall prepare the proposed draft regulations. All drafts of the regulation will be labeled with the word "draft" and dated.

§ 5. Public participation.

A. The commission will hold [three] public hearings on all proposed regulations except those listed under § 6, "Exclusions." A copy of the draft will be furnished to all persons who responded to the notice of intended regulatory action. Also, when appropriate, the commission will send a copy of the "draft" proposal to other interested parties.

B. The Registrar will publish the hearing notice in The Virginia Register and in appropriate newspapers identified by the commission prior to the public hearing.

C. In matters considered to be of interest to the general public, the commission will also prepare a news release and distribute it to all daily and weekly newspapers serving Virginia. The news release will include information about the subject matter and purpose of regulation under consideration and about provisions for public comment, including the time, date, and place of scheduled public hearing. Copies of all drafts of all proposed regulations will be available for public inspection at the commission's office.

D. During the 60-day public participation period, the regulation will also be reviewed by the public, the Governor, the Secretary of Transportation and Public Safety, and the Attorney General.

E. Public hearings will be held at different locations statewide and [~~the~~ where feasible] hearings will be in conjunction with [~~one~~ a meeting] of the [~~four~~ quarterly full] commission [~~meetings~~].

F. The public will be offered the opportunity to make oral or written comments. Persons addressing the proposed regulation at the public hearing will be encouraged to provide a written copy of their statement to each commission member and staff present (20 copies).

§ 6. Exclusions.

A. Nonsubstantive.

If a nonsubstantive regulation is being promulgated, the commission may deviate from the public participation guidelines. However, it will strive to obtain written comments.

B. Emergency.

It may be necessary to enact emergency regulations within a time frame which does not allow the normal 60-day period for public comments. The Administrative Process Act recognized this possibility and permits enactment of such emergency regulations with the approval of the Governor. In those instances, an emergency regulation will become effective when filed with the Registrar of Regulations (unless a later effective date is given). The emergency regulation will be published in the next edition of *The Virginia Register*.

§ 7. Final action on proposed regulations.

After proposed action on a regulation has been approved, the action will be included in the commission's quarterly newsletter and printed in *The Virginia Register*.

The commission will print copies of adopted regulations. Copies of adopted regulations may be obtained by writing the Executive Assistant, Commission on VASAP, 1001 East Broad Street, Suite 245, Box 28, Old City Hall Building, Richmond, Virginia 23219.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-16-14. Potomac-Shenandoah River Basin Water Quality Management Plan.

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

Effective Date: July 19, 1989

Background:

Water Quality Management Plans set forth those measures to be taken by the State Water Control Board for reaching and maintaining applicable water quality goals both in general terms and numeric loadings for five-day Biochemical Oxygen Demand (BOD5) in identified stream segments.

Section 62.1-44.15(3) of the Code of Virginia authorizes the state Water Control Board to establish Water Quality Standards and Policies for any state waters consistent with the purpose and general policy of the State Water Control Law, and to modify, amend, or cancel any such standards or policies established.

Section 62.1-44.15(13) of the Code of Virginia authorizes the establishment of policies and programs for area and basinwide water quality control and

management.

Summary:

The amendment revises the BOD5 loading upward from 1,201 lb/day to 2,002 lb/day. The revised BOD5 value also reflects more state-of-the-art modeling techniques and is based on actual field data. The model demonstrated that the revised loading would protect water quality standards.

The major difference between the current loading rate and the revised one is that the former was determined in the absence of field data. The latter is based on field data, and a calibrated and verified stream assimilation model.

The revisions will maintain the water quality standards adopted by the board.

Final Regulations

Potomac-Shenandoah River Basin Water Quality Management Plan

Reference for Harrisonburg-Rockingham Regional Sewer Authority discharge to North River WQ (1-1) on Table 28 of the Potomac-Shenandoah River Basin Water Quality Management Plan would be amended as follows:

FACILITY NUMBER	NAME	RECOMMENDED RECEIVING STREAM	FACILITY			WASTELOAD ALLOCATION (3) LB/D	INSTITUTIONAL ARRANGEMENT	COMPLIANCE (4) SCHEDULE
			RECOMMENDED ACTION	SIZE (1)	TREATMENT LEVEL (2)			
2	Harrisonburg-Rockingham Regional Sewer Authority	North River WQ (1-1)	Correct 1/1	8.0 12.0 (5)	AST	1,204 2,002 (6)	Harrisonburg-Rockingham Regional Sewer Authority	None

(1) Year 2000 design flow (MGD) unless otherwise noted

(2) Secondary treatment: 24-30 mg/l BOD₅, advanced secondary treatment (AST): 11-23 mg/l BOD₅, advanced wastewater treatment (AWT): ≤10 mg/l BOD₅. A range is given to recognize that various waste treatment processes have different treatment efficiencies.

(3) Recommended wasteload allocation calculated using mathematical modeling based upon 7Q10 stream flows. Tiered permits may allow greater wasteloads during periods of higher stream flows. Allocations other than BOD₅ are noted by footnote.

(4) The July 1, 1983 data is a statutory deadline required by P.L. 92-500, as amended by P.L. 92-217. The timing of Construction Grant funding may result in some localities to miss this deadline.

(5) Year 2008 design.

(6) This BOD loading is based on a 7Q10 flow rate of 26.8 cfs at the HRRSA discharge.]

EMERGENCY REGULATIONS

DEPARTMENT OF HEALTH (STATE BOARD OF)

NOTICE: The following emergency regulation has been canceled.

Title of Regulation: VR 355-19-02.69. Notice of Description of Shellfish Area Condemnation Number 69B, James River.

Statutory Authority: §§ 28.1-177, 32.1-20 and 9-6.14:4.1 C 5 of the Code of Virginia.

Effective Dates: May 12, 1989 through May 11, 1990.

Publication: VR.V 5-17 pages 3462-2674, May 22, 1989.

CANCELLATION OF EMERGENCY ORDER

Order of the State Health Commissioner

WHEREAS, unusually heavy rains on the James River watershed during the first part of May 1989 caused flooding upstream of shellfish growing areas resulting in excessive runoff;

WHEREAS, analysis of water from the James River collected on May 10, 1989, revealed significant bacteriological contamination beyond the permanently condemned portion of the river established as Shellfish Area Condemnation Number 69 effective April 27, 1989, and Shellfish Area Condemnation Number 23 effective March 30, 1989; and

WHEREAS, the State Health Commissioner, with the Governor concurring, extended the condemnation pursuant to Virginia Code § 28.1-178 by emergency regulation establishing Shellfish Area Condemnation Number 69B effective May 12, 1989; and

WHEREAS, continued sampling of the area by the State Health Department has revealed that the bacteriological levels in a part A of the James River covered by Shellfish Area Condemnation Number 69B closed by that emergency regulation have returned to acceptable levels for the harvesting of shellfish in accordance with the criteria of the National Shellfish Sanitation Program; and

WHEREAS, bacteriological sampling indicates the following areas do not yet conform to acceptable levels for the harvesting of shellfish and remain covered by Shellfish Area Condemnation 69B:

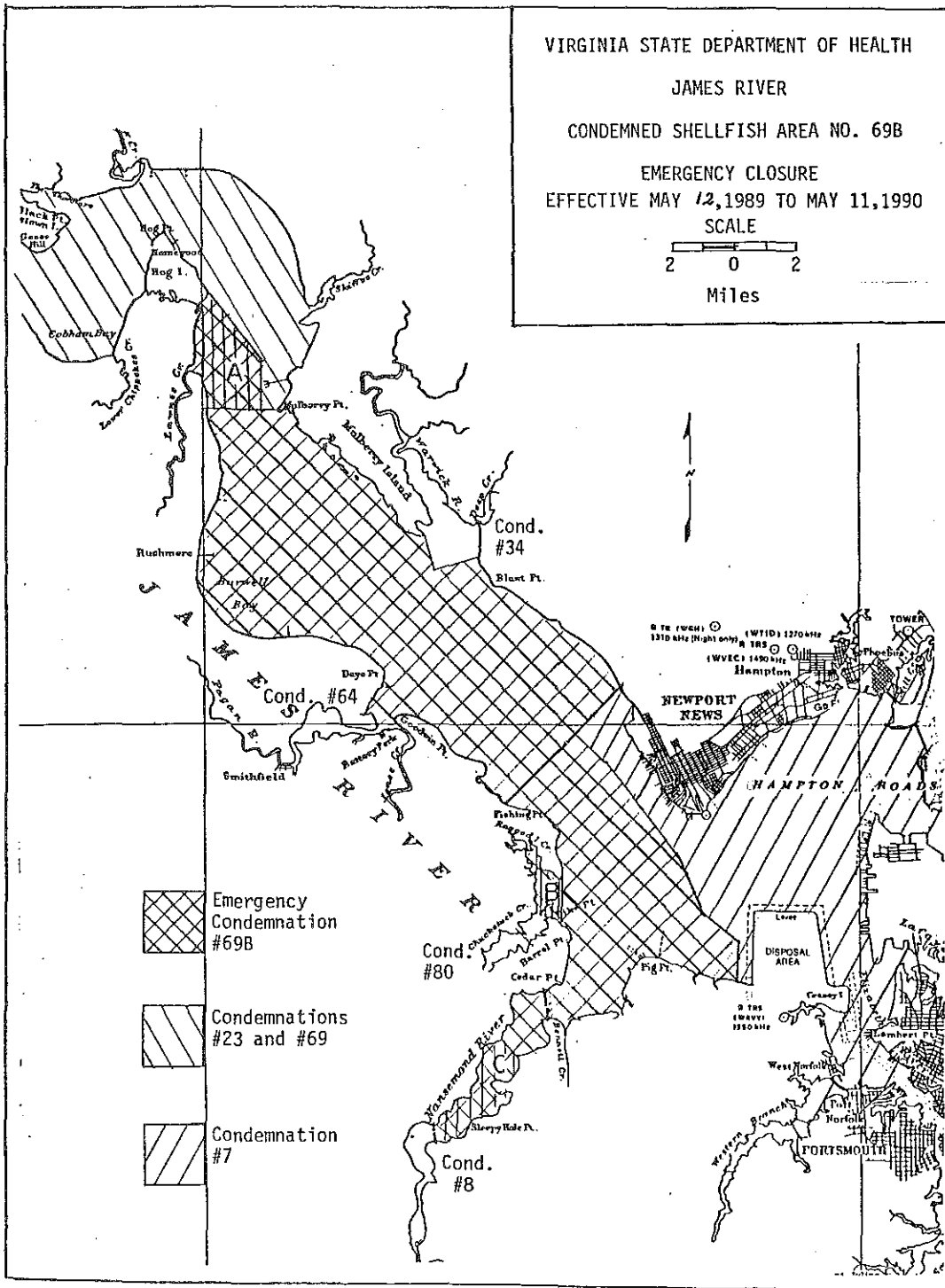
- B - that portion of Batten Bay and Chuckatuck Creek upstream of a line drawn due south to the opposite shore from the southeasternmost point of Candy Island,
- C - that portion of the Nansemond River upstream of a line drawn from Newmans Point northwesterly to the point of land on the opposite shore; and

WHEREAS, a public health emergency condition no longer exists in the areas not excepted above in the James River covered by Shellfish Area Condemnation Number 69B, and the area may be reopened; therefore, be it

ORDERED that part A of Shellfish Area Condemnation Number 69B is hereby rescinded immediately in accordance with §§ 28.1-178 and 32.1-13 of the Code of Virginia, and the boundary area previously closed by Shellfish Condemnation Number 69B, as shown on the attached map, is hereby reopened.

/s/ C. M. G. BATTERY, M.D., M.P.H.
State Health Commissioner
Date: May 25, 1989

Emergency Regulation



Emergency Regulation

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-15. Aid to Dependent Children - Unemployed Parent Demonstration (ADC-UP Demo) Project.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Effective Dates: July 1, 1989 through June 30, 1990

Preamble:

For the past four years, Virginia has tested various programs to assist unemployed two-parent families. From October 1, 1984, through June 30, 1986, the Emergency Services for Two-Parent Unemployed Families was operated in 15 localities. From July 1, 1986, through June 30, 1988, the Aid to Dependent Children - Working Parents (ADC-WP) Program was operated in 22 localities to provide temporary financial assistance to unemployed two-parent families.

Currently, Virginia is operating a project entitled Aid to Dependent Children-Unemployed Parent Demonstration (ADC-UP Demo) Project. The ADC-UP Demo Project began operation July 1, 1988, and will continue through June 30, 1990, as authorized by the 1988 Appropriations Act, or until funds have been expended, whichever occurs first. The ADC-UP Demo Project has modified the federal requirements of the Aid to Families with Dependent Children - Unemployed Parent (AFDC-UP) Program found at 45 CFR § 233.100 in order to meet the needs of unemployed two-parent families in the most economically depressed areas of the Commonwealth. The ADC-UP Demo Project is currently operating in 11 localities which experienced double-digit unemployment in 1987 under an emergency regulation which expires June 30, 1989.

The project is totally state-funded, no local funds are involved. Through this project families will be provided financial assistance as well as employment services including education, training, and related supportive services to needy two-parent unemployed families who would otherwise be unable to qualify for aid under the federal Aid to Dependent Children (ADC) program. It is the intent of the project to help families to become self-sufficient.

The General Assembly appropriated \$1.25 million for each year of the 1988-1990 biennium in the 1988 Appropriations Act. The project is scheduled to continue through June 30, 1990, or until the \$2.5 million appropriated has been expended, whichever occurs first.

As of February 1989, the ADC-UP Demo Project has approved 423 families for assistance of which 98% reside in Southwest, Virginia. Benefits have been paid in the amount of \$688,410. The average payment per

case is \$293 with an average of six payments per case. Of the 423 families, 403 are male-headed and include 814 adults and 768 children.

There has been a steady influx of applications since the project began July 1, 1988. The number of approvals have exceeded by far the original estimate based on prior years programs. The need for a two-parent unemployed assistance project appears to be greater than in years past.

The Department of Social Services has submitted proposed regulations as required in the Administrative Process Act (APA), § 9-6.14:1 of the Code of Virginia but adoption of the final regulation will not take place prior to July 1, 1989. The 60-day comment period will begin March 27, 1989, and will end May 25, 1989. The Department will return to the State Board of Social Services in June with the final 30-day comment period scheduled to end August 15, 1989.

Emergency approval of the Governor is needed to allow the Department to continue operation of the ADC-UP Demo Project effective July 1, 1989, until the final APA process is completed which is anticipated to be August 15, 1989.

The absence of such regulations will result in families relying on other means of providing assistance for their families. In areas where there is chronic unemployment and depleted community resources, such as Southwest, Virginia, families may be forced to seek help from friends or relatives or may break up in order to qualify for federal Aid to Dependent Children (ADC).

Summary:

Pursuant to § 63.1-25 of the Code of Virginia, the State Board of Social Services has been delegated the authority to promulgate rules and regulations necessary for operation of public assistance programs in Virginia.

The Department of Social Services is proposing to continue operation of the Aid to Dependent Children - Unemployed Parent Demonstration (ADC-UP Demo) Project to assist unemployed two-parent families. The project has modified the federal requirements of the Aid to Families with Dependent Children - Unemployed Parent (AFDC-UP) Program found at 45 CFR 233.100 in order to meet the needs of unemployed two-parent families in the most economically depressed areas of the Commonwealth. The ADC-UP Demo Project is currently operating in 11 localities in the State under an emergency regulation which expires June 30, 1989. The Department has initiated action to develop final regulations as required by the Administrative Process Act, but adoption of the final regulation will not take place prior to July 1, 1989.

Emergency Regulation

The ADC-UP Demo Project became effective July 1, 1988, and will continue through June 30, 1990, as authorized in the 1988 Appropriations Act, or until funds have been expended, whichever occurs first.

VR 615-01-15. Aid to Dependent Children - Unemployed Parent Demonstration (ADC-UP) Project.

PART I. DEFINITIONS.

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

"Exempt resources" means the home in which the assistance unit lives and its contents; one motor vehicle with an equity value of \$1,500 or less; income producing farm and business equipment; cash and other assets, the total of which does not exceed the established resource maximum of \$1,000; one burial plot per assistance unit member; and burial funds and/or funeral arrangements, with an equity value of \$1,500 or less per assistance unit member.

"Principal wage earner" means the parent in the home who earned the greater amount of income in the 24-month period, the last month of which immediately precedes the month in which an application is filed for assistance.

"Resource" means real and personal property, both liquid and nonliquid, including cash, bank accounts, the cash value of bank accounts, the cash value of life insurance, trust funds, stocks, bonds, mutual funds, or any other financial instruments, which the assistance unit has the right, authority, or power to liquidate.

"Sibling" means two or more children with at least one natural parent in common.

"Standard of assistance" means the dollar amount, based on the family size, which has been established to cover predetermined monthly maintenance needs. The standard of assistance represents payment levels at 90% of the standard of need.

"Unemployed" means gross wages from employment do not exceed 185% of the state's standard of need.

PART II. HOUSEHOLD COMPOSITION.

§ 2.1. Aid to Dependent Children - Unemployed Parent Demonstration (ADC-UP Demo) Project is limited to those families with a child under 18, or under 19 if enrolled in a full-time secondary, vocational, or technical school and is expected to graduate before reaching the age of 19, who would be eligible for assistance through the Aid to Dependent Children Program except that he is not deprived due to the continued absence, death, or incapacity of at least one parent, as long as the principal

wage earner:

1. Has been unemployed for 30 days prior to receipt of assistance; and
2. Has not without good cause, within such 30-day period prior to receipt of assistance, refused a bona fide offer of employment or training; and
3. Has an attachment to the work force as evidenced by six or more quarters of work within any 28-calendar-quarter period ending within one year prior to application for assistance, or within such one-year period, received unemployment compensation under an unemployment compensation law of a state or of the United States or would have "qualified" for unemployment compensation under the state's unemployment compensation law if he had filed application for same, or he performed work not covered by such law, which if it had been covered, would (together with any covered work he had performed) have made him eligible to receive such benefits upon filing an application; or
4. Is the head of a young family with an insufficient work history or an individual who has been unable to accumulate the required number of work quarters due to illness.

§ 2.2. Any sibling of a child who is deprived based on the unemployment of a parent, who is himself deprived based on the continued absence or death of a parent and who is financially ineligible for assistance through the Aid to Dependent Children (ADC) Program, will be included in the ADC-UP Demo Project assistance unit.

PART III. FINANCIAL ELIGIBILITY.

§ 3.1. The family's total income must be below the Aid to Dependent Children Program's Standard of Assistance for the appropriate family size. Income disregards used in the Aid to Dependent Children (ADC) Program are also applicable.

PART IV. EMPLOYMENT SERVICES.

§ 4.1. In order for the family to be eligible for assistance, the principal wage earner must participate in a program of employment services which will consist of the following components:

1. Job search.
2. Work experience.
3. Education/training.

PART V. RESOURCES.

§ 5.1. The total nonexempt resources of the family cannot exceed \$1,000.

Registrar of Regulations
Date: May 26, 1989

§ 5.2. The family will be ineligible for assistance if they improperly transfer or improperly dispose of their legal or equitable interest in nonexempt resources within two years from the date of application.

PART VI. APPLICATION PROCESS.

§ 6.1. The application must be acted upon as quickly as possible; however, in all instances a determination regarding eligibility must be made within 45 days from the date the signed application is received in the agency.

PART VII. ENTITLEMENT.

§ 7.1. Entitlement to assistance is limited to twelve months during the period beginning July 1, 1988, and ending June 30, 1990, unless the principal wage earner is participating in an education or training activity in conjunction with the family's participation in a program of employment services. Such families will have their eligibility extended for the duration of their education or training or until the expiration of the ADC-UP Demo Project, whichever occurs first.

PART VIII. MEDICAL ASSISTANCE.

§ 8.1. Recipients of assistance through the Aid to Dependent Children - Unemployed Parent Demonstration (ADC-UP Demo) Project will not automatically be eligible for medical assistance through the Medicaid Program.

PART IX. LOCAL PARTICIPATION.

§ 9.1. Participation in the project will be limited to the 11 localities which were experiencing double-digit unemployment in 1987 based on Virginia Employment Commission "Preliminary County/City Annual Average Unemployment Rates - 1987."

Submitted by:

/s/ Larry D. Jackson
Commissioner
Date: May 16, 1989

Approved by:

/s/ Gerald L. Baliles, Governor
Commonwealth of Virginia
Date: May 24, 1989

Filed by:

/s/ Joan W. Smith

STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA STATE CORPORATION COMMISSION

AT RICHMOND, May 25, 1989

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS890261

Ex Parte: In the matter of adopting rules governing underground storage tank owners and operators group self-insurance pools

CORRECTING ORDER

Paragraph number (1) in the Order Setting Hearing entered herein May 22, 1989 should be, and it is hereby, corrected to read "Rules Governing Underground Storage Tank Owners and Operators Group Self-Insurance Pools" vice "Rules Governing Local Government Group Self-Insurance Pools".

AN ATTESTED copy hereof shall be sent by the Clerk of the Commission to Virginia Petroleum Council, c/o H. Kim Anderson, Executive Director, 1001 East Broad Street, Suite 330, Richmond, Virginia 23219; Virginia Petroleum Jobbers Association, c/o E.D. Catterton, President, P.O. Box 6344, Richmond, Virginia 23230; Virginia Gasoline and Automotive Repair Association, c/o Thomas C. Osina, Executive Director, 6924 Lakeside Avenue, Suite 301, Richmond, Virginia 23228; Virginia Gasoline Retailers Association, c/o Thomas C. Osina, Executive Director, 6924 Lakeside Avenue, Suite 301, Richmond, Virginia 23228; Virginia LP-Gas Association, c/o Charles J. Helman, 1235 Jefferson Davis Highway, Arlington, Virginia 22202; Virginia Oil and Gas Association, Wise Inn, Wise, Virginia 24274; David L. Holland, Southern Oil Company, P.O. Box 1278, Suffolk, Virginia 23434; Donald Allen, E.T. Lawson & Son, Inc., P.O. Box 289, Hampton, Virginia 23669; Ben Davenport, Chatham Oil Company, Box 879, Chatham, Virginia 24531; Jim Polland, J.M. Polland & Son Inc., P.O. Box 956, Ashland, Virginia 23005; Frank Beddell, Virginia Petroleum Jobbers Association, P.O. Box 6344, Richmond, Virginia 23230; John Thrift, U. S. Oil - Cox Oil & Gas, P.O. Box 467, South Boston, Virginia 24592; Norm Faulkner, Noblett Oil Company, P.O. Box 426, Richmond, Virginia 22482; Sam Griffith, York Oil Company, Drawer L, Hampton, Virginia 23669; Michael Davis, Virginia Water Control Board, 2111 N. Hamilton Street, Richmond, Virginia 23230; P.J. Smith, Environmental Technology Inc., 3705 Saunders Avenue, Richmond, Virginia 23227; Frank Bradley III, Bradley Inc., P.O. Box 577, Mechanicsville, Virginia 23111; Scott Blankenship, Petroleum Marketers, Box 12203, Roanoke, Virginia 24023; Bill Gulledge, Environmental Insurance Management, 7900 Westpark Drive, Suite A300, McLean, Virginia 22102; Myra Anderson, Environmental Insurance Management, 7900 Westpark

Drive, Suite A300, McLean, Virginia 22102; and the Bureau of Insurance in care of Deputy Commissioners Robert A. Miller, Alfred W. Gross and David S. Bordner.

* * *

AT RICHMOND, May 22, 1989

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS890261

Ex Parte: In the matter of adopting rules governing underground storage tank owners and operators group self-insurance pools

ORDER SETTING HEARING

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction and Virginia Code § 62.1-44.34:12 provides that the Commission may, after notice and hearing, establish reasonable requirements and regulations for the approval and monitoring of underground storage tank owners and operators group self-insurance pools;

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed regulation entitled "Rules Governing Underground Storage Tank Owners and Operators Group Self-Insurance Pools" which sets forth standards for the approval and monitoring of such pools; and

WHEREAS, the Commission is of the opinion that notice of the proposed regulation should be published by the Bureau of Insurance in newspapers of general circulation within the Commonwealth and that a hearing should be held on the proposed regulation, at which time all persons in interest may appear and be heard,

IT IS ORDERED:

(1) That the proposed regulation entitled "Rules Governing Local Government Group Self-Insurance Pools" be appended hereto and made a part hereof, filed and made a part of the record herein;

(2) That this matter be docketed and assigned Case No. INS890261, and that a hearing be held before the Commission's Hearing Examiner, who is hereby appointed to conduct a hearing on behalf of the Commission, pursuant to the authority granted the Commission in Virginia Code § 12.1-31, in the Commission's 13th Floor Courtroom, Jefferson Building, Bank and Governor Streets, Richmond, Virginia at 10:00 A.M. on June 29, 1989, for the

State Corporation Commission

purpose of considering the adoption of the proposed regulation, at which time and place all interested persons may appear and be heard with respect to the proposed regulation;

(3) That, in accordance with § 12.1-31 of the Code of Virginia, the Hearing Examiner hereinbefore appointed shall conduct all further proceedings in this matter on behalf of the Commission, concluding with the filing of the Examiner's final report to the Commission. In the discharge of such duties, the Hearing Examiner shall exercise all the inquisitorial powers possessed by the Commission, including, but not limited to, the power to administer oaths, require the appearance of witnesses and parties and the production of documents, schedule and conduct prehearing conferences, admit or exclude evidence, grant or deny continuances, and rule on motions, matters of law, and procedural questions. Any party objecting to any ruling or action of said Examiner shall make known its objection with reasonable certainty at the time of the ruling, and may argue such objections to the Commission as part of its responses to the final report of said Examiner; provided, however, if any ruling by the Examiner denies further participation by any party in interest in a proceeding not thereby concluded, such party shall have the right to file a written motion with the Examiner for his immediate certification of such ruling to the Commission for its consideration. Pending resolution by the Commission of any ruling so certified, the Examiner shall retain procedural control of the proceeding;

(4) That the Hearing Examiner hereinbefore appointed shall cause the testimony taken at such hearing to be reduced to writing and promptly deliver his written findings and recommendations, together with the transcript of the hearing, to the Commission for its consideration and judgment; and

(5) That the Bureau of Insurance shall publish a notice of the time and place of such hearing, setting forth the substance of the proposed regulation and place or places where the aforesaid documents may be seen by any person in interest, in a newspaper of general circulation published in each of the following cities: Richmond, Norfolk, Newport News, Roanoke, Winchester, Lynchburg, Danville, Bristol, Fredericksburg and Alexandria once a week for two (2) consecutive weeks beginning no later than June 1, 1989, and that proof of such publication be made and filed herein, which notice shall be substantively as follows:

NOTICE TO THE PUBLIC

Notice is hereby given to the public that the State Corporation Commission Bureau of Insurance has proposed to the State Corporation Commission a regulation which would govern underground storage tank owners and operators group self-insurance pools.

The purpose of the regulation is to set forth rules and requirements that the Commission deems necessary for

the approval and monitoring of insurance pools created pursuant to Virginia Code § 62.1-44.34:12.

The Commission has determined that a public hearing should be held on the proposed regulation in Case No. INS890261 in its 13th Floor Courtroom, Jefferson Building, Bank and Governor Streets, Richmond, Virginia at 10:00 a.m. on June 29, 1989, at which time and place interested persons may appear and be heard. A copy of the proposed regulation may be seen at the State Corporation Commission, Document Control Center.

