

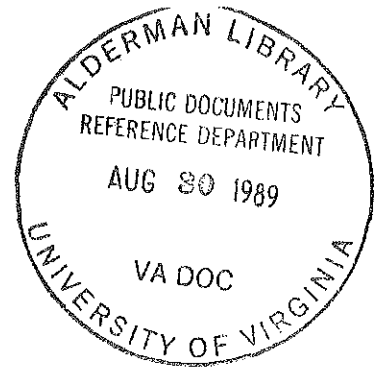
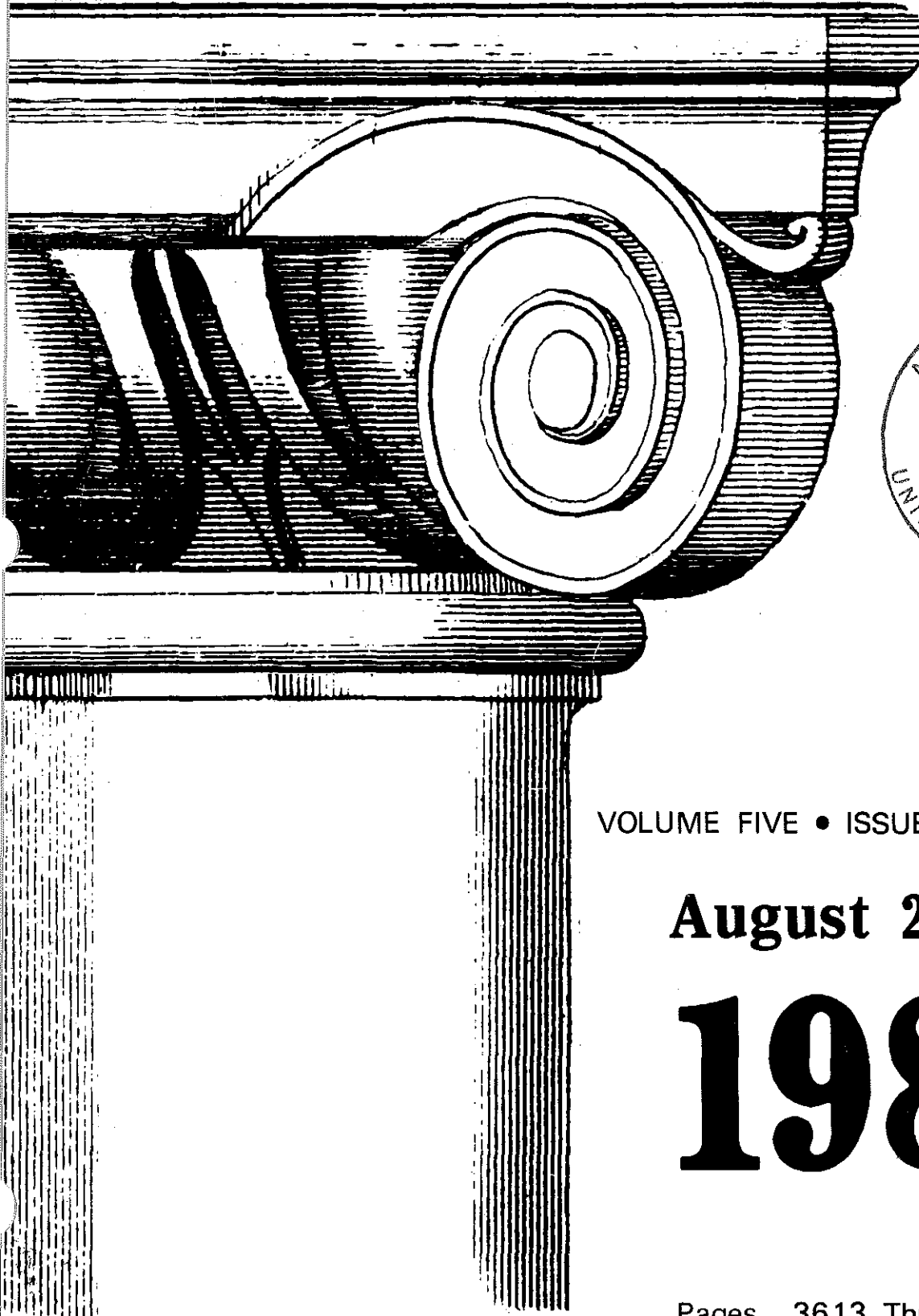
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THE VIRGINIA REGISTER

OF REGULATIONS

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August 28, 1989

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Pages 3613 Through 3790

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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July 26	Aug. 14
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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 HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

REGISTRAR'S NOTICE: The following regulation is exempted from the Administrative Process Act under the provisions of § 9-6.14:4.1 B 4 of the Code of Virginia, which excludes agency action relating to grants of state or federal funds or property.