STATE CORPORATION COMMISSION BUREAU OF INSURANCE

AN ATTESTED copy hereof shall be sent by the Clerk of the Commission to Virginia Petroleum Council, c/o H. Kim Anderson, Executive Director, 1001 East Broad Street, Suite 330, Richmond, Virginia 23219; Virginia Petroleum Jobbers Association, c/o E.D. Catterton, President, P.O. Box 6344, Richmond, Virginia 23230; Virginia Gasoline and Automotive Repair Association, c/o Thomas C. Osina, Executive Director, 6924 Lakeside Avenue, Suite 301, Richmond, Virginia 23228; Virginia Gasoline Retailers Association, c/o Thomas C. Osina, Executive Director, 6924 Lakeside Avenue, Suite 301, Richmond, Virginia 23228; Virginia LP-Gas Association, c/o Charles J. Helman, 1235 Jefferson Davis Highway, Arlington, Virginia 22202; Virginia Oil and Gas Association, Wise Inn, Wise, Virginia 24274; David L. Holland, Southern Oil Company, P.O. Box 1278, Suffolk, Virginia 23434; Donald Allen, E.T. Lawson & Son, Inc., P.O. Box 289, Hampton, Virginia 23669; Ben Davenport, Chatham Oil Company, Box 879, Chatham, Virginia 24531; Jim Pollard, J.M. Pollard & Son Inc., P.O. Box 956, Ashland, Virginia 23005; Frank Beddell, Virginia Petroleum Jobbers Association, P.O. Box 6344, Richmond, Virginia 23230; John Thrift, U. S. Oil - Cox Oil & Gas, P.O. Box 467, South Boston, Virginia 24592; Norm Faulkner, Noblett Oil Company, P.O. Box 426, Richmond, Virginia 22482; Sam Griffith, York Oil Company, Drawer L, Hampton, Virginia 23669; Michael Davis, Virginia Water Control Board, 2111 N. Hamilton Street, Richmond, Virginia 23230; P.J. Smith, Environmental Technology Inc., 3705 Saunders Avenue, Richmond, Virginia 23227; Frank Bradley III, Bradley Inc., P.O. Box 577, Mechanicsville, Virginia 23111; Scott Blankenship, Petroleum Marketers, Box 12203, Roanoke, Virginia 24023; Bill Gullledge, Environmental Insurance Management, 7900 Westpark Drive, Suite A300, McLean, Virginia 22102; Myra Anderson, Environmental Insurance Management, 7900 Westpark Drive, Suite A300, McLean, Virginia 22102; and the Bureau of Insurance in care of Deputy Commissioners Robert A. Miller, Alfred W. Gross and David S. Bordner.

State Corporation Commission

* * *

RULES GOVERNING UNDERGROUND STORAGE TANK OWNERS AND OPERATORS GROUP SELF-INSURANCE POOLS

Section 1. Authority.

This regulation is promulgated and adopted pursuant to and in accordance with the provisions of Section 62.1-44.34:12. (All citations to statutory provisions in this regulation refer to the Code of Virginia.) This regulation shall become effective .

Section 2. Purpose.

The purpose of this regulation is to set forth rules, forms and procedural requirements that the Commission deems necessary for the approval and monitoring of pools created pursuant to Underground Storage Tank Owners and Operators Group Self-Insurance Pools, Section 62.1-44.34:12. The Pools are to assist owners and operators of underground storage tanks in establishing proof of financial responsibility in connection with the Virginia Underground Petroleum Storage Tank Fund.

Section 3. Definitions.

A. "Act" means Section 62.1-44.34:12 of the Code of Virginia.

B. "Administrator" means the individual, partnership, corporation or other entity authorized to serve as a representative of a pool and its members in carrying out the policies of the board and managing the pool's activities.

C. "Commission" means the State Corporation Commission.

D. "Contribution" means the amount of payments required of each member in order to fund the pool's obligations under the Plan.

E. "Group self-insurance pool" or "pool" means a pool organized by two or more owners and/or operators of underground storage tanks for the purpose of forming a group self-insurance pool in order to demonstrate financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage in cases of accidental releases arising from operating an underground storage tank.

F. "Insolvent" means (i) the condition of a pool that has liabilities in excess of assets or (ii) the inability of a pool to pay its obligations as they become due in the usual course of business.

G. "Member" means an owner or operator of an underground storage tank which has entered into a

member agreement and thereby becomes a member in a group self-insurance pool.

H. "Member agreement" means the written agreement executed between each member and the pool which sets forth the conditions of membership in the pool, the obligations, if any, of each member to the other members and the terms, coverages, limits and deductibles of the Plan.

I. "Members' supervisory board" or "board" means the governing authority of the pool selected by the members to be responsible for fixing contributions to the pool, maintaining reserves, levying and collecting assessments for deficiencies, disposing of surpluses, and administration of the pool in the event of termination or insolvency.

J. "Plan" means the plan of self-insurance offered by the pool to its members as specifically designated in the member agreement.

K. "Service agent" means any individual, partnership, corporation or other entity that may provide any or all of the insurance services including, but not limited to, claim adjustment, safety engineering, compilation of statistics, the preparation of contribution payments, loss reports, and other required self-insurance reports, and the administration of a claims fund. The service agent may invest contributions for the benefit of members as directed by the supervisory board.

Section 4. Application for License as Group Self-Insurance Pool; Requirements; Approval; Review.

A. Two or more owners and/or operators may be licensed by the Commission as a group self-insurance pool for the purpose of entering into agreements to pool their liabilities under the Act. The application for a license shall be made on a form prescribed by the Commission and shall contain answers to all questions and shall be verified by the oath or affidavit of at least one member of the board of the pool, and the administrator.

The license may be suspended, revoked or non-renewed if the pool fails to comply with all conditions and requirements set forth in the Act and Section 5 of this regulation.

The license expires on June 30 and must be renewed annually.

B. If after the review of the pool's application and other additional information required by the Commission, the Commission is satisfied that the pool's financial condition and method of operation are such that the pool may reasonably be expected to meet the obligations which it has undertaken, and has fully disclosed to its members or potential members the coverages and obligations of membership in the plan, then the Commission shall issue a license to the pool. The Commission shall act on the application as promptly as practical under the existing

circumstances.

C. If the Commission rejects the pool's application, notice shall be served by mail upon all interested parties stating the reason for the rejection. The pool shall be provided an opportunity to introduce evidence and be heard in a hearing convened within a timely manner. Such hearing may be formal or informal.

Section 5. Application for License; Additional Requirements.

A. An application submitted by a pool shall be accompanied by the following items which shall be subject to the approval of the Commission.

1. A copy of the articles of incorporation, constitution, or other instrument which sets forth the powers of the pool.

2. A copy of the bylaws or the governing rules of the proposed pool which may be included as part of the documents provided pursuant to paragraph 1 above.

3. A copy of the forms to be used for the member agreement and power of attorney, if any.

4. A copy of a financial plan which sets forth in specific terms:

a. The insurance coverages to be offered by the group self-insurance pool, applicable deductible levels, and the maximum level of claims which the pool will self-insure;

b. The amount of reserves to be set aside for the payment of claims and the methods used to determine their sufficiency; funds and reserves should be identified by exposure areas;

c. A confirmation of excess insurance, if any, issued by a licensed insurer in an amount acceptable to the Commission. However, the Commission at its discretion may allow this insurance to be placed with an approved surplus lines insurer; and

d. A confirmation of aggregate excess insurance, if any, issued by a licensed insurer in an amount acceptable to the Commission. However, the Commission at its discretion may allow this insurance to be placed with an approved surplus lines insurer.

5. A copy of a plan of management which provides for all of the following:

a. The means of establishing the governing authority of the pool;

b. The responsibility of the governing authority for fixing and collecting contributions to the pool,

holding and investing assets, maintaining reserves, paying claims, levying and collecting assessments for deficiencies, disposing of surpluses, and administration of the pool in the event of termination or insolvency;

c. The basis upon which new members may be admitted to, and existing members may leave, the pool. This shall include the requirement that each member must, as a condition for initial and continued coverage, submit a financial statement in good form to the pool;

d. Such other items as are necessary or desirable for the operation of the pool.

6. Designation of the initial or interim board and the administrator, together with pertinent biographical information for each member of the board and for the administrator or the principal officer(s) of the corporation serving as administrator. This information is to be submitted in a form acceptable to the Commission.

7. The address in this Commonwealth where the books and records of the pool will be maintained at all times.

8. Information showing that the pool has, within its own organization or by contract with an approved service agent, sufficient facilities and competent personnel to service its program with respect to underwriting matters, compilation of statistics, loss prevention, safety engineering and claims adjusting. Copies of all executed service agreements shall be filed with the Commission.

9. A confirmation of a surety bond covering the administrator and its employees in a form and amount acceptable to the Commission.

10. A projection of administrative expenses for the first year of operation as a total dollar amount and as a percentage of the estimated annual contributions.

11. Proof of net worth of the pool of at least \$100,000.

B. An application submitted by a group self-insurance pool shall be accompanied by a composite listing of the estimated annual gross contributions of each organizing member of the pool individually and in the aggregate for the pool. The pool shall maintain a net worth in an amount not less than 20% of the annual aggregate contributions for contracts currently in force; however, the minimum required net worth shall at no time be less than \$100,000.

C. Any subsequent revisions to items submitted under the provisions of Sections 4 and 5 of this regulation shall be filed within 30 days of such revision and be subject to approval by the Commission.

State Corporation Commission

Section 6. Security Deposit and Bond Requirements.

A. Except as provided in subsection B of this section, each group self-insurance pool licensed by the Commission shall maintain with the State Treasurer a security deposit of acceptable securities or surety bond in an amount not less than \$100,000, or such other amount as the Commission deems reasonable for each plan year. The Commission may, from time to time, release or reduce the security deposit or surety bond requirement. The security deposit or surety bond shall be held by the State Treasurer pursuant to the Act, and so far as not inconsistent with the provisions of the Act or these regulations shall be subject to the provisions of Article 7, Chapter 10, Title 38.2 of the Code of Virginia. For the purposes of this regulation, acceptable securities shall be (i) investments allowed by Section 2.1-327 (legal investments for public sinking funds) and Section 2.1-328 (legal investments for other public funds), (ii) securities issued by other states, other than Virginia, and their municipalities or political subdivisions rated A or better by Moody's Investors Services, Inc., or Standard and Poor's, Inc., (iii) revenue bonds rated Aa (AA) or better by Moody's Investors Services, Inc., or Standard and Poor's, Inc. that are bonds issued by municipalities or political subdivisions of this Commonwealth or any other state, (iv) securities issued by the Federal Home Loan Bank, and (v) securities issued by the Federal Intermediate Credit Banks.

Surety bonds deposited pursuant to this section shall be issued by an insurer duly licensed in this Commonwealth to transact a surety business and shall not either directly nor indirectly be under the same ownership or management as the principal on this bond.

In addition to the minimum security deposit or surety bond required by this section, the Commission may require additional securities or surety it considers appropriate after giving consideration to such factors as excess insurance and the financial ability of the group to meet its obligations under the Act.

B. As an alternative to the security deposit or surety bond required by subsection A of this section, a group self-insurance association may have an appropriate endorsement attached to its contracts for excess insurance. The endorsement must provide that in the event the group self-insurance association fails to pay its liabilities under the Act, the excess coverage insurer will become liable immediately for 100% of the total liability and will make payment as directed by the State Corporation Commission of Virginia.

Section 7. Filing of Reports; Examination by the Commission.

A. Each pool shall file annually with the Commission and with the members of the pool on or before March 1, an annual financial statement for the most recently completed calendar year in a form acceptable to the Commission. The financial statement shall be considered

filed on the date the statement was sent by mail as shown by the postmark. The Commission may prescribe the form of the annual statement. The Commission may extend a pool's deadline for filing annual statements not beyond April 30.

1. The financial statement shall contain a report in detail of the pool's assets, outstanding liabilities, including the amount of claims paid to date and current reserves for losses, revenues and disbursements during the year, the investments of the pool's assets and all other information which the Commission may deem necessary to secure a full and accurate knowledge of the financial affairs and condition of the pool. The working papers and other records pertaining to the preparation of the financial statements may be reviewed by the Commission.

2. The financial statement shall be signed on behalf of the pool by two duly authorized officers or a duly authorized officer and the administrator.

3. In addition to the annual financial statement, the Commission may require any pool to file additional financial information, including interim financial reports and additional reports, exhibits or statements considered necessary to secure complete information concerning the condition, solvency, experience, transactions or affairs of the pool. The Commission shall establish reasonable deadline for filing these additional reports, exhibits or statements and may require verification as the Commission may designate.

B. The pool shall retain and have available for examination by the Commission all executed copies of the application of each owner or operator for membership in the pool.

C. Any person who knowingly or willfully makes or files any false or fraudulent statement, report or other instrument shall be charged with a Class 5 felony. If convicted, such person shall be guilty of a Class 5 felony.

D. The Commission may examine the affairs, transactions, accounts, records and assets of the pool as often as it deems necessary. The manner and frequency in which the examination of financial condition shall be conducted and the release of any reports of financial condition shall be as provided in Article 4 (Section 38.2-1317 et seq.) of Chapter 13 of Title 38.2.

Section 8. Reserves.

A. Every pool shall calculate the amount reasonably determined to be sufficient to provide for the payment of every loss or claim whether reported or unreported, arising on or prior to the date of any annual or other statement and it shall maintain a reserve liability in an amount estimated in the aggregate to provide for the payment of all such losses or claims and any expenses related thereto.

B. Each pool shall maintain reserves equal to the unearned portion of the gross contribution or assessment, if any, on unexpired or unexpired risks.

C. Every pool may receive credit for insurance or reinsurance recoverable from an insurance company licensed to transact such insurance in this Commonwealth, or any state of the United States or the District of Columbia and meeting the standards of solvency at least equal to those required in this Commonwealth. A pool may receive credit for insurance or reinsurance with any other insurer to the extent that funds are withheld as security for the payment of obligations thereunder if such funds are held subject to withdrawal by and are under the control of the pool. Such funds may include letters of credit subject to the approval of the Commission. Credit may be received for insurance or reinsurance recoverable on the basis of an agreement entered into with individual unincorporated underwriters having a trustee surplus of at least \$100,000,000.

D. Credit may be received for insurance or reinsurance when the contract is:

1. Not cancellable or terminable for any reason except upon not less than sixty (60) days written notice sent by registered or certified mail to (i) the pool and (ii) the Commission;
2. Automatically renewable at the expiration of the policy period except upon sixty (60) days written notice sent by registered or certified mail to (i) the pool, and (ii) the Commission.

E. No more than one pool, which shall be defined as the named insured, shall be covered by any contract or policy of excess liability insurance. Any contract of insurance or reinsurance shall be payable by the assuming insurer on the basis of the liability of the pool under the contract or contracts assumed without diminution because of the insolvency of the pool.

F. Copies of the complete contracts or policies of insurance or reinsurance, with all endorsements thereto entered into by the pool for the benefit of the pool, shall be filed with the Commission.

G. No pool shall expose itself to a net retained liability for any loss on any one risk or hazard in an amount exceeding ten percent (10%) of the aggregate annual contribution, unless authorized by the Commission.

Section 9. Responsibilities of Members' Supervisory Board.

A. The members' supervisory board shall be responsible for holding and managing the assets of and directing the affairs of the pool and shall be elected in the manner prescribed by the pool's governing instruments. At least a majority of the board must be members of the pool, but a board member shall not be an owner, officer or employee of any service agent, its parent or any of its affiliated

companies, under contract with the pool.

B. The board shall fix contributions to the pool and supervise the finances of the pool and the pool's operations to the extent necessary to assure conformity with law, this regulation, the member agreement, and the pool's governing instruments.

C. The board shall take all necessary precautions to safeguard the assets of the pool, including, but not limited to, the following:

1. Doing all acts necessary to assure that each member continues to be able to fulfill the obligations of membership; and also reporting promptly to the Commission any grounds or change in circumstances which may affect the pool's ability to meet its obligations such as withdrawal of a member;

2. Designating an administrator, or establishing alternative procedures acceptable to the Commission, to administer the affairs of the pool, to carry out the policies established by the board and to provide day to day management of the pool. The administrator shall furnish a fidelity bond in an amount sufficient to protect the pool against the misappropriation or misuse of any monies or securities. Evidence of the bond shall be filed with the Commission, said bond being one of the conditions required for licensing of the pool. The administrator shall not be an owner, officer or employee of any service agent, its parent or any of its affiliated companies.

3. Retaining control of all monies collected for the pool and the disbursement of such monies by the pool. All assets of the pool shall remain in the custody of the board or the authorized administrator. However, a claims fund for payment of benefits due and other related expenses may be established for the use of any authorized service agent; and

4. Actively collecting delinquent accounts resulting from any past due contributions by members. Any member of a pool who fails to make the required contributions after due notice may be declared ineligible for the self-insurance privilege until this past due account, including cost of collection, has been paid or adequately provided for.

D. Neither the board nor the administrator shall use any of the monies collected for any purpose unrelated to securing the members' liability or other rights and obligations under the member agreement and any administrative or other necessary expenses of the pool. Further, the board shall be prohibited from borrowing any monies from the pool or in the name of the pool without advising the Commission of the nature and purpose of the loan and obtaining the Commission's approval.

E. The board may dispose of any surplus as provided in Section 10 hereof.

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F. The board shall assure that the office of the administrator of the pool and all pertinent records necessary to verify the accuracy and completeness of all reports submitted to the Commission are maintained within this Commonwealth.

G. The board may adopt its own rules and procedures as considered necessary for the operation of the pool provided these rules and procedures are not inconsistent with the Act and this regulation.

H. The board may designate a service agent or agents.

Section 10. Contribution Requirements and Distribution of Surplus Funds.

A. For the purpose of funding the liability of a pool the members shall make contributions to the pool in the manner prescribed in the member agreement.

B. At the effective date of the license of the pool and for each subsequent year of operation, at least twenty-five percent (25%) of the estimated annual contribution payable by each member of the pool shall have been paid into a designated depository. The balance of the annual contribution shall be paid no later than the end of the ninth month of the pool year. At no time shall the members' combined payments be less than the total earned estimated annual contribution due at that time.

Any surplus assets (i.e. those assets in excess of the amount necessary to fulfill all obligations under the Act and this regulation) accumulated within a pool year may be declared refundable by the board. The board shall establish the plan and the dates for payment of these excess assets. Payment of this surplus shall not be made until approved by the Commission. Surplus assets accumulated within a pool year will be used exclusively for the benefit of those members belonging to the pool during that pool year. The accounting of the surplus for each pool year will provide for a separate itemization of the surplus for each pool year. The surplus assets of one pool year shall not be used to offset the deficiencies of other pool years.

However, the Commission shall require that three percent or more of a pool's earned contributions for each fiscal accounting period be allocated to a contingency reserve. The contingency reserve is to be used at the direction of the pool's board subject to the approval of the Commission. When the Commission is satisfied that the contingency reserve is adequate for the needs of the pool, adjustments may be made by the Commission as necessary to the contingency reserve or to contributions to the contingency reserve to maintain it at an established amount.

C. At the time of application each pool shall file with the Commission the basis for establishing the annual contribution of its members. Such contributions must be based on reasonable assumptions and certified by an

actuary or other person satisfactory to the Commission as to the sufficiency of such contributions. Any changes in annual contribution shall be filed in accordance with Section 5C.

D. Each pool may levy upon its members an additional assessment whenever needed to supplement the pool's surplus to assure payment of its obligations. A member may be assessed for any fiscal year during which the member participated in the pool. Such assessment may be made after the end of the pool's fiscal year and after the member has discontinued membership in the pool.

E. The board shall submit to the Commission a report of the causes of the pool's insufficiency, the assessments necessary to replenish it and the steps taken to prevent a recurrence of such circumstances. The report shall be submitted within 30 days of any assessment.

Section 11. Member Agreement.

A. Every member of a group self-insurance pool shall execute a member agreement which shall set forth the rights, privileges and obligations of the member, and the terms, coverages, limits, and deductible of the Plan. This agreement shall be subject to the approval of the Commission and shall provide for, in substance, the following:

1. Election by pool members of a governing authority for the pool, a majority of whom shall be pool members;
2. A requirement that the members' supervisory board designate and appoint an administrator empowered to accept service of process on behalf of the pool and authorized to act for and bind the pool and its members in all transactions relating to or arising out of the operation of the pool;
3. The right of substitution of the administrator and revocation of the power of attorney and rights thereunder;
4. A financial plan or plan of management which are further described in Section 5, subsection a, paragraphs 4 and 5 of this regulation;
5. A management plan which is further described in Section 5, subsection a, paragraph 5 of this regulation;
6. A requirement that the pool, at the request of a member, provide without unreasonable delay, to any person designated by the member, proof of the coverages provided by the pool, including insurance or reinsurance, applicable deductible levels and the maximum liability which the pool will retain;

Such member agreement may also contain such other provisions not inconsistent with law or this regulation.

B. The first page of the member agreement shall include a summary that shall disclose:

1. In regard to coverage:
 - a. The coverages provided;
 - b. The period of the coverage;
 - c. The amount of the deductible, if any, per claim or in the aggregate; and
 - d. For each coverage, the maximum amount of coverage to be borne by the pool.
2. In regard to the contribution:
 - a. The contribution and dates payments are due;
 - b. The basis upon which each member's contribution is determined; and
 - c. Whether any additional assessments of the members may be made.
3. In regard to excess coverage of the pool:
 - a. A description of the excess coverage for the pool as to its coverage per occurrence, coverage per occurrence per person, if appropriate, and in the aggregate for each coverage offered; and
 - b. A statement that there is no excess coverage for the pool if the pool has not obtained such coverage.

C. The member agreement shall include a prominent disclosure notice that must be signed by the owner or a duly authorized officer or representative of the member. The disclosure notice shall use the following or substantially similar language:

An underground storage tank pool is not protected by any Virginia insurance guaranty association against default due to insolvency. In the event of insolvency, members and persons filing claims against members may be unable to collect any amount owed to them by the pool regardless of the terms of the member agreement. In the event the pool is unable to pay, a member may be liable for any and all unpaid claims against such member.

Section 12. Servicing of Pool.

A. A service agent for the pool shall apply for and shall be subject to the approval of the Commission before entering into a contract with a pool and shall satisfy the Commission that it has adequate facilities and competent personnel to fulfill its obligations to the pool and comply with this regulation.

B. A service agent shall maintain a resident agent in this Commonwealth and that agent shall be authorized to

act for the service agent on any and all matters covered by the service agreement.

C. A service agent shall file with the Commission copies of all contracts entered into with the pool as they relate to the services to be performed. The service contract must state that the service agent agrees to handle all claims covered by the service agreement incurred during the contract period to their conclusions without additional compensation unless approval to transfer them is obtained from the Commission prior to such transfer.

D. The service agent shall furnish a fidelity bond covering its employees in an amount sufficient to protect all monies for which he has a fiduciary responsibility.

E. Upon satisfactory compliance with the above provisions, a certificate of approval as a recognized and authorized service agent shall be issued to the applicant. Failure to comply with any of the forgoing rules or any order of the Commission within the time prescribed shall be considered justification for withdrawing the certificate of approval. The Commission shall give 10 days prior notice of such withdrawal. The notice shall be served personally, or by certified or registered mail, upon all interested parties setting forth the reason for withdrawal, and providing the service agent an opportunity to introduce evidence and be heard. If, after a hearing, which may be formal or informal, the service agent's certificate of approval is withdrawn, this withdrawal shall become effective 30 days after issuance of the Commission's order or within such shorter or longer period as the Commission may consider necessary to protect the interests of the pool, its members and their employees.

F. Each individual, partnership, corporation or other entity approved to act as a service agent for a pool may be required to file with the Commission an annual statement of financial condition within four months of the completion of its fiscal year.

G. The pool may through its own personnel provide the services performed by a service agent upon approval by the Commission.

Section 13. Termination of Pool Members.

A. No member of an association may be terminated unless at least 30 days written notice has been given to the member, the Commission, and the State Water Control Board.

B. The association shall remain liable for all claims applicable to the period during which an employer was a member of an association, including the 30 day period required for termination of membership.

Section 14. Revocation of License; Voluntary Dissolution of Pool; Merger of Pools.

A. The Commission may suspend, revoke or fail to

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renew a pool's license as provided in Section 4 of this regulation.

The Commission shall give 10 days prior notice to a pool of the proposed suspension, revocation, or non-renewal. The notice shall be served personally, or by certified or registered mail, upon all interested parties and shall state the reasons for the proposed suspension, revocation, or non-renewal and provide the pool with an opportunity to introduce evidence and be heard. If, after a hearing, which may be formal or informal, the pool's license is suspended, revoked, or non-renewed such action shall become effective 30 days after the Commission's order is issued.

Any suspension may be terminated by the Commission upon proof by the pool that the original reasons for suspension have been satisfactorily corrected, and that the pool continues to meet all other requirements for a license.

B. Before a pool can voluntarily dissolve, it must present a plan of dissolution to the Commission for approval. Such a plan shall provide for the payment of all incurred losses and expenses of the fund and its members, including all incurred but not reported losses, as certified by an actuary, to the extent of the pool's assets. No assets of the pool may be used for any other purpose until payment of all such losses and expenses is provided for.

C. Subject to the approval of the Commission, a pool may merge with another underground storage tank owners and operators group self-insurance pool if the resulting pool assumes in full all obligations of the merging pools. The Commission may hold a hearing on the merger and shall do so if any party, including a member of either pool, so requests.

Section 15. Penalties.

Penalties for failure to comply with this regulation shall be provided by Section 12.1-13 of the Code of Virginia.

Section 16. Severability.

If any provision of this regulation, or the application of it to any person or circumstances, is held invalid, such invalidity shall not affect other provisions of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

* * * * *

APPLICATION OF

VIRGINIA TELEPHONE ASSOCIATION

CASE NO. PUC890025

For authority to reduce the free call allowance for directory assistance calls

ORDER DIRECTING PUBLICATION

On May 9, 1989, the Virginia Telephone Association ("VTA") on behalf of the twenty local exchange telephone companies providing service in Virginia, filed an application seeking to reduce the monthly free call allowance from the current level of eight per month down to two per month for residential customers and to zero for business customers.

For the five large telephone companies participating in the Commission's Experimental Plan for Alternative Regulation of Virginia Telephone Companies (Plan) established by the Commission's Final Order of December 15, 1988, in Case No. PUC880035, the proposal is contrary to paragraph 17 of the Plan because it represents an increase in the price of a basic service. However, the Commission is prepared to waive the provisions of paragraph 17 because the five large companies appear to be willing to offset the price increase for directory assistance by a reduction in the price of basic exchange service.

This action would not affect directory assistance rates charged by interexchange carriers in the state, nor would it affect interstate directory assistance rates.

The Commission is of the opinion and finds that the VTA should provide public notice of its call allowance proposal and offer interested parties the opportunity to comment or seek a public hearing. Accordingly,

IT IS THEREFORE ORDERED:

(1) That this matter is docketed and assigned Case No. PUC890025;

(2) That on or before June 30, 1989, VTA publish notice two times throughout the Commonwealth in daily newspapers of general circulation. Notice shall be published as display advertising, not classified advertising, and shall appear once a week in two separate weeks. Said notice shall read as follows:

NOTICE TO THE PUBLIC OF PROPOSED DECREASE IN FREE CALL ALLOWANCE FOR TELEPHONE DIRECTORY ASSISTANCE

On May 9, 1989, the Virginia Telephone Association (VTA) on behalf of the 20 local exchange telephone companies providing service in Virginia filed an application with the Virginia State Corporation Commission (Commission) to decrease the existing free call allowance for directory assistance from eight per month down to two per month for residential customers and to zero per month for business customers. The charge for each directory assistance call beyond the limit would remain at 29¢. In other words, all business subscribers would pay 29¢ for each call to directory assistance and all residential subscribers would pay 29¢ for their third and all

subsequent calls to directory assistance within a month. The one exception to the current rates and call allowance is Shenandoah Telephone Company. It charges 20¢ for each call in excess of three per month. If the VTA proposal is adopted, Shenandoah will also implement the 29¢ rate for all business directory assistance calls and for the third and all subsequent residential directory assistance calls.

The Commission invites comments or requests for a public hearing concerning this proposal to be filed on or before July 31, 1989. Such comments or requests for hearing should refer to Case No. PUC890025 and should be addressed to George W. Bryant, Jr., Clerk, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216.

Copies of the proposal are available for public inspection during normal business hours at telephone company offices where bills may be paid and in the Commission's Document Control Center, located on Floor B-1 of the Jefferson Building, Bank and Governor Streets, Richmond, Virginia, open 8:15 a.m. to 5:00 p.m., Monday through Friday or may be ordered from the Virginia Telephone Association, 700 Building, Suite 1420, 700 East Main Street, Richmond, Virginia 23219-2662.

VIRGINIA TELEPHONE ASSOCIATION

(3) That the VTA forthwith give notice of its proposal to local officials by serving a copy of this order on the Commonwealth's Attorney and the chairman of the board of supervisors of each county (or equivalent officials in counties having alternate forms of government) and on the mayor or manager and attorney of every city and town (or on the equivalent officials in towns and cities having alternate forms of government) within the Commonwealth. Service shall be made by personal delivery or by first class mail to the customary place of business or residence of the person served;

(4) That if 20 or more objections are received to the proposal, the Commission, pursuant to § 56-237.2 of the Code of Virginia, will schedule a public hearing;

(5) That proof of compliance with the notice and service requirements ordered above be furnished to the Commission on or before July 31, 1989.

ATTESTED COPIES of this order shall be sent to each of Virginia's local exchange telephone companies as set out in Attachment A; to the Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; to the Commission's Office of General Counsel; and to the Commission's Division of Communications; Accounting and Finance, and Economic Research and Development. for residential customers and to zero for business customers.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Title of Regulation: **VR 245-01-01. Public Participation Guidelines.**

Governor's Comment:

I concur with the content of this proposal. My final assessment will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: May 25, 1989

Title of Regulation: **VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.**

Governor's Comment:

I concur with the purpose and intent of this proposal. My final assessment, however, will be contingent upon a revision of the policy to reflect the clarifying suggestions made by the Department of Planning and Budget in its review and upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: May 25, 1989

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **VR 460-02-2.6100. State Plan for Medical Assistance Relating to Continued Eligibility for Pregnant Women.**

Governor's Comment:

I concur with the form and content of this proposal. My final assessment will be contingent upon a review of the comments from the public received during the comment period.

/s/ Gerald L. Baliles
Date: May 17, 1989

Title of Regulation: **VR 460-04-8.4. Home and Community Based Care Services for Elderly and Disabled Individuals.**

Governor's Comment:

I concur with the purpose and intent of this proposal. My final assessment will be contingent upon incorporation of suggestions made by the Department of Planning and Budget to improve the form and content of the proposal and upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: May 24, 1989

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-01-15. Aid to Dependent Children - Unemployed Parent Demonstration (ADC-UP Demo) Project.**

Governor's Comment:

Given the policy will be effective for only one year, I concur with the substance of these regulations. However, prior to establishing permanent policy for the mandated federal Aid to Dependent Children - Unemployed Parent Program, I strongly suggest the Board incorporate the Department of Planning and Budget's recommendations for language revisions. My final assessment will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: May 17, 1989

Title of Regulation: **VR 615-45-02. Child Protective Services Client Appeals.**

Governor's Comment:

I concur with the substance of these regulations. However, I encourage the Board to require the Department of Social Services to train state and local staff on the procedures necessary for implementing this policy. In addition, I suggest the Board carefully evaluate this policy to ensure it has been properly applied. My final assessment will be contingent upon a review of any additional comments received during the public comment period.

/s/ Gerald L. Baliles
Date: May 11, 1989

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to review the regulation for effectiveness and appropriateness.

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

Written comments may be submitted until 5 p.m., July 21, 1989.

Contact: L. H. Redford, Regulatory Coordinator, Office of Policy Analysis and Development, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-3539 or SCATS 786-3539

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-04-09. Rules and Regulations for Enforcement of the Virginia Seed Law**. The purpose of the proposed action is to amend paragraph 2 A. Prohibited Noxious Weed Seed - by adding Serrated Tussock - Nassella Trichotoma. The proposed addition to the Prohibited Noxious Weed Seed List would prohibit from sale, expose for sale, transporting or advertising for sale within this state, any seed or mixture of seed containing Serrated Tussock.

Statutory Authority: § 3.1-271 (2) of the Code of Virginia.

Written comments may be submitted until 5 p.m., July 20, 1989.

Contact: D. E. Brown, Supervisor, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 403, 1100 Bank Street, Richmond, VA 23209, telephone (804) 786-3797 or SCATS 786-3797

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider

amending regulations entitled: **VR 115-04-12. Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuels Law**. The purpose of the proposed action is to allow the sale of Racing Gasoline for highway use.

The Virginia Board of Agriculture and Consumer Services has been requested by the petroleum industry to allow the sale of "Racing Gasoline" for highway use under the Board's authority to regulate the sale and use of motor fuels in Virginia.

There are two major suppliers of racing gasoline and the fuels produced by these companies will not meet the 10% evaporation standard as established by the American Society for Testing and Materials (ASTM) which were adopted in our Regulations effective September 23, 1986.

Current regulations are intended to assure that any gasoline offered for sale to the general motoring public will have characteristics that will provide quick engine starts. Producers of racing gasoline feel there is a market for gasoline manufactured for high performance engines, and to insure cooler engine operating temperatures, cold startability problems are a necessary risk.

The Motor Fuel Section is seeking data from scientific research and opinions of experts on the effects of the sale of unleaded racing gasoline as well as the economic impact of prohibiting its sale for highway use.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Written comments may be submitted until 5 p.m., July 20, 1989.

Contact: W. P. Zentmeyer, Supervisor, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-3511 or SCATS 786-3511

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution**. The purpose of the proposed action is to reduce ozone producing evaporative volatile organic compound (VOC) emissions, by limiting gasoline

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volatility during the ozone season (June through September), for the protection of public health and welfare.

A public meeting will be held on August 16, 1989, at 10 a.m., in House Committee Room 1, State Capitol, Capitol Square, Richmond, Virginia, to receive input on the development of the proposed regulation.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until August 16, 1989.

Contact: Ellen P. Snyder, Policy and Program Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-0177 or SCATS 786-0177

BOARD FOR COMMERCIAL DRIVER EDUCATION SCHOOLS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Commercial Driver Education Schools intends to consider amending regulations entitled: **VR 200-01-02. Commercial Driver Education Schools Regulations**. The purpose of the proposed action is to solicit public comment on the existing regulation as to its effectiveness, efficiency, necessity and clarity in accordance with the board's Public Participation Guidelines.

Statutory Authority: § 54.1-1001 of the Code of Virginia.

Written comments may be submitted until June 22, 1989.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534, SCATS 367-8534 or 1-800-552-3016 (toll-free)

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Virginia Soil and Water Conservation Board

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider promulgating regulations entitled: **Erosion and Sediment Control Law Regulations**. The purpose of the proposed regulation is to develop regulations for the Erosion and Sediment Control Law which is currently being regulated by meeting specific general criteria. This will make the enforcement of this law more manageable.

Statutory Authority: § 10.1-561 of the Code of Virginia.

Written comments may be submitted until July 5, 1989.

Contact: John Poland, Urban Programs Supervisor, Department of Conservation and Historic Resources, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-7483

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider promulgating regulations entitled: **Stormwater Management Law**. The regulation will provide the framework whereby local governments may adopt comprehensive stormwater management planning guidelines. All state agency projects will be governed by these regulations.

Statutory Authority: §§ 10.1-561 and 10.1-603 of the Code of Virginia.

Written comments may be submitted until July 5, 1989.

Contact: John Poland, Urban Programs Supervisor, Department of Conservation and Historic Resources, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-7483

BOARD OF CORRECTIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider promulgating regulations entitled: **VR 230-01-003. Rules and Regulations Governing the Certification Process**. The purpose of the proposed action is to provide regulations governing the process and procedures utilized by the Board of Corrections to monitor and certify correctional programs.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until August 21, 1989.

Contact: John T. Britton, Certification Unit Manager, Department of Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3237 or SCATS 634-3237

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: **Rules Relating to Certification of Criminal**

Justice Instructors. The purpose of the proposed action is to amend and revise the Rules Relating to Certification and Recertification of Criminal Justice Instructors.

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

Written comments may be submitted until July 10, 1989, 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) 786-4000 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 Jailors, Custodial Officers, Courthouse or Courtroom Security Officers and Deputy Sheriffs Designated to Serve Process.** The purpose of the proposed action is to amend and revise the Rules Relating to Compulsory Minimum Training Standards for Jailors, Custodial Officers, Courthouse or Courtroom Security Officers and Deputy Sheriffs designated to serve process.

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

Written comments may be submitted until July 10, 1989, 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) 786-4000 or SCATS 786-4000

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 State Board of Education intends to consider amending regulations entitled: **Regulations Governing Driver Education.** The purpose of the proposed regulation is to more clearly define the regulations for public, nonpublic and commercial schools related to driver education requirements.

Statutory Authority: §§ 22.1-205, 46.1-357, 46.1-368 and 54.1-1003 of the Code of Virginia.

Written comments may be submitted until September 1, 1989.

Contact: Claude A. Sandy, Director, Department of Education, Division of Sciences and Elementary Administration, P.O. Box 6Z, Richmond, VA 23216,

telephone (804) 225-2865 or SCATS 225-2865

BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider promulgating regulations entitled: **VR 465-08-01. Regulations Governing the Certification of Occupational Therapy.** The purpose of the proposed action is to regulate the Certification and practice of Occupational Therapy pursuant to §§ 54.1-2956.1 through 54.1-2956.5 of the Code of Virginia effective July 1, 1989.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until July 31, 1989.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9923 or SCATS 662-9923

VIRGINIA RACING COMMISSION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **VR 662-01-01. Public Participation Guidelines.** The purpose of this proposed action is to establish permanent procedures for the Virginia Racing Commission to solicit and obtain comments from interested individuals and organizations in the formation and development of its regulations.

The commission proposes to adopt as permanent regulations emergency Public Participation Guidelines which were published in the Virginia Register on April 10, 1989, and which took effect on April 25, 1989.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 3, 1989, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

Contact: Elizabeth Kaplan, Senior Analyst, Virginia Department of Planning and Budget, P.O. Box 1422, Richmond, VA 23211, telephone (804) 786-7478 or SCATS 786-7478

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

General Notices/Errata

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Rehabilitative Services intends to consider promulgating regulations entitled: **State Plan Preprint for the State Vocational Rehabilitation Service Program and the State Supported Employment Services Program**. The purpose of the proposed regulation is to update state activities under the State Vocational Rehabilitation Services Program authorized under Title I of the Rehabilitation Act of 1973, as amended, and the State Supported Employment Services Program authorized under Title VI, Part C of the Act covering Fiscal Years 1989, 1990 and 1991.

Statutory Authority: § 51.5-14 of the Code of Virginia.

Written comments may be submitted until July 8, 1989.

Contact: Robert J. Johnson, State Plan Coordinator, Department of Rehabilitative Services, 4901 Fitzhugh Ave., P.O. Box 11045, Richmond, VA 23230, telephone (804) 367-6379, SCATS 367-6379 or 1-800-552-5019 (toll-free)

DEPARTMENT OF SOCIAL SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Aid to Dependent Children (ADC) Program - Deprivation Due to the Incapacity of a Parent**. The purpose of the proposed action is to formally adopt emergency regulation VR 615-01-26. Aid to Dependent Children-Deprivation Due to the Incapacity of a Parent, which requires that the limited employment opportunities of handicapped individuals be considered in determining ADC eligibility based upon a parent's incapacity. The term "handicapped individual" will be defined in the regulation.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until July 19, 1989, to Guy Lusk, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Agency Regulatory Liaison, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

DEPARTMENT OF TAXATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-1-1805.1. General Provisions: Padlocking**

Premises. The purpose of the proposed regulation is to comply with the statutory provision found in 1989 Acts, Chapter 642 (SB 732) requiring that the Tax Commissioner promulgate regulations prior to effecting distraint of a taxpayer's property by way of padlocking the doors of a business enterprise that is seriously delinquent in filing or paying state taxes.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until June 23, 1989.

Contact: Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Richmond, Virginia 23282, telephone (804) 367-8010 or SCATS 367-8010

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-2-322. Individual Income Tax: Virginia Taxable Income; VR 630-2-330. Individual Income Tax: Retirement Income Tax Credit**. The purpose of the proposed action is to conform to the provisions of SB 1, enacted by the 1989 Special Session of the General Assembly, which grants a subtraction of up to \$16,000 of retirement income for each taxpayer age 55 and over.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until July 14, 1989.

Contact: Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010 or SCATS 367-8010

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 680-16-06. Tennessee-Big Sandy River Basin Water Quality Management Plan**. The purpose of the proposed action is to amend the Tennessee-Big Sandy River Basin Water Quality Management Plan to update the information in the Plan and the Southwest Virginia 208 Plan for the areas of Planning Districts 1 and 2.

The Tennessee-Big Sandy River Basin Water Quality Management Plan provides a management tool to assist the Commonwealth, units of local government, industrial firms and agricultural interests in achieving and maintaining water quality goals. Issuance of VPDES Permits to dischargers requires that the issued permit be in compliance with the appropriate area of basin wide plan. The plan can thus impose requirements upon the discharger(s) in these instances.

There are approximately 330,000 persons residing in the Tennessee-Big Sandy Basin, 154 municipal, and 78 industrial VPDES permits. No financial impact to the regulated community is anticipated.

The proposed action is authorized by the statutes cited below and is governed by the Clean Water Act, 33 USCA §§ 1251 et seq., Title 40 Parts 35 and 130 CFR, the State Water Control Law, and the State Water Control Board's Water Quality Standards (VR 680-21-00) and the Permit Regulation (VR 680-14-01).

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

Written comments may be submitted until 4 p.m., June 20, 1989.

Contact: Ronald D. Sexton, Environmental Program Planner, Southwest Regional Office, State Water Control Board, P.O. Box 888, Abingdon, VA 24210, telephone (703) 628-5183 or SCATS 676-3320

GENERAL NOTICES

DEPARTMENT FOR THE AGING

General Notice

Notice of Public Comment Period on 1989-91 State Plan for Aging Services

Notice is hereby given that the Department for the Aging will accept comments on the proposed State Plan for Aging Services developed pursuant to Title III of the Older Americans Act, as amended. Interested persons may submit data, views, and arguments, either orally or in writing, to the department.

The State Plan for Aging Services will (i) identify the Virginia Department for the Aging as the sole state agency designated to develop and administer Title III programs in Virginia; (ii) identify the geographic boundaries of each Planning and Service Area in Virginia and the Area Agency on Aging designated for each Planning and Service Area; (iii) include a plan for the distribution and proposed use of Title III funds within Virginia; (iv) set forth statewide program objectives to implement the requirements of Title III; and (v) provide prior federal fiscal year information related to low-income minority and rural older persons in Virginia. The Plan is for the two-year period from October 1, 1989, through September 30, 1991. The department anticipates submitting the Plan to the federal Administration on Aging in August, 1989.

Five public hearings will be held on the Plan. Persons who testify at the hearings are encouraged to provide a written copy of their comments to the hearing officer. An interpreter for the hard-of-hearing will be provided upon

request.

July 11, 1989

J. Sargeant Reynolds Community College
1651 Parham Road
Richmond, Virginia
7 p.m. - 9 p.m.

July 12, 1989

Norfolk State University
2401 Corprew Avenue
Norfolk, Virginia
7 p.m. - 9 p.m.

July 14, 1989

Northern Virginia Community College
6901 Sudley Road
Manassas, Virginia
10 a.m. - 12 p.m.

July 18, 1989

Virginia Highlands Community College
Room 605
Abingdon, Virginia
10 a.m. - 12 p.m.

July 19, 1989

Central Virginia Community College
3506 Wards Road South
Lynchburg, Virginia
10 a.m. - 12 p.m.

Written comments on the Plan may be submitted until 5 p.m. on July 21, 1989. Comments should be sent to: Mr. E. H. Spindle, Fiscal Director, Virginia Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia 23219-2327.

To receive copies of the proposed State Plan and to obtain further information, write to the Department for the Aging at the address above or call 804-225-2271 or toll-free in Virginia 1-800-552-4464.

COUNCIL ON THE ENVIRONMENT

† Public Notice

PUBLIC HEARING ON COMMONWEALTH OF VIRGINIA REQUEST TO AMEND THE VIRGINIA COASTAL RESOURCES MANAGEMENT PROGRAM

Notice is hereby given that the Office of Ocean and Coastal Resource Management (OCRM) of the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, and the Virginia Council on the Environment, will hold a public hearing for the purpose of receiving comments on the Commonwealth of Virginia's request to amend its federally approved Coastal Resources Management Program by incorporating the 1987, 1988, and 1989 amendments to the Coastal Primary Sand Dune

General Notices/Errata

Protection Act. The hearing will also solicit comments on issues to be addressed as part of the federal review of the request under the National Environmental Policy Act (NEPA).

The hearing will be held July 19, 1989, at 7 p.m. at:

The Virginia Beach City Council Chambers
City Hall Building, Second Floor
Municipal Center
Virginia Beach, Virginia 23456

The Coastal Primary Sand Dune Protection Act is a regulatory policy intended to preserve and protect coastal primary sand dunes in the Commonwealth. It was passed in 1980.

In March 1987, the Virginia General Assembly made changes and additions to the language in the 1985 amendment of the Coastal Primary Sand Dune Protection Act. These changes served to more clearly delineate Sandbridge Beach as an area in jeopardy from erosion, to expand the area included in the provision that owners of Sandbridge property shall not be prohibited from erecting and maintaining bulkheads, to protect the rights of adjacent property owners, and to supply measures designed to prevent the possibility of erosion between adjoining but noncontiguous bulkheads.

The new language also stated that the properties of those homeowners who wish to erect bulkheads must, in consultation with the Virginia Beach Wetlands Board and subject to review by the Virginia Marine Resources Commission, be "...in clear and imminent danger from erosion and storm damage due to severe wave action or storm surge."

Other language appended to the Act required the applicant(s) to obtain written consent from adjacent property owners for the construction of the bulkhead, and required that the applicant(s) agree that in the future those adjacent owners be allowed to tie in to the bulkhead at no additional cost.

The 1988 General Assembly eliminated the requirement for the adjacent property owner's consent to the proposed construction of bulkheads. It further required that such construction be completed in three years.

Following severe coastal storms in April 1988, the City of Virginia Beach issued an emergency declaration and ordinance allowing Sandbridge property owners to receive bulkhead permits before August 31, 1988, without having their applications considered by the Virginia Beach Wetlands Board in public hearings. Storms during winter and spring of 1989 caused further damage to the Sandbridge area, including some of the new bulkheads.

The 1989 General Assembly amended the act to clarify the language by substituting and defining the word "beach" where the term "reach" had been used before.

All interested persons and organizations are invited to express their views. Oral presentations will be scheduled on a first come, first heard basis, and will be limited to a maximum of 10 minutes. Persons requiring additional information on this action should contact OCRM. Written comments will be accepted until August 2, 1989, and should be submitted to:

Mr. William Millhouser, South Atlantic & Gulf
Regional Manager
Office of Ocean & Coastal Resource Management
National Oceanic & Atmospheric Administration
1825 Connecticut Avenue, N.W., Room 721
Washington, D.C. 20235
(202) 673-5138

Copies should be sent to: Keith Buttleman, Administrator, Council on the Environment, 903 Ninth Street Office Building, Richmond, Virginia 23219.

No verbatim transcript of the hearing will be prepared, but OCRM staff will record the general thrust of the remarks. All comments received at this hearing and in writing before August 2, 1989, will be fully considered in the development of the NEPA documents and the final decision on the approval of the Commonwealth's request.

For additional information, contact David Kaiser, NOAA, (202) 673-5138 or Sharon Anderson, Council on the Environment, (804) 786-4500.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† Notice of Grant Program

The Department of Housing and Community Development was designated administering agency for distribution of state funds appropriated by the General Assembly under the Homeless Prevention Program for the 1989 session. The funds are being made available under the State Homeless Housing Assistance Program and the program name will be SHARE-Homeless Intervention Program. The program will operate for one year at approximately eight demonstration sites, offering temporary rental, mortgage, and security deposit assistance. An informal advisory committee was established to gather input on program design.

Notice is hereby given of the availability of grants to eligible project sponsors under the SHARE-Homeless Intervention Program (application deadline - July 21, 1989 - amount available statewide - \$1.026 million).

For requesting program information or application manuals contact: Rebecca C. Miller, Program Manager, Virginia Department of Housing and Community Development, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 786-7891

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

† STANDARDS GOVERNING OPERATING OF INDIVIDUAL AND REGIONAL CODE ACADEMIES

1. Definitions

A. "Code Academy." An educational institution or educational organization established through exemption of levy in accordance with § 36-137 of the Code of Virginia, maintained for conducting classes for the purpose of offering instruction to prepare an individual to pursue an occupation in the building inspection trade, or to give occupational training, or to give training designed to prepare an individual for, or to upgrade an individual in, technical phases of building regulations and codes.

B. "Agent." A person who is employed by any school defined in this section, to act as an agent, solicitor, procurer, broker, or independent contractor to directly procure students or enrollees for any such school by solicitation in any form at any place in this state other than the office or principal location of such school.

C. "Person." Any individual, group of individuals, partnership, association, business trust, corporation, or other similar business entity.

D. "Department." The Department of Housing and Community Development.

E. "Operator." The person designated as the executive official in charge of the Academy.

2. Exemptions

These standards shall not apply to the following:

Any trade or technical, business, or correspondence school for which there is a legally existing licensing board in this state which issues licenses or approval to either the school, the teachers, or both.

3. Required Application Forms

A. A school seeking a Certificate of Accreditation shall submit the required information on forms provided by the Department at least 30 days prior to the date approval is requested.

B. The application shall be certified under oath as true in content by an authorized official of the school.

4. Compliance

It shall be unlawful for any individual or regional Code Academy established through exemption of the levy in accordance with § 36-137 of the Code of Virginia, to be operated in this state without having a Certification of Accreditation issued by the department.

5. Basic Information and Commitments for Certifying Schools

A. The following information shall be submitted as part of the application:

1. The title or name of the schools, together with the names of its controlling officials, and managing employees. Every school shall be designated by a permanent and distinct name which shall not be changed without first securing the approval of the department;

2. The specific fields, subjects, and courses of instruction which will be offered and the specific purpose of such instruction;

3. The location or locations where such instruction will take place;

4a. A report from the appropriate government agency indicating that the location or locations meet fire safety standards;

b. A report from the appropriate government agency indicating that the facilities comply with building code standards;

c. A report from the appropriate government agency indicating that the facilities comply with the appropriate sanitation requirements;

d. In localities that require the three inspections noted above prior to issuing a Certificate of Occupancy, the Certificate of Occupancy may be accepted by the Department in lieu of the inspections;

5. A copy of the deed, lease, or other legal instruments authorizing the school to occupy such locations;

6. A listing of the equipment available for instruction in each field;

7. The maximum anticipated enrollment to be accommodated with the equipment available in each specified field and the ratio of students to instructors, as of the date of application;

8. The educational and teaching qualifications of instructors and supervisors in each specified field;

9. Documentation of the financial resources available to equip, maintain, and operate the school (the department may require the submission of a certified audit);

10. The current forms and contents of the student enrollment agreement, a current schedule of tuition and other fees, copies of forms used to keep student records, and the procedure for collecting and

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refunding tuition;

11. Copies of all advertising currently used by such school;

12. Such additional information as the department may deem necessary to carry out the provisions of the regulations.

B. Each application for a Certificate of Accreditation also shall include the following commitments:

1. To conduct the school in accordance with all standards which may from time to time be established by the board;

2. To permit the department to inspect the school or classes being conducted therein at any time, and to make available to the department, when requested to do so, all information pertaining to the activities of the school and its financial condition;

3. To advertise the school at all times in a form and manner that is free from misrepresentation, deception, or fraud;

4. To see that all representations made by anyone authorized by the school to act as an agent or solicitor for prospective students shall be free from misrepresentation, deception, or fraud;

5. To display prominently the current Certificate of Accreditation where it may be inspected by students, visitors, and the department;

6. To maintain all premises, equipment, and facilities of the school in an adequate, safe, and sanitary condition;

7. To submit to the department, in the event a school should close with students enrolled who have not completed their program of study, a list of students enrolled at the time the school closes, the amount of their course completed;

8. To maintain current, complete, and accurate student records which shall be accessible at all times to the department. These records shall include, in addition to other information, a record of units of work completed and skills developed;

9. To conduct all courses in accordance with outlines submitted to and approved by the department; and

10. To conduct the school in an ethical manner at all times.

6. Personnel Qualifications

A. Administrator

An administrator or director of a school must be a graduate of an accredited college or university, or have a minimum of two years of occupational or teaching experience in one or more of the major subjects taught in the school.

The department may make an exception to the above for a good cause.

B. Instructors

1. All instructors shall meet the following minimum requirements:

Be a graduate of an accredited college or university or a proprietary school certified by the Department or Board of Education with a major in the subject(s) which the applicant intends to teach, or have 24 months of actual occupational experience in the trade or occupation in which the instructor will teach, or 24 months of successful teaching experience in the trade or occupation.

2. Instructors must be competent to teach the course(s) or subject(s) they are employed to teach. The department may utilize the services of consultants or employ other measures to determine the qualifications of the instructor for the trade or occupation for which the person is engaged.

7. Facilities

A. Except as provided in Section V, the department shall make an inspection of the school plant and facilities and file a report. The department must approve such facilities as a prerequisite to accreditation. All facilities in use must comply with appropriate state and local ordinances governing fire, safety, sanitation, and health.

B. A change in the location of a school must be reported to the department at least 30 days before the move.

8. Instructional Program

The instructional program shall consist of those courses or subjects which schools have been certified to offer.

The department reserves sole right to provide programs based on Article 1 of the Virginia Uniform Statewide Building Code. Attendance at any local or regional training Academy shall not alleviate mandatory attendance at programs administered by the department or changes to the Uniform Statewide Building Code.

9. Certificate of Accreditation is not Transferable

A. A Certificate of Accreditation is not transferable. New operators of a school shall make an application for an original Certificate of Accreditation.

B. If there is a change in operation of a school, an

application for an original Certificate of Accreditation, shall be submitted to the department by the new operator at least 30 days prior to the effective date of the change, and the school shall not be operated or conducted until an original Certificate of Accreditation has been issued by the department.

10. Display of Certificate of Accreditation

A. A Certificate of Accreditation issued hereunder shall be prominently displayed on the premises of the school where it may be inspected by students, visitors, the department, its representatives, or any interested person during regular school hours.

B. The Certificate of Accreditation issued by the board shall be returned immediately by registered mail to the department upon:

1. Revocation
2. Change of location
3. Change of operator
4. Change of name
5. Voluntary closure of institution
6. Any other cause deemed sufficient by the department

11. Restrictions

Certificate of Accreditation shall be restricted to the courses specifically indicated and no other course(s) shall be offered by a school.

12. Application for Additional Courses and Withdrawal of Approval

A. The holder of a Certificate of Accreditation may present a supplementary application in such form as may be prescribed by the department for approval of additional fields or courses of instruction.

B. Authority is granted to the department staff to approve additional fields, and courses for holders of a Certificate of Accreditation without submission of the request to the board.

C. Authority is likewise granted to the department to withdraw approval of fields, subjects, and courses of holders of Certificate of Accreditation that do not continue to meet the requirements of these rules and regulations. A school that has had approval withdrawn for a field, subject, or course shall be notified by certified mail. The school shall not enroll new students in courses for which approval has been withdrawn.

13. Renewal of Certificate of Accreditation

A. Every school that continues to operate as such shall submit annually, on or before May 15, an application, on forms provided by the department. The application for renewal shall include, in addition to other information, a current file inspection report, and a current schedule.

B. Every Certification of Accreditation which has not been renewed by the department on or before June 30 of each year shall expire and a new Certificate of Accreditation shall be obtained from the department before such school may continue to operate. An original application shall be submitted.

14. Revoking, Suspending, or Refusing to Renew a Certificate of Accreditation

A. The Certificate of Accreditation shall not be revoked or suspended or a request for renewal refused except upon the action of the department which shall be reported in writing. Records of the department's findings and recommendations concerning revocations, suspensions, or refusals to renew requests for certificates shall be preserved in writing.

B. The department may refuse to renew or may revoke or suspend the Certificate of a school for any one or combination of the following causes:

1. Violation of any provision of any regulations made by the department;
2. Furnishing false, misleading, or incomplete information to the department or failure to furnish information requested by the department;
3. Violation of any commitment made in an application for a Certificate of Accreditation;
4. Presenting to students information which is false, misleading, or fraudulent;
5. Failure to provide or maintain the premises or equipment in a safe and sanitary condition as required by law or by state regulations or local ordinances;
6. Making false promises through solicitors or by advertising or by using some other method to influence, persuade, or induce enrollment;
7. Paying a commission or providing other compensation for service performed in violation of the Standards;
8. Failing to maintain adequate financial resources to conduct satisfactorily the courses of instruction offered or to retain an adequate, qualified instructional staff;
9. Conducting instruction in a course or field which has not been approved by the department;
10. Demonstrating unworthiness or incompetency to

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conduct a school in any matter not calculated to safeguard the interests of the public;

11. Failing within a reasonable time to provide information requested by the department as a result of a formal or informal complaint which would indicate a violation of the Standards;

12. Attempting to use or employ enrolled students in any commercial activity whereby the school receives compensation without reasonable remuneration to the students unless activities are essential to their training and are permitted and authorized by the department;

13. Engaging in or authorizing other conduct which constitutes fraudulent or dishonest actions;

C. The department may, upon its own motion, and shall upon the written complaint of any individual setting forth facts which, if provided, would constitute grounds for refusal, suspension, or revocation of a Certificate of Accreditation, investigate the actions of any applicant or any persons holding or claiming to hold such Certificate.

D. Authority is granted to the department staff to investigate complaints from individuals and other sources concerning alleged violations of the regulations either by a school or by an agent.

E. Before proceeding to a hearing, as provided for in the regulation, on the question of whether a Certificate of Accreditation or permit shall be refused, suspended, or revoked for any cause, the department may grant to the holder of, or applicant for, a Certificate of Accreditation a reasonable period of time to correct any unsatisfactory condition. If within such time, the condition is corrected to the department's satisfaction, no further action leading to refusal, suspension, or revocation shall be taken by the department.

F. Before the board refuses to issue or renew, or suspend or revoke any Certificate, the department shall conduct a hearing at such time and place as it shall determine. At least 20 days prior to the date set or such hearing, the department shall notify by certified mail the applicant for, or holder of a Certificate, hereinafter called the respondent, that a hearing will be held on a date designated to determine whether the respondent is privileged to hold a Certificate or whether a Certificate should be suspended or revoked, and shall afford the respondent an opportunity to be heard in person or by counsel. At the time and place designated in the notice, the department shall proceed to hearing the charges and the respondent and the complainant shall be given ample opportunity to present in person or by counsel statements, testimony, evidence, and argument as may be pertinent to the charges or to any defense thereto. The department may continue such hearing from time to time. The department, in its discretion, may conduct any hearing as provided herein. Following any hearing, the department shall issue a written opinion or order and send a copy by

registered mail to the respondent and complainant.

G. Any person aggrieved by any order issued by the department shall have the right of appeal to the State Building Code Technical Review Board. Such appeal shall be filed within 30 days after the opinion is rendered. The filing of an appeal shall not automatically stay the effect of the opinion or order appealed, but, if on application to the Technical Review Board, undue hardship is shown to result, the Technical Review Board in its discretion may suspend the execution thereof and fix the terms.

15. Penalties

Any jurisdiction who opens, operates or conducts any school defined in the Standards without having first obtained a Certificate of Accreditation shall be guilty of a misdemeanor in accordance with the provisions of § 36-106 of the Code of Virginia, and each day the owner such a Certificate shall constitute a separate offense.

16. Listing of Certified Schools

The department shall maintain a list of schools holding valid Certificates to Operate under the provisions of the Standards which shall be available for the information of the public.

17. Transmitting Documents and Other Materials

A. The mailing of applications, forms, letters, or other papers shall not constitute receipt of the same by the department unless sent by registered or certified mail, return receipt requested.

B. Such materials should be sent to the Supervisor of Training Programs, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Virginia 23219.

DEPARTMENT OF LABOR AND INDUSTRY

Notice to the Public

Notice is hereby given in accordance with this agency's Public Participation Guidelines that the Department of Labor and Industry intends to study the need and, if appropriate, the structure of a public-supported training program for boiler plant personnel in the Commonwealth.

Written comments may be submitted until June 22, 1989.

Contact: John J. Crisanti, Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2385

* * * * *

† Notice to the Public

Notice is hereby given, that pursuant to § 40.1-6 of the

Code of Virginia, the Commissioner of the Virginia Department of Labor and Industry has prescribed procedures to be followed by Department staff with regard to determining the appropriateness of payroll deductions and wage forfeitures in the enforcement of the Virginia Payment of Wage Law. The procedures are not subject to the publication procedures required in the Administrative Process Act and are published solely for the purpose of informing the public.

These procedures shall be effective immediately and shall be followed by Department staff when investigating complaints alleging violations of § 40.1-29, the Virginia Payment of Wage Law. These procedures shall apply to all employers who are covered by § 40.1-29.

For information contact:

Sharon S. Watson, Director
Division of State Labor Law Administration
Department of Labor and Industry
205 North Fourth Street
P.O. Box 12064
Richmond, VA 23241
(804) 786-2386

May 25, 1989

DIVISION POLICY STATEMENT 88-21

TO: All Staff, Labor Law Division

FROM: Sharon S. Watson, Director

SUBJECT: Section 40.1-29(C) and 40.1-29(D)
Payroll Deductions and Forfeiture of Wages

EFFECTIVE DATE: Immediately

I. Purpose:

The purpose of this policy is to clarify and standardize the Division's interpretation and enforcement of Virginia Code §§ 40.1-29(C) and 40.1-29(D).

II. Scope:

This policy statement shall apply to all employers who are required to adhere to the Virginia Payment of Wage Law, § 40.1-29 of the Virginia Code. All profit and nonprofit private industry employers are covered; public sector employers are exempt.

III. Background:

Virginia Code § 40.1-29 provides:

"No employer shall withhold any part of the wages or salaries of any employee except for payroll, wage or withholding taxes or in accordance with law, without the written and signed authorization of the employee.

An employer, upon request of his employee, shall furnish the latter a written statement of the gross wages earned by the employee during any pay period and the amount and purpose of any deductions therefrom."

This section was added to the Payment of Wage Law in 1962. Prior to that time, under the common law, an employer could make any deduction for any reason from an employee's wages. The only restriction in the Virginia Code was that the employee was to be given a written receipt showing the amount of the deduction and the purpose for which it was made. The General Assembly committee which recommended the change did not state its reasons for the amendment, other than a brief comment that the change was to provide better protection for employees.

The Payment of Wage Law was amended again in 1968 to add § 40.1-29(D):

"No employer shall require any employee, except executive personnel, to sign any contract which provides for the forfeiture of the employee's wages for time worked as a condition of employment or the continuance therein, except as otherwise provided by law."

There is no legislative history behind this provision to tell us why the General Assembly made this change in the law and there is no case law defining the terms of the statute. A "forfeiture" of wages implies that the employer is imposing a penalty on an employee by way of punishment as a consequence of something an employee has done or omitted doing. Such a contract provision allows the employer to decide unilaterally whether some fault or omission has occurred, and withhold wages as damages.

Under common law the employer had the right to offset an employee's wages for damages resulting from all types of acts or omissions. The Virginia General Assembly apparently decided in 1968 that this common law right of employers was being abused, and took away the employer's right to judge fault arbitrarily and penalize for it. The employer, of course, still has the right to fire or discipline an employee, or can take legal action to recover damages.

The Labor Law Division has requested and received several interpretations of these provisions from the Attorney General's Office.

Specifically, the questions pertained to the legality of employers requiring employees to sign contracts or agreements as a condition of employment to cover cash register shortages, breakages, losses, damages, etc. In a memorandum to William Turpin dated June 21, 1983, John Purcell, Assistant Attorney General, had written that he was of the opinion that the practice of withholding wages to cover shortages, breakages, etc., was contrary to § 40.1-29(D). Later in 1983, Mr. Purcell provided this

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division with a copy of an opinion on this subject found recorded in the "Report of the Attorney General" (see Attachment 1). In response to a related question posed by the Honorable Thomas W. Moss, Jr., the Attorney General opined that provided the employer secured written authorization as set forth in § 40.1-29(C), and provided the agreement was entered into on a voluntary basis and not made a condition of employment or continuance of employment, an employee could be allowed to sign for deductions for expenses incurred by the employer due to errors made by the employee.

This opinion was not fully interpreted by the Division. Only the fact that the exemplified occurrence was allowed was noted. The Attorney General's language to the effect that the agreement would have to be voluntary on behalf of the affected employee and not made a condition of continuing employment was not recognized by Division staff. As a result, restaurants, gasoline service establishments, etc., are now being allowed to require their employees to sign statements or agreements, usually incorporated in their employment policy application, authorizing deductions from their pay for cash register shortages, breakages, errors, or omissions on an ongoing basis.

The Division has changed its interpretation and enforcement of this code section numerous times in the past; confusion continues to exist surrounding this issue.

This policy attempts to clarify the Division's present and permanent interpretation of §§ 40.1-29 (C) and (D).

IV. Statement of Policy:

It shall be the policy of this division that:

A. No employer may withhold any part of an employee's wages for non-payroll deductions without written and signed permission of the employee, except for deductions for payroll advances.

B. Written and signed agreements authorizing these types of withholding are binding only if the agreements are voluntary and not a condition of employment.

C. No employer may require an employee, except executive personnel, to sign an agreement calling for the forfeiture of wages as a condition of employment.

D. Blanket authorizations signed by an employee at the commencement of employment which allow such forfeitures will be considered per se a condition of employment, and are not allowed. Only a signed agreement that is truly voluntary, and is not a condition of continued employment, is allowed by this section.

E. No deduction is allowed which reduces an employee's pay below the applicable Federal or State minimum wage. The only exception is deductions for monies already received by an employee for work performed (i.e., pay

advances, deductions for misappropriation or theft, and personal loans).

F. The Division shall attempt to collect all monies unlawfully withheld from an employee as a result of unauthorized deductions or wage forfeitures except as described in Item G below.

G. The Division shall not pursue collection of monies on behalf of an employee in instances of proven theft, misappropriation, or other criminal activity related to the alleged wages due; or in cases for which the employee has already received all monies for time worked (i.e., payroll advances, personal travel advances, but not personal loans). A technical violation will be cited against the employer in these instances. If a criminal case is pending against the employee for theft, misappropriation, or other criminal activity, collection will be delayed until case is decided.

For the purposes of this policy, the following definitions apply:

A. Voluntary: Not under compulsion, unconstrained by interference, spontaneous, acting of oneself.

Because of the unequal bargaining power of employers and employees, the voluntary nature of many agreements may be questionable. Any agreement which is clearly not in the employee's interest will be considered involuntary. As a test, the Representative should determine who benefits from the agreement. If the employee benefits, the agreement may be considered voluntary. If the employer benefits (or profits) from the agreement and the employee does not benefit, the agreement may be considered involuntary.

Each case and its related evidence should be reviewed separately.

B. Executive: One whose duties relate to active

participation in control, supervision, and management of a business. One who directs work of others, has authority to hire and fire, promote or demote other employees, and who customarily and regularly exercise discretionary power.

An employee generally meets the executive test for exemption if:

1. His/her primary duty (50% or more) is management of an organization or subdivision, department, or section of an organization, and

2. Regularly directs the work of two or more employees, and

3. Can hire, fire, or suggest changes in the status of other employees.

C. **Forfeiture:** To forfeit is to incur a loss through some fault, omission, error, or offense. All deductions are not forfeitures. A forfeiture implies a penalty imposed by an employer as a consequence of some act or omission by the employee.

Examples of forfeitures include deductions from employee wages as "punishment" for such things as:

1. Failure to punch the time clock or sign a time card
2. Bad checks or credit card charges by customers
3. Gasoline purchases by customers who drive off without paying
4. Broken dishes, lost silverware, damaged equipment
5. Mathematical errors
6. Cash register shortages
7. Breach of an employment contract or failure to give advanced termination notice
8. Violation of a company work rule

Forfeitures would not include deductions for items which benefit, rather than penalize, the employee, such as:

1. Uniforms/tools
2. Insurance premiums
3. Escrow accounts (provided contribution to such accounts is voluntary and not a condition of employment)
4. Pay advances
5. Repayment of personal loans received from the employer
6. Repayment for equipment or other items purchased or received from the employer

Note: These would be considered "deductions" within the meaning of § 40.1-29(C), and the written and signed consent of the employee is required.

Such deductions cannot reduce the amount of wage below the minimum wage except for pay advances, personal loans, and purchases from the employer.

V. Case Examples:

The following represents sample cases involving wage deductions/forfeitures and the appropriate determination of each per this policy statement:

Example 1: Employer withholds employee's final paycheck due to the employee's failure to give prior notice of termination.

Determination: Not allowable, even if the employee had signed a pre-employment agreement stating that wages would be withheld for failure to give termination notice; act would be considered a forfeiture of wages as a condition of employment.

Example 2: Employer withholds a portion of the employee's earned wages due to the employee's tardiness or absenteeism.

Determination: An employer would not be required to pay for any time not worked; however, deductions from earned wages are not allowable, even if employee had signed a pre-employment agreement allowing these deductions.

Example 3: Employer withholds a portion of the employee's earned wages to cover the cost of a company vehicle wrecked by the employee while on official duty.

Determination:

◦ Allowable, if employee voluntarily gave written permission for deduction; the deduction is a one time only arrangement and not a condition of employment. Employee's wage may not fall below minimum wage.

◦ Not allowable, if employee gave blanket authorization for deduction as a condition of employment.

Example 4: Employee was involved in an accident while driving a company car. The employee was found guilty of driving under the influence of alcohol via the courts. The employee was terminated by the employer, and his final paycheck was withheld to cover a portion of damages incurred by the employer. No payroll deduction authorization was signed by the employee.

Determination: The employee was determined guilty of criminal activity by the court. A technical violation would be cited against the employer by the Division for failure to obtain written authorization to withhold wages. The Division would not pursue collection of the unpaid wages.

Example 5: Employer pays the employee a set amount of wages/commissions for work performed. Also, at sometime the employer sets aside a percentage payment in an escrow account to cover any equipment damage, breakages, losses, etc. The employee is paid the balance in the escrow account as a "bonus" at termination.

Determination: Allowable, earned wages are not being deducted.

Example 6: Employer withholds a portion of the employee's earned wages to cover cash register shortages, unpaid restaurant bills, etc.

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Determination:

- Allowable, if employee voluntarily gave written permission for deduction; the deduction is a one time only arrangement and not a condition of employment. Employee's wage may not fall below minimum wage.
- Not allowable, if employee gave blanket authorization for deduction as a condition of employment.

Example 7: Employer maintains policy not to pay any commissions after termination. Employee signs pre-employment agreement acknowledging this policy.

Determination: Not allowable, if commissions were earned they must be paid. Withholding these commissions would be considered a forfeiture.

Example 8: Employer withholds portion of employee's wages as repayment of a loan made to the employee by the employer or for payments for purchases made by the employee from the employer.

Determination: Allowable, with written authorization of employee. However, if amount deducted exceeds the amount authorized by the employee (for example, employer withholds entire final check), the amount withheld in excess of the authorized deduction would not be allowable.

Example 9: Employer withholds employee's earned wages to recover damages due to theft or misappropriation of funds or property.

Determination:

- Allowable, if employee admits to theft and voluntarily agrees to wage deduction per written authorization.
- Not allowable, if employee did not give voluntary authorization or if the employee's guilt has not been determined. Employer cannot determine guilt. Employer must pay wages and take court action to reclaim loss due to theft through the courts.
- If the employee's guilt has not been established, but criminal action is pending, collection efforts will be delayed until case is decided.
- If the employee's guilt was established, but the employee did not give written authorization for the payroll deduction, a technical violation will be cited against the employer; however, the Division will not pursue collection of the withheld wages as long as the deduction did not exceed the amount of theft.

Example 10: Employer withholds employee's earned wages to recover damages suffered as a result of the employee's negligence. For example: 1) Employee failed to process

warranty claim and cost company \$600; 2) Employee did not properly repair customer's car, employer was not paid for work completed, and employer did not pay employee.

Determination:

- Allowable, if employee voluntarily gave written permission for deduction; the deduction is a one time only arrangement and not a condition of employment. Employee's wage may not fall below minimum wage.
- Not allowable, if employee gave blanket authorization for deduction as a condition of employment.

* * * * *

† Notice to the Public

Notice is hereby given, that pursuant to § 40.1-6 of the Code of Virginia, the Commissioner of the Virginia Department of Labor and Industry has prescribed procedures to be followed by Department staff in the investigation of complaints relating to the discharge of an employee due to a work-related injury. The procedures are not subject to the publication procedures required in the Administrative Process Act and are published solely for the purpose of informing the public.

These procedures shall be effective July 1, 1989, and shall be followed by Department staff when investigating complaints alleging violations of § 40.1-27.1, Discharge of Employee for Absence Due to Work-Related Injury Prohibited. These procedures shall apply to all employers who are covered by § 40.1-27.1.

For information contact:

Sharon S. Watson, Director
Division of State Labor Law Administration
Department of Labor and Industry
205 North Fourth Street
P.O. Box 12064
Richmond, VA 23241
(804) 786-2386

May 25, 1989

DIVISION POLICY STATEMENT 89-6

TO: All Staff, Labor Law Division

FROM: Sharon S. Watson, Director

SUBJECT: Discharge of Employee for Work-Related Injury

EFFECTIVE DATE: July 1, 1989

I. Purpose:

The purpose of this policy is to establish procedures to be

followed by the staff of the Labor Law Division in the investigation of claims relating to discharge of an employee due to a work-related injury.

II. Scope:

The provisions of this Section shall apply to all employees who are discharged by their employer as a result of a compensable injury except those exempted under § 40.1-2.1.

III. Background:

Heretofore, all inquiries and claims relating to termination of an employee due to absence from work because of a job related injury have been referred to the Industrial Commission for appropriate action, or it has been recommended that the interested party seek advice from an attorney. The 1989 session of the General Assembly enacted § 40.1-27.1 which reads as follows:

§ 40.1-27.1:

"Discharge of employee for absence due to work-related injury prohibited. It shall be an unfair employment practice for an employer who has established an employment policy of discharging employees who are absent from work for a specified number of days to include in the computation of employee's work absence record any day that such employee is absent from work due to a compensable absence under Title 65.1 of this Code. An employer shall not be held in violation of this section if the employee's absence exceeds six months or if the employer's circumstances have changed during such employee's absence so as to make it impossible or unreasonable not to discharge such employee."

IV. Policy:

Hereafter all claims received by this Division which allege discharge due to absence for a work-related injury shall be investigated to determine if an unfair labor practice has occurred. For the purpose of this policy statement, the following conditions will be considered circumstances which would "make it impossible or unreasonable not to discharge such employee":

1. Employer closed business.
2. Employer sold business.
3. Employer layoff, reduction in force, or plant closure which resulted in abolishment of employee's position. (Not withstanding company policy regarding exercising of an employee's seniority rights to oust another employee from his/her job.)
4. Employee may have sustained an injury which prevents further employment due to inability to perform the job functions, i.e., loss of sight, loss of limb, etc. This determination must be supported by a

doctor's opinion.

5. Any other circumstance where it is clear that the employer's action was reasonable and did not discriminate, single out, or in any way selectively identify the claimant for discharge.

V. Procedures:

A. Claims filed under this Section shall be documented on Part A of form LLA-6 (Other Assigned Activities). These claims can originate from telephone contacts, letters, personal contacts, or any other method which will permit sufficient data to be secured to conduct an investigation. This form (LLA-6) has been amended to reflect receipt of claims filed under this Section.

B. The claims shall be assigned to the appropriate Representative for investigation.

C. Findings will be recorded on form LLA-4 (Case Diary Log), and these findings will be supported by work records, witness statements, interview reports, or any other documents required to uphold the findings of the Representative.

D. During the investigation, the following guidelines should be given consideration:

- a. Employee absence of more than six months will invalidate the claim.
- b. Employer circumstances have changed which would have made it unreasonable or impossible not to have discharged the employee as defined under policy section of this statement.

E. Completion of Investigation:

Part B of LLA-6 shall be submitted to the Supervisor upon completion of the investigation. Part B will be completed through box number 46 and accompanied by the Case Diary Log (LLA-4) and Investigation Narrative Report (LLA-2).

F. In the event a violation of § 40.1-27.1 is found during the investigation, Attachments 2 and 3 shall be used to notify both the employer and the complainant of this fact. When no violation is found, Attachment 1 shall be utilized to respond to the complainant.

G. Quarterly and annual reports of statistics generated by this statute will be compiled by the Central Office Management Information Staff.

LLA-37

(TYPE ON LOCAL OFFICE LETTERHEAD)

COMPLAINANT NOTIFICATION OF FINDINGS/\$ 40.1-27.1
(Option #2)

LLA-36

(TYPE ON LOCAL OFFICE LETTERHEAD)

COMPLAINANT NOTIFICATION OF FINDINGS/\$ 40.1-27.1
(Option #1)

(complainant's name)

(complainant's address)

Dear _____ (complainant's name) :

An investigation of your claim against _____ (employer's name) alleging termination due to absence for a work-related injury has been conducted by this Department.

During this investigation, it was determined that your former employer, _____ (employer's name), has violated § 40.1-27.1 which prohibits termination for the reasons you stated in your claim.

Section 40.1-27.1 contains no penalty clause; therefore, we are unable to take any corrective action on your behalf. You may wish to contact an attorney who may suggest a course of action for you.

If you have any questions, or we can assist in any way, please contact us.

Sincerely,

(Representative)

cc: _____ (Employer)

(complainant's name)

(complainant's address)

Dear _____ (complainant's name) :

The claim you filed with this Department alleging you had been terminated by _____ (employer's name) for absence due to a work-related injury has been investigated.

This investigation has revealed no violation of § 40.1-27.1 which prohibits termination for absence due to work-related injuries.

If you have any questions relative to this investigation, please contact this office.

Sincerely,

(Representative)

LLA-38

(TYPE ON LOCAL OFFICE LETTERHEAD)

EMPLOYER NOTIFICATION OF FINDINGS/\$ 40.1-27.1

(employer name)

(employer's address)

Dear (employer name):

An investigation was conducted by this Department with your business on (date), to determine if you were in compliance with Section 40.1-27.1. You were found to be in violation of that Section which reads as follows:

"§ 40.1-27.1. Discharge of employee for absence due to work-related injury prohibited. --- It shall be an unfair employment practice for an employer who has established an employment policy of discharging employees who are absent from work for a specified number of days to include in the computation of an employee's work absence record any day that such employee is absent from work due to a compensable absence under Title 65.1 of this Code. An employer shall not be held in violation of this section if the employee's absence exceeds six months or if the employer's circumstances have changed during such employee's absence so as to make it impossible or unreasonable not to discharge such employee."

It was determined during the investigation that (you or your company) had terminated (employee's name) due to absence as a result of a work-related injury.

A copy of these investigative findings will be submitted to the complainant or his attorney upon their request.

Sincerely,

(Representative)

cc: (Complainant)

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† Notice to the Public

Notice is hereby given, that pursuant to §§ 40.1-6 and 40.1-29(H) of the Code of Virginia, the Commissioner of the Virginia Department of Labor and Industry has prescribed procedures to be followed by Department staff in the assessment of civil money penalties for violations of the Virginia Payment of Wage Law. The procedures are not subject to the publication procedures required in the Administrative Process Act and are published solely for the purpose of informing the public.

These procedures shall be effective July 1, 1989, and shall be followed by Department staff when investigating complaints alleging violations of § 40.1-29, the Virginia Payment of Wage Law. These procedures shall apply to all employers who are covered by § 40.1-29.

For information contact:

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Division of State Labor Law Administration
Department of Labor and Industry
205 North Fourth Street
P.O. Box 12064
Richmond, VA 23241
(804) 786-2386

May 24, 1989

DIVISION POLICY STATEMENT 89-5

TO: All Staff, Labor Law Division

FROM: Sharon S. Watson, Director

SUBJECT: Procedures for Assessment of Civil Money
Penalty for Violations of the
Virginia Payment of Wage Law, § 40.1-29

EFFECTIVE DATE: July 1, 1989

I. Purpose:

The purpose of this policy is to establish the procedures to be followed by Labor Law Division staff of the Virginia Department of Labor and Industry in the investigation and assessment of civil money penalties for violations of the Virginia Payment of Wage Law, § 40.1-29.

II. Scope:

These procedures shall be followed by all Department staff when investigating complaints alleging violations of § 40.1-29.

The procedures shall apply to all employers who are covered by § 40.1-29.

III. Background:

During the 1989 session of the General Assembly, an amendment to the Virginia Payment of Wage Law, § 40.1-29 of the Code of Virginia, was enacted relating to the establishment of a civil money penalty for violations of the Act.

§ 40.1-29(A)(2) now reads as follows:

"Any such employer who knowingly fails to make payment of wages in accordance with subsection A of this section shall be subject to a civil penalty not to exceed \$1000 for each violation. The Commissioner shall notify any employer who he alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within 15 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final."

§ 40.1-29(G) § 40.1-29(H) reads:

G. In addition to being subject to any other penalty provided by the provisions of this section, any employer who fails to make payment of wages in accordance with subsection A of this section shall be liable for the payment of all wages due, plus interest at an annual rate of eight percent accruing from the date the wages were due.

H. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner, the general district courts or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate."

IV. Policy:

It shall be the policy of the Division to investigate all complaints alleging a violation of the Virginia Payment of Wage Law. If the complaint is determined to be valid, and an informal settlement cannot be reached, the following actions will be taken by the Department in accordance

with the Code:

° A civil money penalty will be assessed against any employer who knowingly failed to pay wages in accordance with § 40.1-29. The penalty amount assessed shall be at a rate up to \$1,000 per each violation cited.

° Any employer who fails to pay wages in accordance with § 40.1-29 shall be required to pay all wages due plus interest at an annual rate of 8% accruing from the date the wages were due.

° Civil action will be initiated on behalf of the complainant against any employer who violated § 40.1-29 to collect all wages and interest due.

° Criminal action will be initiated against any employer when there exists probable cause to believe a willful violation with intent to defraud has occurred.

For the purpose of this policy statement, an employer acts "knowingly" when he acts with knowledge of the facts which constitute the violation.

V. Procedures:

The following steps shall be taken by the Department staff in the investigation of payment of wage complaints and the assessment of civil money penalties for violations of § 40.1-29:

Case Assignment

1. Field Office Receives Complaint for Unpaid Wages.
2. Supervisor will Assign Case to Appropriate Representative in Accordance with Established Division Policy.

Investigation

3. Representative will Conduct an Investigation in Accordance with Established Policy/Procedures:

- ° Interviews Complainant
- ° Interviews Employer
- ° Interviews Co-workers/Witnesses if Necessary
- ° Conducts Records Review/Audit

4. Representative will Determine Validity of Claim and Amount Due if Valid; Calculate Interest; Determine, via the Central Office Management Information System, if Violation Constitutes a Second Offense.

Informal Resolution

5. Representative will Attempt Informal Resolution:

° Discuss findings and determination with employer.

° Inform Employer:

- Payment is past due and must be paid immediately;

- Payment amount due (wages and interest);

- Civil action will be taken if payment not made in 10 days;

- If First Offense, civil money penalty will be assessed if not paid in 10 days. (Penalties will be assessed for offenses occurring after 7/1/89.)

- If Second Offense, civil money penalty will be forthcoming. If not paid in 10 days, additional penalties may be assessed. (Second Offense violations will be assessed when a previous offense occurring after 7/1/89 was cited.)

Note: If the employer offers to pay a settlement amount (less than amount due), this can be negotiated with the claimant's approval.

Payment Demand

6. Representative will mail or hand deliver the Payment Demand Letter (Attachment 1) immediately after Informal Resolution Conference. This letter will be sent by first class mail. Note: If the employer's whereabouts are unknown, the letter should be sent to the Registered Agent. If the employer has left the state, the letter should be sent to his out-of-state address if known. If an employer's absence or refusal to cooperate prevented a Representative from determining the validity of the claim, the case will be pursued based on the complainant's signed statement on the complaint form. A modified Payment Demand Letter (Attachment 1A) would be mailed. Second Offense violators will be mailed Attachment 1B.

Initial Determination/Penalty Assessment

7. If First Offense employer pays by 10th day, the Representative will close the investigation and case file. No penalty will be assessed.

When an offense occurs with "mitigating factors," it shall not be treated as a First Offense for future penalty assessment purposes.

For the purpose of this policy statement, mitigating factors may be found where one or more of the following circumstances exists:

- a) Where the Representative's investigation shows that the employer did not intentionally violate the Payment of Wage Law AND the employer has made a good faith effort to comply with the spirit and

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letter of the law.

OR

b) Where circumstances beyond the control of the employer prevents his full compliance with the Payment of Wage Law AND the investigation shows that the employer made a good faith effort to comply with the spirit and letter of the law.

Examples:

a) Where, through no intentional or negligent act of the employer, the employer's outside accounting/payroll service firm fails to complete or meet the payday deadline AND the employer has made a reasonable effort to correct the situation and to ensure timely future deliveries of his payroll.

b) Where labor strike or natural disaster delays actual delivery of a wage payment AND the employer has made a reasonable effort to provide timely delivery.

8. If First or Second Offense and employer fails to pay the wages by the 10th day, the Representative will prepare the Initial Determination/Penalty Assessment Letter (Attachment 2) and the Payment of Wage Civil Money Penalty Calculation sheet (Attachment 3). If Second Offense employer pays the wages within the 10 days, a modified Initial Determination/Penalty Assessment Letter will be prepared (Attachment 2A).

The Representative will submit a copy of the following to the Field Supervisor for review and approval:

- a) The Initial Determination/Penalty Assessment Letter (Attachment 2 or Attachment 2A)
- b) Penalty Calculation Sheet
- c) Part B of the Wage Investigative Report Form
- d) Case Diary Log
- e) Case Narrative Report
- f) Interview Sheets
- g) Records Review Forms
- h) The Payment Demand Letter
- i) All Related Correspondence

9. The Supervisor will assure that the file is properly documented and will authorize the mailing of the Initial Determination/Penalty Assessment Letter. Copies of all documents identified in No. 8 above will be mailed by the Supervisor to the Richmond Central Office for filing and input into the database.

10. The original Initial Determination/Penalty Assessment Letter (Attachment 2 or Attachment 2A) and the Penalty Calculation Sheet (Attachment 3) will be mailed to the employer from the Representative's office after Supervisor's approval. The letter will be mailed certified.

The Representative will track the penalty assessment time frame, i.e., the key response dates, mailing dates and certified numbers by utilizing the Tracking Form (See Attachment 4). The Tracking Form shall become a part of the case file and should be filed directly behind the narrative and attachments. Representatives may wish to record all pertinent tracking dates on a desk calendar to assure proper tracking of all cases.

The Representative will use Attachment 5 for submitting a copy of the certified receipt received by the mailing of the Initial Determination/Penalty Assessment Letter (Attachment 2 or Attachment 2A) to the Supervisor together with all other documents to be submitted when the final submission of the case file is made.

The Central Office will track all penalty assessment and penalty collections; and, will complete quarterly Accounts Receivable reports regarding penalty collection for the Division of Administrative Services. The Office Services Specialist in the central office will utilize Attachment 5 for including in the case file the original certified receipt received by the mailing of the Final Determination Letter (Attachment 7).

Penalty Calculation

The Penalty Calculation Sheet will be mailed to the employer. This sheet will show total wages due, total interest due, and total penalty due per employee and in total.

In calculating the penalty, the Representative will begin with a \$1,000 penalty; reductions will be made according to size of business and gravity of the violation per § 40.1-29(A)(2). No reduction is made for second offense violations. This policy considers the withholding of an individual's total paycheck to be a like offense regardless of the amount of the check.

Example:

In other words, withholding the paycheck of an individual who is paid \$2.65 per hour is a comparable offense to withholding the paycheck of an individual who is paid \$20.00 per hour. A lesser offense is considered if partial wages were received during the pay period and if the amount withheld is less than \$200. Therefore, the "gravity of offense" is determined to be less serious for illegal deductions than for withholding an individual's entire paycheck. (See Attachment 3)

Calculation of the interest amount due would be made by

using the following formula:

Wages Due Multiplied by .08 = Yearly Interest

Yearly Interest Divided 365 = Daily Interest

Daily Interest Multiplied By Number of Days

Overdue = Total Interest Due to Date

Informal Conference

11. If the employer requests an informal conference within the 15-day period, the Representative will set the date for the conference. The conference shall be held within 30 days of the date the Initial Determination/Penalty Assessment Letter was mailed (Attachment 2 or Attachment 2A).

The Representative will coordinate the conference date with the Supervisor and the employer.

The conference will be held in the Field or Regional/Central Office.

A Notice confirming the time, date, and location of the informal conference (Attachment 6) will be mailed by the Representative to the employer.

12. If the employer responds to the Penalty Assessment Letter by mailing a check payable to the complainant for all wages and interest due, the Representative will

° Distribute the check to the client by mail or in person. (If mailed, check should be mailed certified. If hand delivered, client should sign statement indicating receipt of check.)

° Prepare the Final Determination Letter (Attachment 7) for the Commissioner's signature and mailing from the Richmond Office.

13. If the employer fails to acknowledge receipt of the Initial Determination/Penalty Assessment Letter (Attachment 2 or Attachment 2A) and fails to request an informal conference, a Final Determination Letter will be prepared by the Representative (See Attachment 7). All final determination letters will be signed by the Commissioner and will be mailed from Richmond.

14. The Informal Conference will be conducted by the Field Supervisor. The Director may be present. The Representative should be present. The complainant may be present. The employer may bring an attorney or other representatives or witnesses.

The Supervisor will conduct the conference, will present the facts on which the initial determination was based, and will allow the employer an opportunity

to present his position.

The Supervisor will be responsible for writing a summary of the facts presented at the conference and a Conclusion Summary (See Attachment 8). The conference shall be taped. Tapes will be preserved until after the appeal time frame has expired.

The purpose of the conference is to allow the employer the opportunity to contest informally the violation(s) cited and the penalty amount assessed.

Waiver of the Penalty

The Supervisor will have the authority and flexibility to reduce or waive the penalty amount if the following conditions exist:

a. The company has filed bankruptcy; penalty may be waived.

b. The company has closed its business, has been attempting to recover funds to pay the wages, and is prepared to pay all wages and interest due or an agreed upon settlement amount on the date of the conference; the penalty may be waived. If partial payment is made but not accepted as full settlement, the penalty may be reduced by 50%.

c. The company has closed its business, has been attempting to recover funds to pay wages due, but has no ability to pay any wages at this time. The penalty will not be waived or reduced at this time.

d. The company is operating, is in financial difficulty, and has been attempting to obtain funds to pay wages and other debts, is prepared to pay all wages due or an agreed upon settlement amount; the penalty may be waived. If partial payment is made but not accepted as full settlement, the penalty may be reduced proportionally.

e. The company is solvent but refused to pay previously; company is willing to pay all wages due on date of conference. Penalty may be reduced to \$200 or to an amount equal to 50% of the initial penalty amount, whichever is the lesser.

f. The company contests the violation based on a point of law and desires to have the courts decide if the violation occurred. Department upholds final decision that violation occurred. Penalty amount may be suspended and final order held for release until after case is heard in General District Court. If court rules in favor of employer, penalty will be waived. If court rules in favor of Department, penalty will become final and due in full.

g. The company brings evidence to the conference that causes the Department's initial determination to be invalid, i. e., it is determined that no violation

General Notices/Errata

occurred. Penalty would be waived.

Civil Action

Final Determination

15. Once the Supervisor completes the conference, copies of the following documents will be prepared and submitted to the Director:

- a) The Conclusion Summary (Attachment 8)
- b) An Informal Settlement Agreement if appropriate (Attachment 9)
- c) The original final Determination Letter (Attachment 7)
- d) A Case Review Sheet (Attachment 10)
- e) An Updated Case Diary Log
- f) The Civil Money Penalty Calculation Sheet
- g) The Penalty Tracking Form (Attachment 4)
- h) All Related Documents and Correspondence

The Director will forward the Final Determination Letter and the complete case file to the Commissioner for approval and signature. The final Determination Letter (Attachment 7) will be mailed to the employer by the Central Office's Office Services Specialist by certified mail no later than 15 days from the date the informal conference was held. A copy of this letter will be mailed to the appropriate Representative for the case file.

Appeal to Circuit Court

The employer may appeal the Commissioner's final determination through the Circuit Court in accordance with the Administrative Process Act.

If the employer appeals, he may request a copy of the informal conference tape in order to transcribe the conference proceedings.

A copy of the tape can be provided to the employer; the employer must file a copy of the transcript once completed with the Department.

The Department may provide the transcript to the employer if reimbursed the hourly rate established by the Department of Personnel and Training for all hours of work performed in the preparation of the transcript.

If the final determination is not appealed within 30 days, the final order will be recorded by the Representative in the Circuit Court in the jurisdiction(s) in which the employer conducted business and in all other jurisdictions where the employer may have real property. (Attachment 11)

16. Civil action to collect the wages due will be taken simultaneously with the penalty assessment process. (Civil action will not be taken for amounts totalling less than \$25.) A warrant-in-debt will be obtained in accordance with agency procedures after the employer fails to respond to the Penalty Demand Letter (Step No. 8). Normally, the civil court date should be set to occur after the informal conference or approximately 40 days after the date the Initial Determination/Penalty Assessment Letter is mailed.

If there is reason to believe the company is removing assets from the Commonwealth in an attempt to defraud the claimant(s), a pre-judgment attachment should be sought immediately (at Step No. 3 or No. 4). The primary objective should always be to recover the wages due.

17. If the claim is settled prior to the civil court date, the case will be dismissed.

18. If the claim is not settled prior to the civil court date, a judgment will be sought.

19. If judgment is awarded for wages and interest and payment is not made, the Representative will institute collection procedures via garnishment, levy, etc. in accordance with procedures.

Recording the Final Order

20. If after final determination, the employer does not appeal and the penalty amount is not paid, the final determination shall be recorded, enforced, and satisfied as an order of the Circuit Court; collection will be pursued via garnishment, levy, etc. (Attachment 11)

LLA-20

ATTACHMENT 1

(TYPE ON LOCAL OFFICE LETTERHEAD)

(PAYMENT DEMAND LETTER)
(Option #1)

TO: (employer)

FROM: (representative) , State Labor Law Representative
Department of Labor and Industry

DATE: / /

On / / , this agency received a complaint alleging that your company failed to pay wages due to (complainant).

As a result of my investigation of this complaint, I have determined that a violation of Section 40.1-29 of the Code of Virginia has occurred. Wages in the amount of \$ (\$ wages plus \$ interest) are past due and must be paid to (complainant) immediately.

This letter confirms our conversation of / / , and serves as notification that you will be subject to a civil money penalty in addition to the wages and interest due if full payment to (complainant) is not made by / / . Civil court action will also be initiated by this department on behalf of (complainant) to collect these past due wages.

In order to avoid the penalty and court action against your company, payment in the amount of \$ must be made to (complainant). Payment should be made by company check, cashier's check, or money order. The check must be payable to (complainant) and received by this office prior to / / .

This letter further serves to advise you that should there be a second offense, your company shall be assessed a civil money penalty. Enclosed you will find a copy of Virginia's Payment of Wage Law. This document serves to place your company on actual notice of Section 40.1-29.

Should you have any questions, you may contact me at () - or (address)

Sincerely,

(representative)

Enclosure

LLA-21

ATTACHMENT 1A

(TYPE ON LOCAL OFFICE LETTERHEAD)

(PAYMENT DEMAND LETTER)
(Option #2)

TO: (employer)

FROM: (representative) , State Labor Law Representative
Department of Labor and Industry

DATE: / /

On / / , this agency received a complaint alleging that your company failed to pay wages due to (complainant).

As a result of your refusal to provide copies of records or other evidence showing that these wages have been paid or that these wages were never due, I have determined that a violation of Section 40.1-29 of the Code of Virginia has occurred. Wages in the amount of \$ (\$ wages plus \$ interest) are past due and must be paid to (complainant) immediately.

This letter serves as notification that you will be subject to a civil money penalty in addition to the wages and interest due unless you make full payment to (complainant) by / / or you provide documentation that these wages are not due by / / . Civil court action will also be initiated by this department on behalf of (complainant) to collect these past due wages.

In order to avoid the penalty and court action against your company, one of the above actions must be taken by you. Payment should be made by company check, cashier's check, or money order. The check must be payable to (complainant) and received by this office prior to / / .

This letter further serves to advise you that should there be a second offense, your company shall be assessed a civil money penalty. Enclosed you will find a copy of Virginia's Payment of Wage Law. This document serves to place your company on actual notice of Section 40.1-29.

Should you have any questions, you may contact me at () - or (address)

Sincerely,

(representative)

LLA-22

ATTACHMENT 1B

(TYPE ON LOCAL OFFICE LETTERHEAD)

(PAYMENT DEMAND LETTER-OPTION #3)
Page 2

(PAYMENT DEMAND LETTER)
(Option #3)

TO: (employer)

FROM: (representative), State Labor Law Representative
Department of Labor and Industry

DATE: / /

On / /, this agency received a complaint alleging that your company failed to pay wages due to (complainant).

As a result of my investigation of this complaint, I have determined that a violation of Section 40.1-29 of the Code of Virginia has occurred. Wages in the amount of \$ (\$ wages plus \$ interest) are past due and must be paid to (complainant) immediately. Payment should be made by company check, cashier's check, or money order; and must be payable to (complainant) and mailed to my attention via this office at the following address:

Division of State Labor Law Administration
Department of Labor and Industry

You were previously found in violation of this same code section on / /, therefore, the current incident constitutes a second offense of this code section.

This letter further serves as notification that as a result of this second offense, you will be assessed a civil money penalty. A notification of the penalty amount assessed will be forwarded to you via separate correspondence.

If full payment to (complainant) is not made prior to / /, the following additional actions will be taken:

- 1) You will be subject to additional civil money penalties.
- 2) Civil court action will be initiated by this department on behalf of (complainant) to collect these past due wages.
- 3) Criminal action may also be initiated for violation of Section 40.1-29E. If convicted, you could be subject to a maximum fine of \$1000 and/or up to 12 months confinement for each violation.

Should you have any questions, you may contact me at () - -

Sincerely,

(representative)

Virginia Register of Regulations

2744

LLA-23

ATTACHMENT 2

(TYPE ON LOCAL OFFICE LETTERHEAD)

(INITIAL DETERMINATION/PENALTY ASSESSMENT LETTER)
(Option #1)

TO: (employer)

FROM: State Labor Law Administration
Virginia Department of Labor and Industry

SUBJECT: NOTIFICATION OF PENALTY ASSESSED FOR FAILURE TO PAY
WAGES IN ACCORDANCE WITH §40.1-29 OF THE CODE OF
VIRGINIA

DATE: / /

On / / , (representative) , State Labor Law Representative, completed an investigation of a complaint received by this agency alleging non-payment of wages to (complainant) . You were notified by letter dated / / , that wages and interest in the amount of \$ were past due to (complainant) and must be paid prior to / / , to avoid penalties and court action. Payment has not been received.

Please be advised that you have now been assessed a civil money penalty in the amount of \$ for violation(s) of §40.1-29 of the Code of Virginia per the attached penalty calculation sheet. Also, civil action is being initiated by this agency to collect the wages and interest due to (complainant) .

The civil money penalty in the amount of \$, shall be paid by check or money order payable to Commissioner, Virginia Department of Labor and Industry, and mailed to the Division of State Labor Law Administration, P. O. Box 12064, Richmond, Virginia 23241-0064. A copy of the enclosed penalty calculation sheet must be returned with the payment.

In accordance with §40.1-29(A)(2) of the Code of Virginia, you may request an informal conference within 15 days of receipt of this notice to contest the violation cited and the penalty imposed for this violation. Your request for an informal

(INITIAL DETERMINATION/PENALTY ASSESSMENT LETTER)

Page 2

conference shall be in writing and shall be directed to the Commissioner to the attention of (representative) , (field office address) . The request must state the purpose of your contest. In accordance with agency regulations, the conference, if requested, must be held within 30 days of the date of this letter.

If you do not contest the violation within the 15 day period, the penalty assessed will become a final order of the Commissioner and will be recorded, enforced, and satisfied accordingly.

Attachment

LLA-24

ATTACHMENT 2A

(TYPE ON LOCAL OFFICE LETTERHEAD)

(INITIAL DETERMINATION/PENALTY ASSESSMENT LETTER)
(Option #2)

TO: (employer)

FROM: State Labor Law Administration
Virginia Department of Labor and Industry

SUBJECT: NOTIFICATION OF PENALTY ASSESSED FOR FAILURE TO PAY
WAGES IN ACCORDANCE WITH §40.1-29 OF THE CODE OF
VIRGINIA

DATE: / /

On / / , (representative) , State Labor Law Representative, completed an investigation of a complaint received by this agency alleging non-payment of wages to (complainant) . You were notified by letter dated / / , that you would be assessed a civil money penalty due to the fact that this violation constituted a second offense of §40.1-29.

Please be advised that you have now been assessed a civil money penalty in the amount of \$ for violation(s) of §40.1-29 of the Code of Virginia per the attached penalty calculation sheet. The penalty amount assessed does not include additional penalties for failure to pay within the specified 10-day period.

The civil money penalty in the amount of \$, shall be paid by check or money order payable to Commissioner, Virginia Department of Labor and Industry, and mailed to the Division of State Labor Law Administration, P. O. Box 12064, Richmond, Virginia 23241-0064. A copy of the enclosed penalty calculation sheet must be returned with the payment.

In accordance with §40.1-29(A)(2) of the Code of Virginia, you may request an informal conference within 15 days of receipt of this notice to contest the violation cited and the penalty imposed for this violation. Your request for an informal

(INITIAL DETERMINATION/PENALTY ASSESSMENT LETTER)
Page 2

conference shall be in writing and shall be directed to the Commissioner to the attention of (representative), (field office address) . The request must state the purpose of your contest. In accordance with agency regulations, the conference, if requested, must be held within 30 days of the date of this letter.

If you do not contest the violation within the 15 day period, the penalty assessed will become a final order of the Commissioner and will be recorded, enforced, and satisfied accordingly.

Attachment

PAYMENT OF MINE CIVIL PENALTY CALCULATION SHEET

Division of State Labor Law Administration

State Department of Labor and Industry

Employer: _____

Representative: _____

Address: _____

City: _____ State: _____ Zip: _____

No.	Description	Name:	SSN:	Days Past Due	Wages	Interest	Name:	SSN:	Days Past Due	Wages	Interest	Name:	SSN:	Days Past Due	Wages	Interest	Name:	SSN:	Days Past Due	Wages	Interest	TOTAL	
	Penalty for violation §40.1-29																						
	Reduction if 5 or more employees or not per FLSA, and last offense																						
	Reduction if partial penalty was received for period in question; offense																						
	Reduction if amount is less than \$200; offense																						
	NET PENALTY AMOUNT DUE																						

Grand Total Penalty Amount Due \$ _____

General Notices/Errata

ATTACHMENT 5

LLA-27

**CERTIFIED RECEIPT FOR DELIVERY OF INITIAL DETERMINATION/
PENALTY ASSESSMENT LETTER OR FINAL DETERMINATION LETTER**

ATTACHMENT 4

TRACKING FORM FOR WAGE CIVIL MONEY PENALTY

LLA-26

Employer _____

Representative (Last Name) _____ (P.I.) _____

- | | | | |
|------------------------------------------------------------------------------------------------------|-------|---------------------------------------------------------------------------------------|-------|
| 1. Date Demand Letter Sent: | _____ | 14. Date Director Received Final Det. Letter: | _____ |
| 2. Date Wages Due: (10 Days from Demand Letter Date) | _____ | 15. Date Final Det. Letter Submitted to Commissioner: | _____ |
| 3. Date Wages Paid: | _____ | 16. Date Final Det. Letter Mailed: | _____ |
| 4. Date Int. Det. Letter Sent to Supervisor: | _____ | 17. Date Final Det. Letter Received: | _____ |
| 5. Date Supervisor Authorized OMP: | _____ | 18. Date to Appeal or Second Final Order: (30 Days from receipt of Final Det. Letter) | _____ |
| 6. Date OMP assessed: | _____ | | |
| Certified No. _____ | | | |
| 7. Date Employer Received OMP Letter: | _____ | | |
| 8. Date OMP Due/Informal Conference Request/ Final Det. Letter: (15 Days from receipt of OMP Letter) | _____ | | |
| 9. Date OMP Paid: | _____ | | |
| 10. Date to Set Informal Conference: (30 Days from OMP Letter Date) | _____ | | |
| 11. Date of Informal Conference: | _____ | | |
| 12. Civil Court Date: (40 Days from OMP Letter Date) | _____ | | |
| 13. Date to Mail Final Det. Letter: (15 Days from Informal Conference) | _____ | | |

INITIAL DETERMINATION (15 Days From Receipt) _____ / _____ / _____
FINAL DETERMINATION (30 Days From Receipt) _____ / _____ / _____

LLA-28

ATTACHMENT 6

(TYPE ON LOCAL OFFICE LETTERHEAD)

(NOTICE OF INFORMAL CONFERENCE)

TO: (employer)

FROM: State Labor Law Administration
Department of Labor and Industry

DATE: / /

SUBJECT: Notice of Informal Conference in the Matter of
Commissioner, Department of Labor and Industry, on
Behalf of (Complainant) Vs. (Employer); Violation(s) of
§ 40.1-29 Cited; Civil Money Penalty in the Amount of
\$ Assessed

An informal conference has been scheduled at your request with
State Labor Law Field Supervisor, for the
purpose of discussing your contest of the penalties and
violations cited by this agency in regard to the above named
matter.

This informal conference shall be held:

DATE: _____
TIME: _____
LOCATION: _____
ADDRESS: _____

You are entitled to bring witnesses and any supporting evidence
that supports your position to this conference.

A final determination will be issued by the Commissioner with
regard to this matter after the informal conference has been
held, and all testimony and evidence considered.

If you have any questions, you may contact (representative) at
() or at the following address: _____

LLA-29

ATTACHMENT 7



COMMONWEALTH of VIRGINIA

Department of Labor and Industry
205 North Fourth Street
P. O. Box 12064
Richmond, Virginia 23241

(FINAL DETERMINATION LETTER)

TO: (employer)

FROM: Commissioner
Virginia Department of Labor and Industry

SUBJECT: FINAL DETERMINATION; PENALTY ASSESSED FOR FAILURE TO
PAY WAGES IN ACCORDANCE WITH §40.1-29 OF THE CODE OF
VIRGINIA

DATE: / /

You were notified by certified letter dated / /, that a
civil money penalty in the amount of \$ has been
assessed against your business for violation(s) of §40.1-29 of
the Code of Virginia.

(Insert explanation of issues that arose during the conference
and the determination reached.)

The penalty assessed has now become a final order of the
Commissioner. If this final order is not appealed by you within
30 days pursuant to §9-6.14:16 of the Code of Virginia and Rule
2A:1 to 2A:5 of the Supreme Court of Virginia, the Department
shall record, enforce, and satisfy the order as an order of the
Circuit Court in accordance with §40.1-29(H).

Collection procedures will be initiated immediately.

Carol Amato
Commissioner

CA/

LLA-30

ATTACHMENT 8

(TYPE ON LOCAL OFFICE LETTERHEAD)

(SUMMARY/INFORMAL CONFERENCE)

Informal conference in the matter Commissioner of the Virginia Department of Labor and Industry, on behalf of _____ vs. _____

Date:

Location:

Persons Attending:

Introduction:

Summary of Violations and Penalties Assessed:

Employer's Position:

Conclusion:

LLA-31

ATTACHMENT 9

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY
STATE LABOR LAW ADMINISTRATION DIVISION
(INFORMAL SETTLEMENT AGREEMENT)

Employer: _____ Case: _____

Address: _____ versus _____

Wages Due: \$ _____

Interest Due: \$ _____

Penalty Due: \$ _____

Date Initial
Determination/Penalty
Assessment Letter
Received: ____/____/____

Date of Informal
Conference: ____/____/____

Pursuant to an informal conference between duly authorized representatives of the State Labor Law Administration Division, Department of Labor and Industry, and the employer named above, the Department has issued an Amended Civil Money Penalty Calculation Sheet modifying the original penalty referenced above. As consideration for the modification of the terms of the original penalty assessed, the employer hereby waives its right to contest any terms of the penalty calculation sheet as amended and agrees to pay the penalty as it appears on the amended sheet. This agreement shall not be construed as an admission by the employer of civil liability for any violation alleged by the Commissioner. The amended penalty amount is \$ _____ and is due immediately and payable to the Commissioner, Virginia Department of Labor and Industry.

Employer Representative Date ____/____/____

Labor Law Supervisor Date ____/____/____

Attachment

ATTACHMENT 10

11-32
4
8

MEMORANDUM

TO: Assistant Attorney General's Office
FROM: Commissioner, Department of Labor and Industry
SUBJECT: Case File Review
NOTE: This review was conducted solely for the benefit of the Office of the Attorney General, and is protected from disclosure under the Freedom of Information Act by the Attorney - Client Privilege.

Please review the attached file for the following purposes:

- Final Determination, Civil Money Penalty for Payment of Wage Violation(s) §60.1-29
- Significant Case Review Type: _____
- Other (Explain) _____

This file has been reviewed accordingly:

Supervisor's Comments: _____
Date Received: _____

Director's Comments: _____
Date Received: _____

Federal Liability/Technical Support's
Comments: _____
Date Received: _____

Assistant Commissioner's
Comments: _____
Date Received: _____

Commissioner's Comments: _____
Date Received: _____

Assistant Attorney General's
Comments: _____
Date Received: _____

General Notices/Errata

STATE MILK COMMISSION

† Public Hearing

Notice is hereby given that the Virginia State Milk Commission will hold a hearing on Wednesday, June 21, 1989, beginning at 11 a.m., in House Room 2, State Capitol Building, Richmond, Virginia.

This hearing is being held pursuant to §§ 3.1-430 and 3.1-437 of the Code of Virginia, and Regulation Nos. 1 and 12 of the Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia.

The purpose of this hearing is to consider five (5) commission proposed amendments to the current Rules and Regulations.

PROPOSAL I would permit co-operatives to make partial base transfers of consigned base to other members except during the base-adjusting period.

PROPOSAL II would reduce all Class I prices by 20/hundredweight for the months of March, April, May and June.

PROPOSAL III would improve the instructions for determining the amount of discount for uniform deliveries of assigned base milk to distributors.

PROPOSAL IV would permit the commission to direct that certified or registered mail be used for producer payments by distributors when it deemed necessary rather than the requirement being mandatory.

PROPOSAL V would re-number the paragraphs of Regulation No. 10 to conform to the system of numbers used throughout the Rules and Regulations.

Any interested person may submit written amendments to the above proposals to the commission until June 19, 1989, at the address shown below.

Copies of the proposals can be obtained in person or by writing the Administrator, Virginia State Milk Commission, 1015 Ninth Street Office Building, Richmond, Virginia 23219.

All interested parties will be afforded an opportunity to be heard and to present objections, amendments, evidence and arguments. The commission will allow examination by filing a written notification of intent with the commission at 1015 Ninth Street Office Building, Richmond, Virginia 23219, by noon on Monday, June 19, 1989.

NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01
NOTICE OF COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE OF MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT OF PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

ERRATA

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-30-01, VR 175-03-01. **General Procedures and Information for Licensure.**

Publication: 5:16 V.A.R. 2219 May 8, 1989

Correction to the Final Regulation:

Page 2219, the Code reference should be 9-6.14:1 in § 1.3 A.

Page 2223, Section 3.9 A 3 which states "All other terms of the license remain the same" was deleted and should be added in.

Page 2224, § 5.1, the word "satisfactorily" should appear after the word resolved.

Page 2224, the word "direction" should read "director" in § 5.4.

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT FOR THE AGING

Long-Term Care Ombudsman Program Advisory Council

June 27, 1989 - 9:30 a.m. - Open Meeting
Department for the Aging, 700 East Franklin Street, 10th Floor, Conference Room, Richmond, Virginia. ☒

Semi-annual meeting will include a report of recent program activities, and a discussion of the future direction of the program.

Contact: Virginia Dize, State Ombudsman, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD ☎ , toll-free 1-800-552-3402/TDD ☎ or SCATS 225-2271

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

† September 27, 1989 - 10 a.m. - Public Hearing
Washington Building, 1100 Bank Street, Board Room, 2nd Floor, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and other Animals or Birds into Virginia.** The amendment to the regulation is necessary to establish a program in Virginia for the

eradication of pseudorabies in swine and to improve the regulation's clarity and effectiveness.

STATEMENT

Basis: Sections 3.1-724, 3.1-726, and 3.1-730 of the Code of Virginia.

Purpose: The primary purpose is to establish health requirements for swine entering Virginia as part of a program in Virginia for the eradication of pseudorabies in swine. The proposed amendments to the present regulation (VR 115-02-12), along with a newly proposed regulation VR 115-02-16, Rules and Regulations Governing Pseudorabies in Virginia, will supersede an emergency regulation of limited scope that will expire November 30, 1989, VR 115-02-17, Rules and Regulations Establishing Testing Requirements for Feeder Pig Production Herds, as well as present standards in governing pseudorabies in swine. Pseudorabies is a virus disease that attacks the central nervous system of, and causes high death losses in, young pigs. The disease primarily affects swine, but can be transmitted to almost all other warm-blooded animals. The species most often affected are cattle, sheep, dogs, cats, mink, mice, rats, raccoon, skunks, and opossums. Swine serve as the natural reservoir for the virus, and some become carriers without showing visible signs of the disease. Death losses may range from 100 percent in newborn pigs to just a few in older hogs. The emergency regulations and the proposed regulations to supersede them are prompted largely by a national drive to eradicate pseudorabies in swine. The national program is one designed to require increasingly stringent standards of states that desire to be designated free of pseudorabies. One of the requirements of the early stages of the program is that a state have the necessary regulatory authority to carry out the program's objectives. The present proposed amendments are for the purpose of providing that authority.

A second purpose is to amend the regulation by eliminating the requirement for animals entering Virginia from other states to be accompanied by health certificates bearing the endorsement of the chief livestock health official of the state of origin. (This requirement is referred to below as the "prior-endorsement provision.") Such a requirement burdens commerce unduly. The fact that an animal has been examined by a licensed, accredited veterinarian who issues the health certificate is sufficient to allow the animal to enter the Commonwealth. Virginia receives an endorsed copy from the chief livestock health official in a matter of days by mail, and the endorsement is merely an opportunity for that official to assure that the veterinarian has indeed tested the animal's health according to Virginia's standards. It is rare

Calendar of Events

that veterinarians responsible for checking the health of animals entering Virginia fail to meet Virginia's standards, and when they do, there are adequate means, such as the issuance of quarantine on the animal, to assure that any disease it may harbor does not spread.

Estimated impact:

a. Number of persons affected: The regulation will affect those who ship swine to Virginia. Best estimates indicate that there are the following numbers of out-of-state producers for the following classes of swine entering Virginia:

- Breeding swine 20-25
- Feeder pigs 20-25
- Slaughter swine 200

(The proposed deletion of the prior-endorsement provision should affect large number positively.)

b. Projected costs for implementation and compliance: If Virginia does not implement the proposed regulations, its swine industry will be increasingly disadvantaged vis-a-vis its counterparts in other states. The consequence of a state's failure to participate in the national program is in essence to deprive it of out-of-state markets for its swine.

Much of the cost of implementing the program has already occurred through the testing of feeder pig production herds required under the emergency regulation, and the Department of Agriculture and Consumer Services, along with the Virginia Pork Industry Board, paid much of the bill by paying the owners of the herds three dollars per head for each head required to be tested under the program.

(There is no cost, and there should be a cost savings, to the public if the prior-endorsement provision is deleted, by allowing livestock to move more freely in commerce.)

The General Assembly has made available for the purpose of implementing this program \$100,983. Anticipated expenditure of funds will be made according to the following breakdown:

Reimbursement of testing cost	
to swine owners	\$30,000
Laboratory labor	24,000
Laboratory supplies	24,500
Travel	10,000
Mileage	5,500
Lodging	6,983
TOTAL	\$100,983

(The repeal of the prior-reimbursement provision should cost the agency nothing.)

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Written comments may be submitted until August 28, 1989, to William D. Miller, D.V.M., State Veterinarian, Division of Animal Health, Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: Paul J. Friedman, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or SCATS 786-2483

* * * * *

† **September 27, 1989 - 10 a.m.** — Public Hearing
Washington Building, 1100 Bank Street, Board Room, 2nd Floor, Richmond, Virginia. ☎

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-16. Rules and Regulations Governing Pseudorabies in Virginia.** The regulation is necessary to establish a program in Virginia for the eradication of pseudorabies in swine.

STATEMENT

Basis: Sections 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Purpose: The proposed regulations are for the purpose of establishing a program in Virginia for the eradication of pseudorabies in swine. Pseudorabies is a virus disease that attacks the central nervous system of, and causes high death losses in young pigs. The disease primarily affects swine, but can be transmitted to almost all other warm-blooded animals. The species most often affected are cattle, sheep, dogs, cats, mink, mice, rats, raccoon, skunks, and opossums.

Swine serve as the natural reservoir for the virus, and some become carriers without showing visible signs of the disease. Death losses may range from 100 percent in a litter of newborn pigs to just a few in older hogs.

The proposed regulations will supersede present, emergency regulations establishing testing requirements for feeder pig production herds (VR 115-02-16. Rules and Regulations Establishing Testing Requirements for Feeder Pig Production Herds). The emergency regulations and the proposed regulations to supersede them are prompted largely by a national drive to eradicate pseudorabies in swine. The national program is one designed to require increasingly stringent standards of states that desire to be designated free of pseudorabies.

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Written comments may be submitted until August 28, 1989,

to William D. Miller, D.V.M., State Veterinarian, Division of Animal Health, Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: Paul J. Friedman, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or SCATS 786-2483

ALCOHOLIC BEVERAGE CONTROL BOARD

June 26, 1989 - 9:30 a.m. - Open Meeting
Virginia Alcoholic Beverage Control Board, 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 Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616 or SCATS 367-0616

ARLINGTON COUNTY/CITY OF FALLS CHURCH LOCAL EMERGENCY PLANNING COMMITTEE

† **June 22, 1989 - 7:30 p.m. - Open Meeting**
#1 Courthouse Plaza, 2100 Clarendon Boulevard, Arlington, Virginia. ☒ (Interpreter for deaf provided if requested)

A Local Emergency Planning Committee Meeting to discuss the Superfund Amendments and Reauthorization Act of 1986 (SARA) requirements for hazardous materials.

Contact: Thomas M. Hawkins, Jr., Chairman, Fire Department Administration, 2100 Clarendon Blvd., Suite 400, Arlington, VA 22201, telephone (703) 358-3365

ATHLETIC BOARD

June 30, 1989 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Room 580, Richmond, Virginia. ☒

Annual meeting of the Virginia Athletic Board. Discussion of regulations pertaining to termination of bout and drug testing of contestants.

Contact: Doug Beavers, Assistant Director, Department of Commerce, 3600 W. Broad St., Room 580, Richmond, VA 23230, telephone (804) 367-8507

AUCTIONEERS BOARD

June 20, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An open board meeting to conduct (i) review of complaints; (ii) review of certification applications; (iii) signing of certificates; (iv) discussion of revenue and expenditures, and (v) other board business.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

VIRGINIA AVIATION BOARD

June 20, 1989 - 11 a.m. - Open Meeting
Richmond International Airport, Board Room, Richmond, Virginia. ☒

A meeting to discuss matters affecting aviation in Virginia.

Contact: Kenneth A. Rowe, 4508 S. Laburnum Ave., Richmond, VA 23231, telephone (804) 786-6284

VIRGINIA BOATING ADVISORY BOARD

† **July 21, 1989 - 2 p.m. - Open Meeting**
Bernard's Landing Marina, Smith Mountain Lake, Virginia

Discussion of and action on issues of concern to Virginia's recreational boaters. Focus of July 21 meeting is on boating problems at Smith Mountain Lake.

Contact: E. L. (Ron) Rash, Member, Boating Advisory Board, P.O. Box 2177, Lynchburg, VA 24551, telephone (804) 845-2371

BOARD FOR BRANCH PILOTS

† **July 18, 1989 - 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, Deputy Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8500 or toll-free 1-800-552-3016

Calendar of Events

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† June 23, 1989 - 10 a.m. - Open Meeting
Fourth Street Office Building, 205 North 4th Street, 2nd
Floor, Conference Room, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

A meeting to consider requests for interpretation of the Virginia Uniform Statewide Building Code; to consider appeals from the rulings of local appeal boards regarding applications of the Virginia Uniform Statewide Building Code; and to approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-4752

CHESAPEAKE BAY COMMISSION

June 22, 1989 - 10:30 a.m. - Open Meeting
June 23, 1989 - 9 a.m. - Open Meeting
The Tidewater Inn, Dover and Harrison Streets, Easton, Maryland.

Quarterly meeting of the Chesapeake Bay Commission. The agenda will include a thorough analysis of pesticide management policies in the Bay watershed and programs aimed at enhancing their management as well as approval of the Commission's FY '90 budget.

Contact: Ann Pesiri Swanson, 60 West Street, Suite 200, Annapolis, MD 21401, telephone (301) 263-4320

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

July 6, 1989 - 5:30 p.m. - Open Meeting
August 3, 1989 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 502, Chesterfield Virginia. ☒

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

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

† July 14, 1989 - 8:30 a.m. - Open Meeting
† August 11, 1989 - 8:30 a.m. - Open Meeting
† September 8, 1989 - 8:30 a.m. - Open Meeting
Interdepartmental Licensure and Certification, Office of the

Coordinator, Tyler Building, 1603 Santa Rosa Drive, Suite 210, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee.

Contact: John Allen, Coordinator, Interdepartmental Licensure and Certification, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124 or SCATS 662-7124

BOARD OF COMMERCE

June 22, 1989 - 11 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒

An open business meeting of the board. Agenda may include (i) report of the director; (ii) discussions of results of public hearings that will have been held in connection with occupational studies on radon gas testers and mitigators, estheticians, and arborists; (iii) discussions of need to assign a subcommittee to review regulations for contractors; and (iv) discussion of need for subcommittee to assess probability that a regulatory program for real estate appraisers may become federally-mandated.

Contact: Alvin D. Whitley, Secretary to the Board, Department of Commerce, 3600 W. Broad St., 5th Fl., Office of the Director, Richmond, VA 23230, telephone (804) 367-8564, toll-free 1-800-552-3016 or SCATS 367-8519

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Goose Creek Advisory Board Meeting

July 12, 1989 - 10 a.m. - Open Meeting
Loudoun County Administration Offices, 18 North King Street, Leesburg, Virginia.

A review of river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Historic Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or SCATS 786-4132

Historic Landmarks Board

June 20, 1989 - 2 p.m. - Open Meeting
State Capitol, House Room One, Richmond, Virginia. ☒

A general business meeting.

Division of Historic Landmarks State Review Board

June 20, 1989 - 10 a.m. - Open Meeting
State Capitol, House Room One, Richmond, Virginia. ☐

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and their nomination to the National Register of Historic Places:

Virginia House, Richmond (city)
Seven Oaks, Albemarle County
Cocke's Mill, Albemarle County

A multiple resources nomination for Montgomery County including:

Blacksburg Historic District
Cambria Historic District, Christiansburg
East Main Street Historic District, Christiansburg
Lafayette Historic District
North Fork Valley Rural Historic District
Howard-Bell-Feather House
Piedmont Camp Meeting Grounds Historic District
Prices Fork Historic District
Riner Historic District
Shawsville Historic District
South Franklin Street Historic District, Christiansburg
Miller-Southside Residential Historic District, Blacksburg
Frank Lawrence House
Guerrant House
Thomas Hall House
Bowyer Trollinger House
Bishop House
Graysontown Methodist Church
Grayson-Gravelly House
John Grayson House
Cromer House
James Charlton Farm
Edgemont Christian Church
Hornbarger Store
Midway Primitive Baptist Church
Evans House # Two
Adam Wall House
McDonald Farm
Linkous-Kipps House
Whitehorn
Walnut Spring
Michael Kinzer House
Preston House
Keister House
George Earhart House
Earnhart # Two
Trinity United Methodist Church
Blankenship Farm
Nealy Gordon Farm
Bridge over North Fork of Roanoke River
Pompey Callaway House
Big Spring Baptist Church
Barnett House

Rife House
Walnut Grove Farm
William Barnett House
Alleghany Springs Springhouse
Crockett Springs Cottage
Elijah Murdock Farm
Madison Farm
Virgintan Railroad Underpass
Thomas-Corner House
Amis-Palmer House
Phillips-Ronald House
Phlegar Building
Montgomery White Sulphur Springs Cottage
A. L. Johnson Store
Post Office
Harrison-Hancock Hardware Building
Surface House

Contact: Margaret Peters, Department of Conservation and Historic Resources, Division of Historic Landmark, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143

DIVISION OF CONSOLIDATED LABORATORY SERVICES ADVISORY BOARD

† **June 30, 1989 - 9:30 a.m. - Open Meeting**
James Monroe Building, 1 North 14th Street, Conference Room C, Richmond, Virginia. ☐

The Advisory Board will discuss issues, concerns, and programs of the Division of Consolidated Laboratory Services and its user agencies.

Contact: Dr. A. W. Tiedemann, Jr., Director, 1 N. 14th St., Richmond, VA 23219, telephone (804) 786-1155

BOARD FOR CONTRACTORS

June 20, 1989 - 11 a.m. - Open Meeting
Sterling Public Library, 120 Enterprise Street, Sterling, Virginia

The Board for Contractors will meet to conduct a formal hearing:

Board for Contractors v. Independent Construction Company.

Contact: Gayle Eubank, Hearings Coordinator, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

† **June 26, 1989 - 9 a.m. - Open Meeting**
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☐

A special meeting of the board to reconsider appeals of denied claims filed against the Virginia Contractors Transaction Recovery Fund, provided for under §§

Calendar of Events

54.1-1118 through 54.1-1127 of the Code of Virginia. The board will also consider other business of the board. The meeting is open to the public; however, a large portion of the board's business will be discussed in executive session.

Contact: Florence R. Brassier, Deputy Director for Regulatory Programs (also Acting Board Administrator), 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557 or toll-free 1-800-552-3016

STATE CORPORATION COMMISSION

Bureau of Insurance

† **June 29, 1989 - 10 a.m.** - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Pursuant to 1989 SJR 215, a public hearing will be held to seek public comment on the social and financial impact of mandated health insurance benefits and providers on health insurance.

Contact: Van Tompkins, Project Coordinator, P.O. Box 1157, Richmond, VA 23209, telephone (804) 786-0802, toll-free 1-800-552-7945, SCATS 786-7141 or (804) 225-3806/TDD ☎

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

† **August 3, 1989 - 7 p.m.** - Public Hearing
Holiday Inn Airport, 6626 Thirlane Road, Roanoke, Virginia

† **August 16, 1989 - 10 a.m.** - Public Hearing
Board of Corrections, 6900 Atmore Drive, Meeting Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Corrections intends to adopt regulations entitled: **VR 230-30-005. Guide for Minimum Standards in Design and Construction of Jail Facilities.** These regulations establish minimum standards for the design and construction of jail facilities.

STATEMENT

Impact: These standards will affect construction of new local jails, new regional jails, new jail farms, and new lockups. Also, they will affect renovation, or expansion of like facilities - currently in operation.

Basis: This amendment is proposed under authority of §§ 53.1-68, 53.1-80, 53.1-81, 53.1-82 and 53.1-83 of the Code of Virginia.

Purpose: To prescribe minimum standards for construction, renovation, and expansion of local

correctional facilities as required under § 53.1-68 of the Code of Virginia.

Issues: These standards have been promulgated by the Board of Corrections for the purpose of carrying out provisions of §§ 53.1-80 and 53.1-82 of the Code of Virginia.

Substance: The Task Force is composed of members of the State Board of Corrections, Virginia State Sheriffs' Association, the Office of the Attorney General, Private Enterprise, and the Department of Corrections. The standards were designed: to set-forth criteria which can be used to assess need and establish priorities for construction; to serve as guidelines in evaluating requests from localities for construction reimbursement; to ensure fair and equitable distribution of state funds provided for such purpose; and to enhance effective operation and cost-efficiency of the facility.

Statutory Authority: § 53.1-68 of the Code of Virginia.

Written comments may be submitted until August 18, 1989.

Contact: Dave Hawkins, Architect, Department of Corrections, Architecture and Design Unit, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3231 or SCATS 674-3231

BOARD OF COSMETOLOGY

June 19, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review enforcement cases; (ii) review applications; (iii) review correspondence; and (iv) consider routine board business.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

† **September 19, 1989 - 10 a.m.** - Public Hearing
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Criminal Justice Services intends to amend regulations entitled: **VR 240-02-1. Regulations Relating to Criminal History Record Information Use and Security.** Regulations to ensure the completeness, accuracy, privacy and security of criminal history record information. Amendments expand present

language to provide further clarification of procedures.

STATEMENT

Statement of purpose: The amendments to the regulations are being proposed pursuant to the provisions of §§ 9-170 and 9-184 through 9-196 of the Code of Virginia. The purpose of these amendments is to expand and clarify the language of the existing regulations to ensure the proper collection and dissemination of criminal history record information.

Estimated impact:

Number and type of regulated entities affected.

Approximately 129 sheriffs departments, 230 police departments, 122 circuit courts, 203 district courts, 121 commonwealth's attorneys and the Department of State Police will be the primary groups affected.

It is anticipated that there will be minimal, if any, financial impact upon criminal justice agencies. The amendments to the regulations expand existing language by setting forth procedures that are already outlined in the Code of Virginia. Additionally, the amendments clarify current language to assist agencies in proper record-keeping practices.

Projected cost to agency for implementation and enforcement.

1. Any cost incurred by the Department of Criminal Justice Services is considered minimal and would primarily be for the purpose of compliance with the Administrative Process Act, applicable Executive Orders and the department's "Public Participation Guidelines."

2. Enforcement costs. Enforcement activities are currently occurring for this activity. No significant increase in cost is anticipated.

Source of funds.

Funds for implementation are from the General Fund appropriation to the agency.

Explanation of need and potential consequences that may result in the absence of these regulations.

Those who serve in the criminal justice system must be cognizant and sensitive to the fundamental rights and expectations of Virginia's citizens. In the spirit of the Virginia Privacy Act, the General Assembly finds that a citizen's privacy is directly affected by an agency's extensive collection, maintenance, use and dissemination of information on that individual. All citizens have the right to be assured that the information is properly collected, maintained and disseminated in accordance with state laws. Further, criminal justice agencies should have

available to them at all times, the most accurate and complete criminal history record information possible. The proposed regulations are directed at both of these aspects.

Statutory Authority: §§ 9-170 and 9-184 through 9-196 of the Code of Virginia.

Written comments may be submitted until August 30, 1989.

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

BOARD OF DENTISTRY

† June 21, 1989 - 1:30 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☒

A formal hearing before the full board regarding
Thomas R. Parrott, DMD.

Contact: N. Taylor Feldman, Executive Director, 1601
Rolling Hills Dr., Richmond, VA 23229, telephone (804)
662-9906

STATE BOARD OF EDUCATION

June 19, 1989 - 7 p.m. - Public Hearing
Stonewall Jackson High School, Manassas, Virginia

June 19, 1989 - 7 p.m. - Public Hearing
Clover Hill High School, Midlothian, Virginia

June 19, 1989 - 7 p.m. - Public Hearing
Deep Creek High School, Chesapeake, Virginia.

June 19, 1989 - 7 p.m. - Public Hearing
Radford High School, Radford, Virginia. ☒

These public hearings are to receive comments on the proposed revision of the "Standards of Quality." Speakers will be heard in the order of sign-up upon arrival at the meeting. Each speaker will be allowed three minutes to state concerns. It is requested that five copies of a written position paper be presented at the time of sign-up.

Contact: Dr. Andrea B. Chisick, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2092

June 29, 1989 - 9 a.m. - Open Meeting

June 30, 1989 - 9 a.m. - Open Meeting

July 27, 1989 - 9 a.m. - Open Meeting

July 28, 1989 - 9 a.m. - Open Meeting

James Monroe Building, 101 North Fourteenth Street,
Conference Rooms D & E, Richmond, Virginia. (Interpreter
for deaf provided if requested)

Calendar of Events

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 Building, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540

STATE BOARD OF ELECTIONS

June 27, 1989 - 3 p.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

A meeting to ascertain the results of the June 13, 1989, Primary Elections.

Contact: Susan H. Fitz-Hugh, Secretary, 101 Ninth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6551, toll-free 1-800-552-8745

FAMILY AND CHILDREN'S TRUST FUND OF VIRGINIA

June 23, 1989 - 1 p.m. - Open Meeting
Conference Room C, 8007 Discovery Dr., Richmond, Virginia. ☐

A general business meeting.

Contact: Peggy Friedenber, Legislative Analyst, VSS Bureau of Governmental Affairs, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217

GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

July 19, 1989 - 10 a.m. - Open Meeting
State Capitol Building, House Room 2, Richmond, Virginia. ☐

A regular meeting of the board.

Contact: Marilyn Mandel, Planning, Research and Policy Analysis Director, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2385 or SCATS 786-2385

Subcommittee on Informal Complaint Procedures

June 26, 1989 - 10 a.m. - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. ☐

The subject of this meeting is Informal Complaint Procedures.

Contact: Jay Withrow, Federal Liaison and Technical

Support Director, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-9873 or SCATS 786-9873

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

June 22, 1989 - 1 p.m. - Open Meeting
Hyatt Regency - Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia

1 p.m. - Special Study Committee to study the qualifications of managers of funeral establishments and the qualifications for the establishments in order to be licensed.

3 p.m. - General board meeting to include but not limited to elections of officers, and to discuss proposed regulations.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907

† June 29, 1989 - 1 p.m. - Open Meeting
Old Colony Inn, 625 First Street, Alexandria, Virginia.

The board will give its annual report, have an exhibition booth, and have a general open session in conjunction with the Virginia Morticians Association.

August 27, 1989 - 3 p.m. - Open Meeting
August 28, 1989 - 9 a.m. - Open Meeting
Koger Center - West, 1601 Rolling Hills Drive, Surry Building, Richmond, Virginia.

August 27, 1989 - Preneed Committee Meeting.

August 28, 1989 - Certify candidates for September examination, general board meeting, and discuss proposed regulations.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Dr., Richmond, VA, telephone (804) 662-9907

BOARD OF GAME AND INLAND FISHERIES

† June 23, 1989 - 2 p.m. - Open Meeting
False Cape State Park, Virginia Beach, Virginia

The Planning Committee of the Board of Game and Inland Fisheries will meet to discuss mid range and long range plans.

Contact: Nancy B. Dowdy, Agency Regulatory Coordinator, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, toll-free 1-800-237-5712/HOTLINE or SCATS 367-1000

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

† July 7, 1989 - 10 a.m. - Open Meeting
Virginia Museum of Fine Arts, Main Conference Room,
Richmond, Virginia. ☒

The board will advise the Director of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: M. Stanley Krause, AIA, AICP, Rancorn, Wildman & Krause, Architects, P.O. Box 1817, Newport News, VA 23601, telephone (804) 867-8030

DEPARTMENT OF HEALTH (STATE BOARD OF)

June 22, 1989 - 2 p.m. - Public Hearing
Virginia Highlands Community College, Room 605,
Abingdon, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to adopt regulations entitled: **VR 355-33-02. Regulations Governing Licensure of Home Health Agencies and Hospices.** The proposed regulation prescribes minimum standards of organization and operation and procedures to be followed to secure required home health agency and hospice licensure from the Virginia Department of Health, Division of Licensure and Certification.

Statutory Authority: §§ 32.1-162.5 and 32.1-162.12 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m., June 23, 1989.

Contact: Mary V. Francis, Director, Department of Health, Division of Licensure and Certification, 1013 James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 225-2081 or SCATS 225-3717

BOARD OF HEALTH PROFESSIONS

Administration and Budget Committee

† June 21, 1989 - 11 a.m. - Open Meeting
The Cavalier, Oceanfront at 42nd Street, Virginia Beach,
Virginia. ☒

A meeting to consider 1990-92 biennial budget request of Department of Health Professions.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9918

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

June 27, 1989 - 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., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371 or SCATS 786-6371

BOARD FOR HEARING AID SPECIALISTS

† September 11, 1989 - 9 a.m. - Public Hearing
Department of Commerce, 3600 West Broad Street, 5th
Floor, Board Room 1, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Hearing Aid Specialists intends to amend regulation entitled: **VR 375-01-02. Board for Hearing Aid Specialists Regulations.**

STATEMENT

Statement of purpose: Pursuant to Chapter 15 and § 54.1-201 of the Code of Virginia, the Board for Hearing Aid Specialists proposes to repeal existing regulations and promulgate new regulations governing hearing aid specialists.

Estimated impact:

- a. The regulations affect approximately 500 licensed and temporary licensees. Also affected are approximately 100 individuals who apply per year to sit for the licensure examination.
- b. Reduction in cost to the regulated entities is necessary for the board's compliance with § 54.1-113 of the Code of Virginia.
- c. The agency expects no material cost for implementation.
- d. Source of funds - User fees.

Legal authority for the Board for Hearing Aid Specialists to act is found in § 54.1-201 of the Code of Virginia.

The regulation is required by Chapter 15, §§ 54.1-1500 through 54.1-1504 of the Code of Virginia, effective January 1, 1989.

The board coordinated through its Regulatory Review Committee to assure clarity and simplicity in the drafting of the proposed regulations.

Calendar of Events

The agency anticipates minimal impact on small businesses and organizations due to reduction in fees assessed licensees and prospective applicants and in accordance with § 54.1-113 of the Code of Virginia. Fees proposed are:

	<u>CURRENT</u>	<u>PROPOSED</u>
Original Applications	\$75	\$60
Temporary Permits	\$75	\$60
Examinations	\$75	\$40
Re-exams	\$25	\$25
Renewal	\$170	\$110
Endorsement	\$75	\$60

Statutory Authority: § 54.1-201 of the Code of Virginia.

Written comments may be submitted until August 30, 1989.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8534

HOPEWELL INDUSTRIAL SAFETY COUNCIL

July 11, 1989 - 9 a.m. - Open Meeting

August 1, 1989 - 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 Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

June 20, 1989 - 10 a.m. - Open Meeting

601 S. Belvidere Street, Richmond, Virginia. ☒

A regular meeting to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations and Procedures, Instructions and Guidelines; and (v) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† August 21, 1989 - 10 a.m. - Public Hearing

General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The purpose of this hearing is to receive public input on the proposed criteria for accrediting local jurisdictions' Building Code Academies. Localities which establish training academies for building code officials, that are consistent with these accreditation criteria, will be exempt from transmitting the 1% levy proposed for adoption in the Uniform Statewide Building Code, Volume I, New Construction Code.

See General Notices section for criteria.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

† August 21, 1989 - 10 a.m. - Public Hearing

General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-03. Survey Standards for the Inspection of Buildings being Converted to Condominiums.** The purpose is to amend the survey standards for inspection of buildings being converted to condominiums for the presence of asbestos.

There has been a growing public awareness of the link between the inhalation of asbestos fibers and various diseases such as asbestos, mesothelioma, lung and other cancers. As a result, legislation was enacted by the 1987 General Assembly § 55-79.94 of the Code of Virginia and was modified by the 1988 General Assembly to require the Department of General Services to develop survey standards for the inspection of buildings which are proposed to be converted to condominiums. These standards are provided to identify the presence of asbestos, and to the extent practicable, the relative hazard to health or safety posed by any asbestos identified. The amendments made in § 55-79.94 of the Code of Virginia by the 1989 General Assembly authorized the Board of Housing and Community Development to further amend these standards in accordance with the provisions of the Administrative Process Act.

The proposed amendments to these standards include:

1. Revision of § 1, definitions, to clarify their application within the scope of the standards to be consistent with the Code of Virginia;
2. Elimination of the minimum competency requirements established for asbestos inspectors;
3. Clarification of the intent of the standards where they have proven to be difficult to interpret and administer. Examples of these clarifications include revising the survey requirements found in Section VI; and
4. Deletion of text which is inappropriate for use in a regulatory document. Examples of such text includes the use of permissive language such as "may" or "should".

STATEMENT

Substance: The Board of Housing and Community Development is proposing adoption of amendments to the existing survey standards for the inspection of building being converted to condominiums for the presence of asbestos (VR 394-01-3). The original standards were developed by the Department of General Services.

Basis: House Bill 1651 enacted in 1989 by the General Assembly authorizes the Board of Housing and Community Development to amend the asbestos standards developed by the Department of General Services through an amendment to § 55-79.94 of the Code of Virginia.

Purpose: The original legislation enacted in 1987 by the General Assembly directed the Department of General Services to develop standards for identifying asbestos in buildings being proposed for construction into condominiums. House Bill 1651 enacted by the 1989 General Assembly amended § 55-79.94 of the Code of Virginia, to authorize the Board of Housing and Community Development to amend these standards.

Issues: The Board of Housing and Community Development held four public meetings to receive input from various associations, client groups and other interested parties concerning the need to amend these asbestos standards. The issues identified by public comment and staff research are as follows:

1. Administration and enforcement of the standards;
2. Deletion of the inspector competency requirement;
3. Clarification as to what buildings are exempt from the regulations; and
4. Revised definitions to be in accordance with other state law.

Estimated impact: No increase in cost is anticipated for building owners, developers, or tenants as the proposed amendments only clarify portions of the existing standards. The department does not anticipate any economic impact for enforcement of these standards.

Statutory Authority: § 55-79.94 of the Code of Virginia.

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

* * * * *

† August 21, 1989 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Housing and Community Development intends to amend regulations entitled: **VR 394-01-06, Virginia Uniform Statewide Fire Prevention Code/1987 Edition.**

Pursuant to SJR 190, the Board of Housing and Community Development proposes to amend those portions of the Virginia Uniform Statewide Fire Prevention Code regulations pertaining to: Application to Post-USBC and Pre-USBC buildings necessary to permit the proposed amendments to Volume II which requires retrofitting existing buildings of Use Group R-1 (Hotels, Motels) with automatic sprinkler systems and smoke detectors.

Pursuant to HB 550, the 1988 General Assembly empowered the Board of Housing and Community Development to promulgate and adopt regulations governing the handling, storage and use of explosives, ammunition, and blasting agents. The Ad Hoc Committee on Explosives, Ammunition and Blasting Agent drafted new regulations to replace Article 26 of the Uniform Statewide Fire Prevention Code. Due to the substantive nature of the public comments received on the proposed draft in 1988, the Board of Housing and Community Development enacted the then current Department of Labor and Industry regulations as emergency regulations governing explosives and blasting agents.

The Board of Housing and Community Development proposes to delete the current text of Article 26 in its entirety and replace it with a new Article 26, Explosives, Ammunition, and Blasting Agents which addresses issues and concerns expressed during the 1988 public hearing.

STATEMENT

Substance: The Board of Housing and Community Development proposes to amend those portions of the

Calendar of Events

Virginia Uniform Statewide Fire Prevention Code regulation pertaining to Post-USBC and Pre-USBC buildings. The current text of F-101.5 and F-101.6 prohibits establishing retrofitting requirements for existing buildings and structures of any Use Group Classification. These changes are necessary to permit the proposed creation of 100.5.3 of Volume II - Building Maintenance Code, which requires retrofitting existing buildings of Use Group R-1 (hotels, motels) with fire protection systems (i.e. sprinkler systems, smoke detectors, etc.) to be enforced by local fire officials or the State Fire Marshal.

Pursuant to HB 550-1988, the Board of Housing and Community Development proposes to amend the Virginia Uniform Statewide Fire Prevention Code by deleting the current text of Article 26 on Explosives, Ammunition and Blasting Agents in its entirety and replacing it with new text which has been revised to address the issues and concerns expressed at the 1988 public hearing and comment period.

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

Issues: Four public meetings were held April 14-19, 1989 in Williamsburg, Prince William, Buena Vista, and Marion, respectively; to receive public comments on these proposed amendments. The following are issues identified by staff research and the public comments received:

1. Retrofit requirements for hotels and motels.
 - a. Whether thresholds established should be consistent with the same requirements proposed for new buildings.
 - b. Whether the retrofit requirements are necessary.
2. Regulation for explosives, ammunition, and blasting agents.
 - a. The Board of Housing and Community Development, assisted by the Ad Hoc Committee on Explosives, Ammunition, and Blasting Agents, made revisions to address and resolve concerns expressed during the 1988 public hearing.
 - b. House Bill 1961 empowered local government to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Uniform Statewide Fire Prevention Code provided such regulations do not affect or conflict with the regulations governed by the Uniform Statewide Building Code.
 - c. There were no substantive comments received during the four public meetings in 1989 since previous issues have been resolved.

Estimated impact:

1. Retrofit requirement:

- a. The Department of Housing and Community Development does not anticipate any appreciable increase in cost for enforcement and monitoring of these proposed regulations.

- b. The costs to owners and occupants of these existing buildings (hotels, motels) could be substantial. Due to the many variables involved, a definitive cost estimation would be impractical.

2. Article 26, Explosives, Ammunition and Blasting Agents.

- a. There will be a fiscal impact on all businesses regulated by these amendments since these regulations are somewhat more stringent than those currently in place. For example: (i) the current regulations apply if there are more than 25 pounds of explosive powder, and they do not address small arms ammunition. The proposed regulations apply if there are more than 5 pounds of explosive powder, or if there are more than 1,000 small arms primers for hand loading small arms ammunition. Therefore some small businesses and entities which were not previously regulated will now be required to obtain a permit; (ii) blasters will now be required to be certified, although the Department of Housing and Community Development notes that most blasters currently employed will be able to achieve "temporary certificate" for up to three years. The estimated fiscal impact of this requirement is listed below.

- b. The Professional Services Office of the Department of Housing and Community Development estimates the Blaster Certification requirement impact to be as follows:

- (1) Would affect a minimum of 318 explosive handlers.

- (2) Certification examination development using an existing national examination would cost \$2,000. Cost to the candidate would be \$50.00 for the examination of \$45.00 for reference manuals.

- (3) A data entry staff person would need to be employed to track the certification program at a cost of \$18,503 for salary and fringe benefits.

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

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

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† August 21, 1989 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-7. Asbestos Survey Standards for Buildings to be Renovated or Demolished.** The purpose is to amend the standards for inspection and management of buildings to be renovated or demolished.

There has been a growing public awareness of the link between the inhalation of asbestos fibers and various diseases such as asbestosis mesothelioma, lung and other cancers. As a result, legislation was enacted by the 1987 General Assembly and was modified by the 1988 General Assembly which required the Department of General Services to develop survey standards for the inspection of buildings which are proposed to be renovated or demolished to condominiums. These standards are provided to identify the presence of asbestos, and to the extent practicable, the relative hazard to health or safety posed by any asbestos identified. The amendments made in § 36-99.7 of the Code of Virginia, enacted by the 1989 General Assembly authorized the Board of Housing and Community Development to further amend these standards in accordance with the provisions of the Administrative Process Act.

The proposed amendments to these standards include:

Revision of § 1, definitions, to clarify their application within the scope of the standards to be consistent with the Code of Virginia.

Elimination of the minimum competency requirements established for asbestos inspectors.

Clarification of the intent of the standards where they have proven to be difficult to interpret and administer. Examples of these clarifications include revising the exemption found in Section IV, and

Deletion of text which is inappropriate for use in a regulatory document. Examples of such text includes the use of permissive language such as the words "may" or "should".

STATEMENT

Substance: The Board of Housing and Community Development proposes to amend the existing asbestos survey standards for buildings to be renovated or demolished (VR 394-01-7). The original standards were developed by the Department of General Services.

Purpose: The original legislation enacted in 1987 by the General Assembly directed the Department of General Services to develop asbestos standards for inspections in

buildings being renovated or demolished. The 1989 General Assembly enacted House Bill 1651, which amended § 36-99.7 of the Code of Virginia, to authorize the Board of Housing and Community Development to amend these standards.

Basis: The authority to amend the asbestos standards is granted to the Board of Housing and Community Development by House Bill 1651 enacted by the 1989 General Assembly, which amended § 36.99.7 of the Code of Virginia.

Issues: The Board of Housing and Community Development held four public meetings to receive input from various associations, client groups and other interested parties concerning necessary amendments to the asbestos regulations. The issues identified by public comments and staff research are as follows:

Administration and enforcement of criteria of the standards;

The revision of inspectors competency requirements;

Clarification as to what buildings are exempt from the standards; and

Revision of definitions and terms to be in accordance with other state law.

Estimated impact: The proposed amendments to the asbestos standards will not result in increased costs for building owners, local building department, or this Commonwealth of Virginia. The regulations are already in effect and the proposed changes will clarify portions of the existing regulations.

Statutory Authority: § 36-99.7 of the Code of Virginia.

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manger, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

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† August 21, 1989 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I, New Construction Code, 1987 Edition.**

Volume I - New Construction Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is

Calendar of Events

a mandatory, statewide uniform regulation which must be complied with in all buildings or additions hereafter constructed, altered, enlarged, repaired, or converted to another use group. Its purpose is to protect the health, safety and welfare of building users, and to provide for energy conservation, water conservation and accessibility for the physically handicapped and aged. Technical requirements of the New Construction Code are based on the BOCA Model Building Code. The New Construction Code specifies the enforcement procedures to be used by local governments. Enforcements by local governments is mandatory. Provision is made for modifications by the building official when alternate means will provide equivalent health and safety. An administrative appeals system is established for resolution of disagreements between the building owner and the building official.

The purpose of the proposed amendments is to revise those portions of the Uniform Statewide Building Code that pertain to (i) Fees; (ii) Building Accessibility and Usability by Persons with Physical Disabilities; (iii) Boat Storage Facilities; (iv) Fire Protection Systems for Multiple Family Dwellings; (v) Underground Storage Tanks; and (vi) Asbestos inspections in buildings to be renovated or demolished.

STATEMENT

Substance: Proposed adoption of amendments by the Board of Housing and Community Development to those portions of the regulations pertaining to (i) building permit fees (levy); (ii) building accessibility for the physical disabled; (iii) underground storage tanks; (iv) fire protection systems for building and structures of Use Groups R-1 (hotels, motels) and R-2 (apartments, dormitories); (v) boat storage facilities; and (vi) Asbestos inspections in building being renovated or demolished.

Basis: §§ 36-97 through 36-105 of Title 36 of the Code of Virginia.

Purpose:

1. Permit fees (levy): House Bill 1538, passed by the 1989 Session of the Virginia General Assembly, authorizes the Board of Housing and Community Development to levy by regulation up to 1% of the building permit fees collected by local governing bodies. The purpose of this levy is to support the training programs of the Virginia Building Code Academy. The legislation also establishes a \$500,000 cap on the total levy collected during any fiscal year, and provides that localities which maintain a training program accredited by the Department of Housing and Community Development shall retain such levy.

2. Building accessibility and usability for the physically disabled. To update the regulations which provide building accessibility and usability for the physically disabled, and to recognize the requirements of the Fair Housing Amendments Act (FHA) of 1988 passed

by the United States Congress. The FHA specifies certain features of adaptable design be provided in the new construction of multifamily dwellings.

3. Underground storage tanks. To recognize the Federal Environmental Protection Agency's (EPA) publication of final regulations which became effective on December 22, 1988. EPA's final regulations supersede the existing text of the USBC as it applies to underground storage tanks. The State Water Control Board is currently proposing adoption of these regulations in accordance with the Administrative Process Act.

4. Fire protection systems for multifamily dwellings. HJR 374 requests the Board of Housing and Community Development to study the necessity of requirements for the installation of fire protection systems in for multi-unit residential construction.

5. Boat storage facilities. HJR 337 requests the Board of Housing and Community Development to study the safety or lack of safety of boat storage facilities which involve 100 or more boats, with respect to fire protection systems, proximity to residential areas, and locations of fire hydrants.

6. Asbestos inspection. To amend § 105.10 to be consistent with the revision of § 36-99.7 enacted by the 1989 General Assembly through House Bill 1651.

Issues: The Board of Housing and Community Development has received public comments on each of these issues through four public meetings which were conducted at different sites across the state from April 14-19, 1989. Notice of these meetings were published in Volume 5 Issue 12 of the Virginia Register.

The public comments and staff research identified the following issues on each topic being considered for amendment:

1. Permit fees (levy): The following issues have been identified as items of concern:

- (i) Method of establishing the levy should not place an adverse economic impact on local government;
- (ii) the Building Code Academy should provide training in all facets of code administration and (iii) the accreditation criteria for local training programs should promote the concepts of uniformity provided by the State Code Academy.

2. Building accessibility for the physically disabled. Issues identified addressed the need to update the existing text by clarifying the intended application of the regulations (i.e. scoping provisions) and referencing the 1986 edition of the ANSI A117.1 Standard. Incorporating the Fair Housing Act recognizes the federal governments' mandate for multifamily construction.

3. Underground storage tanks. Identified issues related to the technical provisions of the EPA regulations and are being coordinated through the State Water Control Board.

4. Fire protection systems for multifamily dwellings. Public input supported the recommendations of the Virginia Fire Suppression Systems Committee. This committee, which included representatives from the fire services as well as the multifamily development and management industries, suggested mandatory installation of fire protection systems, and offsetting the costs for these systems with compensatory exemptions from specific code requirements.

5. Boat storage facilities. Issues identified addressed the inclusion of the new construction requirements of the National Fire Protection Association Standard 303, Fire Protection Standards for Boatyards and Marinas, 1986 Edition.

6. Asbestos inspections. Text of § 105.10 of the Uniform Statewide Building Code needs to be revised to recognize the revised language of § 36-99.7 of the Code of Virginia, enacted by HB 1651 of the 1989 General Assembly.

Estimated impact:

Cost for compliance and entities affected.

1. Permit fees (levy). Building permit applicants will be assessed a levy of 1.0% of the total cost for each building permit fee. For example, if the building permit fee is \$100, an additional one dollar would be charged to the applicant. The economic impact of this proposal will affect all applicants for building permits. Local jurisdictions will not be economically impacted by this levy.

2. Accessibility for the physically disabled. A slight increase in cost is anticipated for constructing new multifamily dwellings to comply with the adaptability provisions of the Federal Fair Housing Act. A quantitative analysis of these costs is not feasible due to the variables of design, and materials which might be used for any given site or project. The economic impact of these amendments will affect prospective builders, developers and occupants of multifamily dwellings. No significant economic impact is anticipated with respect to updating and clarifying the scoping provisions.

3. Underground storage tanks. The proposed text will adopt the regulations promulgated by the State Water Control Board by reference. The State Water Control Board has proposed adoption of these regulations, which were published as VR 6860-13-02 in 5:14 V.A.R. April 10, 1989. The anticipated economic impact of this proposed amendment is consistent with that offered by the State Water Control Board.

4. Fire protection systems in multifamily construction. A slight increase for initial construction costs is anticipated for multifamily structures which are 3 or fewer stories in height; however, the proposed regulations also recognize that installation of these systems will improve the protection of life and property from fire by granting tradeoffs from certain features of construction which were previously mandated. These tradeoffs result in substantial reductions in construction costs for these structures. A quantitative analysis of these costs is not feasible due to such variables as architectural design for any given project, and fluctuating material costs. Affected individuals include prospective builders, developers and occupants of multifamily properties.

5. Boat storage facilities. The proposed amendments will lower the current threshold at which fire protection systems are required to be installed in boat storage buildings. The existing regulations require the installation of these systems when the building exceeds 12,000 square feet in area. The proposed regulations will require these systems to be installed when the building exceeds 5,000 square feet in area. Therefore, an increase for the construction of small boat storage buildings is anticipated. Also, any newly constructed piers which exceed 200 feet in length will be required to have standpipe systems installed. A quantitative analysis of these projected increases is not feasible due to the various types of fire protection systems permitted, and the different designs which could be utilized for any given structure. Individuals affected by these increased costs would include prospective builders, owners, and tenants of small boat storage facilities.

6. Asbestos inspection. The proposed amendments are purely administrative and will have no economic impact on building owners or local governments.

Cost for enforcement:

The Department of Housing and Community Development does not anticipate any increase in operating costs for the monitoring or enforcement of these proposed regulations.

No reporting forms are included as part of these regulations.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

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Calendar of Events

† August 21, 1989 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code - Volume II Building Maintenance Code/1987.** The purpose is to amend those portions of the regulations pertaining to: Application to Pre-USBC and Post-USBC Buildings; Fire Protection Systems for Use Group R-1 (Hotels, Motels).

Volume II - Building Maintenance Code of the 1987 Edition of the Virginia Statewide Building Code (USBC) is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Technical requirements of the Building Maintenance Code are based on the BOCA National Existing Structures Code, a companion document to the BOCA National Building Code which serves as the basis for Volume I of the USBC the New Construction Code. Enforcement procedures are provided that must be used when the Building Maintenance Code is enforced by local agencies. Local enforcement of the Code is optional. An administrative appeals system is established for resolution of disagreements between the building owner and the code official.

Pursuant to SJR 190, the Board of Housing and Community Development proposes to amend those portions of the Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code/1987 Edition pertaining to: Application to Pre-USBC and Post-USBC buildings; Fire Protection Systems for Use Group R-1 (hotels, motels). These proposed amendments require all existing Use Group R-1 buildings to be retrofitted with automatic sprinkler systems and smoke detectors. These amendments provide for a 3 year phase-in period and exempts all hotels and motels 4 or less stories in height which have exterior exit access balconies.

STATEMENT

Substance: Proposed amendments by the Board of Housing and Community Development to the 1987 edition of the Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code which will require retrofitting all Use Group R-1 existing buildings with sprinklers and smoke detectors.

Four public meetings were held April 14-19, 1989, in Williamsburg, Prince William, Buena Vista, and Marion, Virginia, respectively; to receive public comments on these issues. The following are issues identified by staff research and the public input received:

1. Whether thresholds established should be consistent

with the same requirements proposed for new buildings.

2. Whether the retrofit requirements are necessary.

Basis: §§ 36-97 through 36-105 of Title 36 of the Code of Virginia.

Purpose:

In response to SJR 190, the Board of Housing and Community Development is proposing to amend those portions of the Volume II - Building Maintenance Code/1987 edition regulation pertaining to: Application to Pre-USBC and Post-USBC buildings; Fire Protection Systems for Use Group R-1 (hotels, motels). These amendments require all existing Use Group R-1 buildings to be retrofitted with automatic sprinkler systems and smoke detectors. Sprinklers would be required to be installed by either (i) March 1, 1993 or (ii) within three years from the date at which adequate public water is made available to supply the sprinkler system.

There is an exception to the sprinkler requirement which exempts all hotels and motels of four or less stories in height which have exterior exit access balconies.

Although the Volume II - Building Maintenance Code is a mandatory, statewide uniform set of regulations that must be complied with in all buildings; local enforcement of the Code is optional.

Estimated impact:

1. The Department of Housing and Community Development does not anticipate any increase in operating costs for the enforcement and monitoring of these proposed regulations.

2. Estimated impact on the citizens of Virginia. The costs of retrofitting existing buildings could be substantial. The only dollar figure that can be given is a general estimated \$2.00 per square foot cost for the installation of a sprinkler system; however, other variables, such as construction types and building layout, etc., makes more definitive cost estimations impractical. The cost to building owners affected by these requirements are likely to be substantive enough to jeopardize their ability to be competitive and stay in business.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

Calendar of Events

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Safety and Health Codes Board

June 19, 1989 - 10 a.m. - Open Meeting
General Assembly Building, 910 Capitol Street, House
Room C, Richmond, Virginia. ☐

The board will meet to consider the following: (i) request for Variance from Boiler and Pressure Vessel Safety Act by Stanley Doors System, Winchester, VA; (ii) amendment concerning Hazardous Waste Operations and Emergency Response Standard; (iii) amendment concerning Crane or Derrick Suspended Personnel Platforms, Redesignation; and (iv) Formaldehyde Standard; Stay of Hazard Communication Provisions.

Contact: Margaret T. Gravett, Staff Specialist, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-9877 or SCATS 786-9877

JOINT BOARD LIAISON COMMITTEE

June 23, 1989 - 1 p.m. - Open Meeting
Department of Social Services, Koger Center, 8007
Discovery Drive, Richmond, Virginia. ☐

A quarterly meeting of the Joint Board Liaison Committee comprised of representatives of the Boards of Education, Health, Mental Health, Mental Retardation and Substance Abuse Services, Rehabilitative Services and Social Services. Agenda items include topics of common interest and the development of joint policies relative to clients who are mutually served.

Contact: Jane V. Helfrich, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921

LIBRARY BOARD

June 20, 1989 - 9:30 a.m. - Open Meeting
Virginia State Library and Archives, 11th Street at Capitol
Square, 3rd Floor, Supreme Court Room, Richmond,
Virginia. ☐

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

LONGWOOD COLLEGE

Board of Visitors

July 6, 1989 - 9 a.m. - Open Meeting
July 7, 1989 - 3 p.m. - Open Meeting
College Campus, Longwood House, Farmville, Virginia. ☐

A meeting to conduct business pertaining to the governance of the institution/retreat.

Contact: William F. Dorrill, Longwood College, Farmville, VA 23901, telephone (804) 392-9211 or SCATS 265-4211

VIRGINIA LONG-TERM CARE COUNCIL

Local Long-Term Care Coordinating Committees

June 19, 1989 - 9:30 a.m. - Open Meeting
Virginia Baptist Hospital, Lynchburg, Virginia. ☐

June 20, 1989 - 9:30 a.m. - Open Meeting
Northern Virginia, Fairfax Hospital Association, Fairfax,
Virginia. ☐

Regional meetings of the local long-term care coordinating committees provide the opportunity for coordination with the State Long-Term Care Council. Long-Term Care legislation, public guardianship and updates on local activities will be discussed.

Contact: Thelma E. Bland, Deputy Commissioner, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271/TDD ☐, toll-free 1-800-552-4464 or SCATS 225-2271

STATE LOTTERY BOARD

NOTE: CHANGE OF MEETING DATE

June 30, 1989 - 10 a.m. - Open Meeting
State Lottery Department, 2201 West Broad Street,
Conference Room, Richmond, Virginia. ☐

A regularly scheduled monthly meeting of the board. Business will be conducted according to items listed on the 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

June 28, 1989 - 5 p.m. - Open Meeting
The Ships Cabin Seafood Restraunt, 4110 East Ocean View
Avenue, Norfolk, Virginia.

Calendar of Events

The board will meet to receive reports from the Executive Director of the Virginia Marine Products Board on: finance, marketing, past and future program planning, publicity/public relations, old/new business.

Contact: Shirley Estes Berg, 97 Main Street, Room 103, Newport News, VA 23601, telephone (804) 594-7261

BOARD OF MEDICAL ASSISTANCE SERVICES

† July 12, 1989 - 9 a.m. - Open Meeting

† July 12, 1989 - 1 p.m. - Retreat

† July 13, 1989 - 9 a.m. - Retreat

Hotel Roanoke, Roanoke, Virginia

Board Meeting - July 12 at 9 a.m. - noon

Retreat - July 12 at 1 p.m. - 6 p.m.

Retreat - July 13 at 9 a.m. - 12:30 p.m.

Contact: Jacqueline Fritz, Legislative Analyst, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

June 28, 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 Board of Medical Assistance Services intends to adopt regulations entitled: **State Plan for Medical Assistance Relating to Nonenrolled Providers. VR 460-02-4.191. Methods and Standards for Establishing Payment Rates - In-Patient Hospital Care, VR 460-02-4.192. Methods and Standards for Establishing Payment Rates - Other Types of Care, and VR 460-02-4.194. Methods and Standards for Establishing Payment Rates - Long-Term Care.** These proposed regulations regulate the reimbursement of nonenrolled service providers.

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

Written comments may be submitted until 4:30 p.m., June 28, 1989, to Malcolm O. Perkins, Division of Operations, Department of Medical Assistance Services, 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

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July 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 Board of Medical Assistance Services intends to adopt regulations entitled: **State Plan for Medical Assistance Relating to Preadmission Screening. VR 460-01-46. Utilization Control and VR 460-02-4.141. Criteria for Nursing Home Preadmission Screening: Medicaid Eligible Individuals and All Mentally Ill and Mentally Retarded Individuals At Risk of Institutionalization.** These regulations contain the requirements for patient preadmission screening prior to nursing facility admittance.

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

Written comments may be submitted until 4:30 p.m., July 20, 1989, to Charlotte C. Carnes, Manager, Medical Social Services, Department of Medical Assistance Services, 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

BOARD OF MEDICINE

July 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 Board of Medicine intends to adopt regulations entitled: **VR 465-04-01. Regulations Governing the Practice of Certified Respiratory Therapy Practitioners.** The purpose of this action is to amend and promulgate regulations effective December 2, 1985, as emergency regulations for voluntary certification of Respiratory Therapy Practitioners.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until 2 p.m., July 7, 1989.

Contact: Eugenia Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

July 20, 1989 - 8:15 a.m. - Open Meeting

July 21, 1989 - 8:15 a.m. - Open Meeting

July 22, 1989 - 8:15 a.m. - Open Meeting

July 23, 1989 - 8:15 a.m. - Open Meeting

Omni Charlottesville Hotel, 235 West Main Street, Charlottesville, Virginia. ☎

An open session to conduct general board business and discuss any other items which may come before the

board. On Friday, Saturday and Sunday the board will review reports, interview licensees and make decisions on discipline matters.

Contact: Eugenia Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

Informal Conference Committee

June 20, 1989 - 9:30 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 1, Richmond, Virginia.

† **June 23, 1989 - 10 a.m. - Open Meeting**
Fort Magruder Inn and Conference Center, Route 60 east, Williamsburg, Virginia. ☒

June 27, 1989 - 9 a.m. - Open Meeting
June 28, 1989 - 9 a.m. - Open Meeting
Sheraton Hotel, 2801 Plank Road, Fredericksburg, Virginia. (I-95, exit 45B)

† **June 30, 1989 - 9:30 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 1, Richmond, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

Contact: Karen D. Waldron, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-7006

Legislative Committee

June 23, 1989 - 10 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

A meeting to review and discuss proposed regulation which relates to misleading and deceptive advertising, petition for rulemaking relative to Straight Chiropractic Academic Standards Association, Inc. (SCASA), Special Purpose Examination (SPEX) and discuss any other items which may come before the Legislative Committee.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Building, 2nd Floor, Richmond, VA 23229, telephone (804) 662-9925

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

June 28, 1989 - 9:30 a.m. - Open Meeting

Alexandria Community Services Board, Alexandria, Virginia. ☒

A regular monthly meeting. The agenda will be published on June 21 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State Board Staff, P.O. Box 1797, Richmond, Virginia 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

August 15, 1989 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

August 15, 1989 - 10 a.m. - Public Hearing
Roanoke City Hall, 215 Church Avenue, Council Chambers, Room 450, Roanoke, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

August 15, 1989 - 10 a.m. - Public Hearing
Norfolk Public Schools Building, 800 East City Hall Avenue, 12th Floor Board Room, Room 202, Norfolk, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

August 15, 1989 - 10 a.m. - Public Hearing
Oakton Corporate Center, 10461 White Granite Drive, 3rd Floor Training Room, Suite 300, Oakton, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

August 15, 1989 - 7:30 p.m. - Public Hearing
Holiday Inn-Koger Center-South, 1021 Koger Center Boulevard, Anna Room, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

August 15, 1989 - 7:30 p.m. - Public Hearing
Roanoke City Hall, 215 Church Avenue, Council Chambers, Room 450, Roanoke, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mental Health, Mental Retardation and Substance Abuse Services, acting as the lead agency administering Part H (EHA) early intervention services to infants and toddlers with handicaps (Public Law 99-457), intends to conduct public hearings for the purpose of presenting the FY 89 State Early Intervention Grant Application. Interested parties are asked to give their comments and suggestions. Copies of the grant may be obtained by contacting the Department of Mental Health, Mental Retardation and Substance Abuse Services employee listed below. The

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application will be available as of June 1, 1989. Written comments will be accepted by the listed contact person until August 18, 1989.

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

Prevention and Promotion Advisory Council

June 29, 1989 - 10 a.m. - Open Meeting
James Madison Building, 109 Governor Street, 8th Floor Conference Room, Richmond, Virginia.

The meeting will include (i) election of new officers; (ii) revision of the Council By-Laws; (iii) review of the prevention initiative funding request; and (iv) discussion of the future direction of the council.

Contact: Sue Geller or Harriet Russell, Office of Prevention, Promotion and Library Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530

STATE MILK COMMISSION

† **June 21, 1989 - 10 a.m. - Open Meeting**
1015 Ninth Street Office Building, Richmond, Virginia. ☐

A routine monthly meeting.

† **June 21, 1989 - 11 a.m. - Public Hearing**
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☐

A meeting to consider proposed amendments to current Rules and Regulations.

See General Notices section for details.

Contact: C. H. Coleman, Administrator, 1015 Ninth Street Office Bldg., 9th and Grace Sts., Richmond, VA 23219, telephone (804) 786-2013

BOARD OF NURSING

June 20, 1989 - 9:30 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☐

Four formal hearings will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated.

Special Conference Committee

June 23, 1989 - 8:30 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,

Conference Room 2, Richmond, Virginia. ☐ (Interpreter for deaf provided upon request)

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (toll-free) 1-800-533-1560

VIRGINIA OUTDOORS FOUNDATION

† **June 20, 1989 - 10:30 a.m. - Open Meeting**
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☐

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-5539 or SCATS 786-5539

BOARD OF PHARMACY

Editor's Note: The Board of Pharmacy, pursuant to public input, will hold a public hearing regarding the proposed increase in fees.

July 12, 1989 - 10 a.m. - Public Hearing
Holiday Inn-West End, 6531 West Broad Street, Chesterfield Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **VR 530-01-1, Virginia Board of Pharmacy Regulations**. The purpose of this action is to increase fees for licenses.

Statutory Authority: §§ 54.1-2400 and 54.1-3007 of the Code of Virginia.

Written comments may be submitted until July 12, 1989.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911

VIRGINIA PORK INDUSTRY BOARD

July 14, 1989 - 3 p.m. - Open Meeting
Blacksburg Marriott, Blacksburg, Virginia. ☐

A meeting to consider (i) general business; (ii) committee reports; and (iii) election of officers.

Contact: John H. Parker, Program Director, 801 Washington Bldg., 1100 Bank St., Richmond, VA 23219,

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telephone (804) 786-7092 or SCATS 786-7092

367-6446, toll-free 1-800-552-5019/TDD ☎ , SCATS 367-6446 or (804) 367-0280/TDD ☎

COMMISSION ON PRISON AND JAIL OVERCROWDING

July 14, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☎

Full Commission meeting. Working committees will give status reports.

Contact: Lin Corbin-Howerton, Staff Director, 9th Street Office Bldg., 3rd Floor, Richmond, VA 23219, telephone (804) 786-1657

BOARD OF REHABILITATIVE SERVICES

† **June 30, 1989 - 9:30 a.m. - Open Meeting**
4901 Fitzhugh Avenue, Richmond, Virginia. ☎ (Interpreter for deaf provided if requested)

The board will receive department and standing committee reports. It will review but take no action on public comments on proposed regulation amendments and conduct the regular business of the board.

Finance Committee

† **June 29, 1989 - 3 p.m. - Open Meeting**
4901 Fitzhugh Avenue, Richmond, Virginia. ☎ (Interpreter for deaf provided if requested)

The committee will review the department's FY 1989 year-end financial report and review biennial budgetary projections for fiscal year 1991-1992.

Legislation and Evaluation Committee

† **June 29, 1989 - 1 p.m. - Open Meeting**
4901 Fitzhugh Avenue, Richmond, Virginia. ☎ (Interpreter for deaf provided if requested)

The committee will develop restructuring plans for fiscal year 1990 and set its annual agenda for presentation to the board.

Program Committee

† **June 29, 1989 - 3 p.m. - Open Meeting**
4901 Fitzhugh Avenue, Richmond, Virginia. ☎ (Interpreter for deaf provided if requested)

The Program Committee will develop its annual agenda for fiscal year 1990 and develop committee reorganization proposals for presentation to the board.

Contact: James L. Punter, Board Administrator, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804)

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

July 12, 1989 - 2 p.m. - Public Hearing
William N. Neff Vocational Center, Route 8, Abingdon, Virginia

July 12, 1989 - 2 p.m. - Public Hearing
George Mason University School of Law, Metro Center Campus - Downtown Arlington, 3401 North Fairfax Drive, Arlington, Virginia

July 12, 1989 - 2 p.m. - Public Hearing
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Conference Room, Richmond, Virginia

July 12, 1989 - 6 p.m. - Public Hearing
Norfolk City Hall, City Hall Building, Council Chambers, 810 Union Street, 11th Floor, Norfolk, Virginia

Notice is hereby given that the Department of Rehabilitative Services will meet to consider the **State Plan Preprint for the State Vocational Rehabilitation Services Program and the State Supported Employment Services Program**. This State Plan outlines activities of the department under the State Vocational Rehabilitation Services program and the State Supported Employment Services Program covering Fiscal Years 1989, 1990 and 1991.

Statutory Authority: § 51.5-14 of the Code of Virginia.

Written comments may be submitted until July 8, 1989.

Contact: Robert J. Johnson, State Plan Coordinator, Department of Rehabilitative Services, 4901 Fitzhugh Ave., P.O. Box 11045, Richmond, VA 23230, telephone (804) 367-6379 or SCATS 367-6379

July 12, 1989 - 2 p.m. - Public Hearing
William N. Neff Vocational Center, Abingdon, Virginia

July 12, 1989 - 6 p.m. - Public Hearing
Norfolk City Hall, Council Chambers, Norfolk, Virginia

July 12, 1989 - 2 p.m. - Public Hearing
George Mason School of Law, 3401 North Fairfax Drive, Arlington, Virginia

July 12, 1989 - 2 p.m. - Public Hearing
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of

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Rehabilitative Services intends to amend regulations entitled: **VR 595-01-2. Provision of Vocational Rehabilitation Services.** The purpose is to amend certain portions to comply with federal regulations and to expand the service capabilities of the department.

Statutory Authority: § 51.5-5 of the Code of Virginia.

Written comments may be submitted until July 8, 1989, to Charles H. Merritt, Assistant Commissioner, Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia 23230.

Contact: James L. Hunter, Board Administrator, Department of Rehabilitative Services, P.O. Box 11045, 4901 Fitzhugh Ave., Richmond, VA 23230-1045, telephone (804) 367-6446, toll-free 1-800-552-5019/TDD ☎ or SCATS 367-6446

DEPARTMENT FOR RIGHTS OF THE DISABLED

Protection and Advocacy for Mentally Ill Individuals Advisory Council

† **June 30, 1989 - 10 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☎ (Interpreter for deaf provided if requested)

A regularly scheduled meeting for the conduct of business.

Contact: Barbara Hoban, PAMI Program Manager, Department for Rights of the Disabled, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042/TDD ☎ , toll-free 1-800-552-3962/TDD ☎ or SCATS 225-2042

SAFETY AND HEALTH CODES BOARD

Task Force on Certifying of Boiler and Pressure Vessel Operators

† **June 20, 1989 - 10 a.m.** – Open Meeting
† **July 12, 1989 - 10 a.m.** – Open Meeting
Department of Labor and Industry, 205 North 4th Street, 2nd Floor Conference Room, Richmond, Virginia. ☎

The Task Force appointed by the Safety and Health Codes Board will meet to discuss the development of a standard for certification of boiler and pressure vessel operators.

Contact: Jim Hicks, Boiler Chief Inspector, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-3160 or SCATS 786-3160

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **June 22, 1989 - 10 a.m.** – Open Meeting
Virginia Small Business Financing Authority, 1021 East Cary Street, Richmond, Virginia

The authority will conduct its regular business meeting and will conduct a public hearing to consider Industrial Development Bond applications received by the authority and for which public notice has appeared in the appropriate newspapers of general circulation.

Contact: Cathleen M. Surface, Virginia Small Business Financing Authority, 1021 E. Cary St., Richmond, VA 23206, telephone (804) 786-3791

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

July 10, 1989 - 2 p.m. – Public Hearing
Department of Social Services, 8007 Discovery Drive, Conference Room A, Richmond, Virginia. ☎

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-46-01. Adult Protective Services.** The above regulation increases consistency of practice in adult protective services and establishes policy for disclosure of information by local departments of social services pursuant to § 63.1-55.4 of the Code of Virginia.

Statutory Authority: §§ 63.1-25, 63.1-55.1 and 63.1-55.4 of the Code of Virginia.

Written comments may be submitted until July 10, 1989, to Joy Duke, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Margaret Friedenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9182 or SCATS 662-9182

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August 24, 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 Board of Social Services intends to adopt regulations entitled: **VR 615-70-17. Child Support Enforcement Programs.** This regulation describes the rules the Department of Social Services will use in establishing, enforcing, and collecting child support payments.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until August 24, 1989,

to Jane Clements, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Drive, Blair Building, Richmond, Virginia, 23229-8699.

Contact: Margaret J. Friedenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Drive, Blair Building, Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **June 20, 1989 - 7:30 p.m. – Open Meeting**
Colonial Farm Credit Association, 6526 Mechanicsville Turnpike, Mechanicsville, Virginia

A special meeting for board nomination.

† **July 12, 1989 - 2 p.m. – Open Meeting**
Blacksburg Marriott, 900 Prices Fork Road NW, Blacksburg, Virginia

A regular bi-monthly meeting.

Contact: Donald L. Wells, Department of Conservation and Historic Resources, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-4356

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

July 15, 1989 - 11 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒

A quarterly meeting to consider matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Barbara G. Tyson, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3162, toll-free 1-800-622-2155, SCATS 371-3162 or 371-3140/TDD ☎

Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

June 27, 1989 - 1:30 p.m. – Open Meeting
July 25, 1989 - 1:30 p.m. – Open Meeting
August 22, 1989 - 1:30 p.m. – Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting.

Contact: Glen R. Slonneger, Jr., Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

June 22, 1989 - 10:30 a.m. – Open Meeting
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

10:30 a.m. - Committee Meetings

11:15 a.m. - Business Session: Reports will be received from council committees, the Department of Education, the Governor's Job Training Coordinating Council, and the Virginia Community College System.

2:00 p.m. - Vocational education recognition awards program conducted jointly with the Virginia Department of Education.

Contact: George S. Orr, Jr., Executive Director, Virginia Council on Vocational Education, P.O. Box U, Blacksburg, VA 24063-1035, telephone (703) 961-6945

VIRGINIA VOLUNTARY FORMULARY BOARD

July 7, 1989 - 10 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

The purpose of this hearing is to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on November 15, 1989, and a supplement to the Formulary that became effective on May 20, 1989.

Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on July 7, 1989, will be made a part of the hearing record and considered by the Board.

Contact: James K. Thomson, Bureau of Pharmacy Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326 or SCATS 786-3596

DEPARTMENT OF WASTE MANAGEMENT

July 3, 1989 - 10 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☒

A public meeting will be held for Amendment 10 to the Virginia Hazardous Waste Management Regulations to discuss the proposed changes in U.S. Environmental Protection Agency Regulations in solid and hazardous waste management. The regulated community, public,

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and interested persons are invited to attend.

Contact: Stuart T. Ashton, IV, Staff Specialist, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667

STATE WATER CONTROL BOARD

† **June 21, 1989 - 7 p.m. - Public Hearing**
Eastern Shore Community College Lecture Hall, Route 13, Melfa, Virginia. ☐

The State Water Control Board will hold a public hearing to receive comments on the proposed VPDES permit modification for Perdue, Inc., P.O. Box 1537, Salisbury, Maryland 21801. The purpose of this hearing is to receive comments on the proposed modification of the permit, and Perdue, Inc., concerns over permit boilerplate, Toxics Monitoring Program, monitoring of toluene, and other issues as described in the company's letter dated March 21, 1989, and the effect of the proposed discharge on water quality or beneficial uses of state waters. The applicant is an industrial poultry processor.

Contact: Doneva Dalton, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6815

* * * * *

June 26, 1989 - 3 p.m. - Formal Hearing
NOTE: CHANGE OF LOCATION
School Administration Building, 2512 George Mason Drive, Prince Anne Courthouse, Board Room 131, Virginia Beach, 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 680-21-01.11. Chlorine Standard and Policy and VR 680-21-07.2. Outstanding State Resource Waters.** The purpose of the proposed amendments is to adopt as permanent regulations VR 680-21-01.11 - Chlorine Standard and Policy and VR 680-21-07.2 - Outstanding State Resource Waters which were previously adopted as emergency regulations.

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

Written comments may be submitted until 4 p.m., June 13, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Affected persons may petition to be a party to the formal hearing being held June 26, 1989, concerning any fact issues directly relevant to the legal validity of the proposed action. Petitions must meet the requirements of § 1.23(b) of the board's Procedural Rule No. 1 (1980), and

must be received by the contact person designated below by May 10, 1989. The board seeks comments, orally at the hearing and in writing, on the proposed amendments including, but not limited to, any necessary revisions based on the issues raised to date.

Contact: Jean Gregory, Environmental Program Manager, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6985 or SCATS 367-6985

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June 19, 1989 - 7 p.m. - Public Hearing
Massey Building, 4100 Chain Bridge Road, Board of Supervisor's Meeting Room, A-Level, Fairfax, Virginia. ☐

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance of Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0030163 for the District of Columbia Department of Corrections, District of Columbia Government, Post Office Box 25, Lorton, Virginia 22079. The purpose of the hearing is to receive comments on the proposed issuance or denial of the permit, and the effect of the discharge on water quality or beneficial uses of state water.

Contact: Doneva A. Dalton, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6815

June 26, 1989 - 9 a.m. - Open Meeting
June 27, 1989 - 9 a.m. - Open Meeting
School Administration Building, 2512 George Mason Drive, Princess Anne Courthouse, Board Room 131, Virginia Beach, Virginia

Regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829

COLLEGE OF WILLIAM AND MARY

Board of Visitors

June 23, 1989 - 8 a.m. - Open Meeting
College of William and Mary, Jamestown Road, Campus Center, Williamsburg, Virginia

A regularly scheduled meeting of the Board of Visitors of the College of William and Mary to act on those resolutions that are presented by the administration of William and Mary and Richard Bland College.

An informational release will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: Office of University Relations, James Blair Hall, College of William and Mary, Room 308, Williamsburg, VA 23185, telephone (804) 253-4226

VIRGINIA WINEGROWERS ADVISORY BOARD

† **July 10, 1989 - 10 a.m.** – Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☒

Annual meeting of the board to vote new chair and vice-chair people into office and discuss new proposals for approval.

Contact: Annettee C. Ringwood, Wine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-0481 or (804) 371-7685

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING BANKING SERVICES FOR LOW INCOME CONSUMERS

† **June 23, 1989 - 10:30 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

An organizational meeting. SJR 226

Contact: Arlen Bolstad, Staff Attorney, Division of Legislative Services, General Assembly Bldg., Capitol Square, Richmond, VA 23219, telephone (804) 786-3591 or Thomas C. Gilman, Chief Committee Clerk, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-5742

VIRGINIA COAL AND ENERGY COMMISSION

† **June 28, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

A meeting to review the Oil and Gas Act and regulation of independent power producers. HJR 214/HJR 438

Contact: Terry M. Barrett, Research Associate or John T. Heard, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE FREEDOM OF INFORMATION ACT

† **July 6, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Subcommittee will meet to discuss issues identified at organizational meeting, which are: administrative review (concurrent jurisdiction); parole board, police records; proprietary information and exemptions. HJR 246

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE LONG-TERM CARE INSURANCE MODEL REGULATION AND THE FEASIBILITY OF DESIGNATING FAMILY RESOURCES FOR LONG-TERM CARE OF DISABLED PERSONS

† **June 22, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

An organizational meeting of the study on long-term care insurance and the disabled person. HJR 332

Contact: Terry M. Barrett, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING CERTAIN PRACTICES OF PSYCHIATRIC PROFESSIONAL AND INSTITUTIONS

† **June 22, 1989 - 3 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

An organizational meeting. SJR 191

Contact: Gayle Nowell, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Tommy Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869

SUBCOMMITTEE STUDYING RECYCLING RESIDUES

† **June 19, 1989 - 2 p.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

An organizational meeting to set agenda for interim. HJR 384

Contact: John T. Heard, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

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JOINT SUBCOMMITTEE STUDYING SCHOOL DROPOUTS AND WAYS TO PROMOTE THE DEVELOPMENT OF SELF-ESTEEM IN YOUTH AND ADULTS

† June 22, 1989 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia

This is the initial meeting of HJR 336, a continued study from 1988 (HJR 124). HJR 336

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208 or Jeff Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227

JOINT SUBCOMMITTEE STUDYING STRUCTURE AND MANAGEMENT OPTIONS FOR THE VIRGINIA INDUSTRIES FOR THE BLIND PROGRAM

† June 20, 1989 - 1:30 p.m. - Open Meeting
Charlottesville City Hall, 605 East Main Street, Conference Room (basement level), Charlottesville, Virginia

First meeting of the interim for this study committee to establish working plans for remainder of year. Meeting to be followed by tour of the Charlottesville Workshop for the Blind. HJR 418

Contact: Gayle Nowell, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SURROGATE MOTHERHOOD

† June 20, 1989 - 2 p.m. - Open Meeting
State Capitol, Capitol Square, Senate Room 4, Richmond, Virginia. ☒

A regular meeting. SJR 178

Contact: Norma Szakal, Staff Attorney, 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) 786-3838

JOINT SUBCOMMITTEE STUDYING LAWS RELATING TO THE TOWING AND RECOVERY INDUSTRY

† June 20, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

An organizational meeting. SJR 206

Contact: Alan Wambold, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Thomas Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

† June 23, 1989 - 10 a.m. - Public Hearing
City Hall Council Chambers, 605 East Main Street, Charlottesville, Virginia

† July 10, 1989 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Public hearing of proposed regulations for Commission on VASAP Policy and Procedural Manual (including Case Management and Certification Manuals).

Contact: For additional information or persons wishing to speak contact: Kim Morris, Commission on VASAP, 1001 E. Broad St., Suite 245, Richmond, VA 23219, telephone (804) 786-5896

† July 10, 1989 - 1 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

To act on the comments received from the public hearings concerning the proposed regulations for the Commission on VASAP Policy and Procedure Manual (including Case Management and Certification Manuals).

Contact: Donald R. Henck, Ph.D., Executive Director, Old City Hall Bldg., Suite 245, Box 28, Richmond, VA 23219, telephone (804) 786-5896 or SCATS 786-5896

CHRONOLOGICAL LIST

OPEN MEETINGS

June 19

Cosmetology, Board for
Long-Term Care Coordinating Committee
† Recycling Residues, Subcommittee Studying
Safety and Health Codes Board, Virginia
Water Control Board, State

June 20

Auctioneers Board
Aviation Board, Virginia
Conservation and Historic Resources, Department of
- State Review Board

Calendar of Events

- Historic Landmarks Board
- Contractors, Board for
- Library Board
- Housing Development Authority, Virginia
- Long-Term Care Coordinating Committee
- Medicine, Board of

- Informal Conference Committee
- Nursing, Board of
- † Outdoors Foundation, Virginia
- † Safety and Health Codes Board Task Force on Certifying of Boiler and Pressure Vessels Operators
- † Soil and Water Conservation Board
- † Structure and Management Operations for the Virginia Industries for the Blind Program, Joint Subcommittee Studying
- † Surrogate Motherhood, Joint Subcommittee Studying
- † Towing and Recovery Industry, Joint Subcommittee Studying Laws Relating to the

June 21

- † Dentistry, Board of
- † Health Professions, Board of
 - Administration and Budget Committee
- † Milk Commission, State

June 22

- † Arlington County/City of Falls Church Local Emergency Planning Committee
- Chesapeake Bay Commission
- Commerce, Board of
- Funeral Directors and Embalmers, Board of
- † Long-Term Care Insurance Model Regulation and the Feasibility of Designating Family Resources for Long-Term Care of Disabled Persons, Joint Subcommittee Studying the
- † Psychiatric Professionals and Institutions, Joint Subcommittee Studying Certain Practices of
- † School Dropouts and Ways to Promote the Development of Self-Esteem in Youth and Adults, Joint Subcommittee Studying
- † Small Business Financing Authority, Virginia
- Vocational Education, Virginia Council on

June 23

- † Banking Services for Low Income Consumers, Joint Subcommittee Studying
- † Building Code Technical Review Board, State
- Chesapeake Bay Commission
- Family and Children's Trust Fund of Virginia
- † Game and Inland Fisheries, Board of
- Liaison Committee, Joint Board
- † Medicine, Board of
 - Informal Conference Committee
 - Legislative Committee
- Nursing, Board of
 - Special Conference Committee
- William and Mary, College of
 - Board of Visitors

June 26

- Alcoholic Beverage Control Board

- † Contractors, Board for
- Farmworkers Board, Governor's Migrant and Seasonal
 - Subcommittee on Informal Complaint Procedures
- Water Control Board, State

June 27

- Aging, Department for the
 - Long-Term Care Ombudsman Program Advisory Council
- Elections, State Board of
- Health Services Cost Review Council, Virginia
- Medicine, Board of
 - Informal Conference Committee
- Visually Handicapped, Department for the
 - Interagency Coordinating Council on Delivery of Related Services to Handicapped Children
- Water Control Board, State

June 28

- † Coal and Energy Commission, Virginia
- Marine Products Board, Virginia
- Board of Medicine
- Mental Health, Mental Retardation and Substance Abuse Services Board, State

June 29

- Education, State Board of
- Funeral Directors and Embalmers, Board of
- Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - Prevention and Promotion Advisory Council
- † Rehabilitative Services, Board of
 - Finance Committee
 - Legislative Committee
 - Program Committee

June 30

- Athletic Board,
- † Consolidated Laboratory Services Advisory Board, Division of
- Education, State Board of
- Lottery Board, State
- † Medicine, Board of
 - Informal Conference Committee
- † Rehabilitative Services, Board of
 - † Rights of the Disabled, Department for
 - Protection and Advocacy for Mentally Ill Individuals Advisory Council

July 3

- Waste Management, Department of

July 6

- Chesterfield County, Local Emergency Planning Committee of
- † Freedom of Information Act, Joint Subcommittee Studying the
- Longwood College
 - Board of Visitors

July 7

Calendar of Events

- † General Services, Department of
- Art and Architectural Review Board
Longwood College
- Board of Visitors
Voluntary Formulary Board, Virginia
- July 10**
† Virginia Alcohol Safety Action Program, Commission on
† Winegrowers Advisory Board, Virginia
- July 11**
Hopewell Industrial Safety Council
- July 12**
Conservation and Historic Resources, Department of
- Goose Creek Advisory Board
† Medical Assistance Services, Board of Pharmacy, Board of
† Safety and Health Codes Board Task Force on Certifying of Boiler and Pressure Vessels Operators
† Soil and Water Conservation Board
- July 13**
† Medical Assistance Services, Board of
- July 14**
† Children, Coordinating Committee for Interdepartmental Licensure and Certification of Residential Facilities for
Pork Industry Board, Virginia
Prison and Jail Overcrowding, Commission on
- July 15**
Visually Handicapped, Department for the
- Advisory Committee on Services
- July 18**
† Branch Pilots, Board for
- July 19**
Farmworkers Board, Governor's Migrant and Seasonal
- July 20**
Medicine, Board of
- July 21**
† Boating Advisory Board, Virginia
Medicine, Board of
- July 22**
Medicine, Board of
- July 23**
Medicine, Board of
- July 25**
Visually Handicapped, Department for the
- Interagency Coordinating Council on Delivery of Related Services to Handicapped Children
- July 27**
Education, State Board of
- July 28**
Education, State Board of
- August 1**
Hopewell Industrial Safety Council
- August 3**
Chesterfield County, Local Emergency Planning Committee of
- August 11**
† Children, Coordinating Committee for Licensure and Certification of Residential Facilities for
- August 22**
Visually Handicapped, Department for the
- Interagency Coordinating Council and Delivery of Related Services to Handicapped Children
- August 27**
Funeral Directors and Embalmers, Board of
- August 28**
Funeral Directors and Embalmers, Board of
- September 8**
† Children, Coordinating Committee for Licensure and Certification of Residential Facilities for

PUBLIC HEARINGS

- June 19**
Water Control Board, State
- June 21**
† Milk Commission, State
† Water Control Board, State
- June 22**
Health, Department of
† Small Business Financing Authority, Virginia
- June 23**
† Virginia Alcohol Safety Action Program, Commission on
- June 26**
Water Control Board, State
- June 29**
† Corporation Commission, State
- Bureau of Insurance
- July 7**
Voluntary Formulary Board, Virginia

Calendar of Events

July 10

Social Services, Department of
† Virginia Alcohol Safety Action Program, Commission
on

July 12

Pharmacy, Board of
Rehabilitative Services, Department of

August 3

† Corrections, Virginia Board of

August 15

Mental Health, Mental Retardation and Substance
Abuse Services, Department of

August 16

† Corrections, Virginia Board of

August 21

† Housing and Community Development, Board of
† Housing and Community Development, Department
of

August 31

† Education, Department of

September 11

† Hearing Aid Specialists, Board for

September 19

† Criminal Justice Services, Department of

September 27

† Agriculture and Consumer Services, Department of