Title of Regulation: VR 394-01-108. Migrant Housing Programs.

Statutory Authority: §§ 36-139 and 36-141 et seq. of the Code of Virginia.

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

Summary:

The proposed regulation sets forth the guidelines and eligibility requirements for loans and grants available under this program.

VR 394-01-108. Migrant Housing Programs.

PART I. INTRODUCTION.

§ 1.1. Introduction.

In response to the findings and recommendations of the State Migrant and Seasonal Farmworker Board, and others which cited the severe inadequacies in housing for migrant farmworkers in the Commonwealth, the 1989 General Assembly appropriated funds for establishing the Migrant Housing Program. The General Assembly designated the Department of Housing and Community Development to administer this new state initiative, and further directed the department to allocate additional funds to implement the program. The program has the goal of increasing the number of decent and sanitary migrant farmworker housing units in the Commonwealth. The program provides grants for rehabilitation and new construction to growers who employ migrant farmworkers in conjunction with their agriculture operation. The grant funds may not exceed 50% of the total project cost and are only available to growers. Low interest loan and energy grants are also available under the program, and are available to nonprofit groups and governmental entities as well as growers. Energy grants may be used only for eligible energy-related improvements undertaken as part of a rehabilitation project.

The program is funded at \$700,000 for the 1989-90 fiscal year. This includes \$250,000 in grants, \$350,000 in loans and \$100,000 in energy grants. Interested growers, nonprofit organizations and government entities (including housing authorities) may apply to the department for funds.

PART II. DEFINITIONS.

§ 2.1. Definitions.

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

"Application" means the request, on behalf of the applicant to the state, for a loan or grant fund reservation under the Migrant Housing Program.

"DHCD" means the Department of Housing and Community Development.

"Energy grant" means a grant, available as a result of federal energy litigation, which may be awarded to pay for certain energy-related improvements within the Migrant Housing Program.

"Energy-related improvements" means physical improvements to structures that are being rehabilitated, which contribute to fuel cost savings and less overall energy consumption, and which have been so designated by the department. They may include installation or replacement of storm doors and windows; caulking and weatherstripping; roof, floor and wall repair as associated with insulation improvements; and furnace repair.

"Grant" means a grant made available as a result of an appropriation from the 1989 General Assembly, under the Migrant Housing Program for new construction or rehabilitation of migrant housing. These grant funds are only available to growers.

"Grant agreement" means the agreement between DHCD and the project sponsor pertaining to the terms and conditions provided within the Migrant Housing Program.

"Grower" means a farmer, an owner of an agriculture-based business or associations of these businesses which employ or intend to employ migrant farmworkers for crop production or processing.

"Grantee" means a grant recipient under the Migrant

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Housing Program.

"Loan" means a loan made under the Migrant Housing Program.

"Loan note" means the agreement between DHCD and the program sponsor pertaining to the terms and conditions governing loans under in the Migrant Housing Program including repayment provisions.

"Locality" means a city or county.

"Migrant housing" means shelter which is provided to migrant farmworkers and their families during the term of their employment.

"Migrant farmworkers" means those employees of growers who establish residence temporarily in relation to agricultural labor demands.

"Project sponsor" means a nonprofit, incorporated organization, governmental entity, or grower that houses or intends to house migrant farmworkers.

"Rehabilitation" means substantial physical improvements/repairs to a facility which will secure it structurally, correct building, health or fire safety code related defects, increase energy efficiency and assure safe and sanitary operation.

PART III. ELIGIBILITY.

§ 3.1. Eligible applicants.

1. Growers that operate farms or agriculture related businesses in the Commonwealth of Virginia;
2. Nonprofit organizations incorporated under Virginia law; or
3. Units of local government (cities, counties, and towns) and other governmental entities including redevelopment and housing authorities.

§ 3.2. Eligibility requirements.

Individuals or entities wishing to apply for funds under this program must meet the following requirements:

1. Provide or intend to provide decent and sanitary housing for migrant farmworkers;
2. Operate within the Commonwealth of Virginia.

§ 3.3. Eligible activities.

Project sponsors under this program may undertake any of the following activities:

1. New construction;

2. Rehabilitation, including energy improvements;

3. Acquisition of standard housing, resulting in new migrant units;

4. Acquisition and rehabilitation of substandard housing.;

§ 3.4. Operational requirements.

The following operational requirements pertain to projects funded under this initiative:

1. Shall provide migrant housing during term of loan or grant.
2. Shall maintain property during term of loan or grant, to qualify it for continued occupancy by migrant farmworkers.
3. Shall not charge rent to migrant residents.
4. Shall practice nondiscrimination in the provision of migrant housing, and in the provision of any support services.
5. Shall operate a facility that is in compliance with applicable state and local health, building and fire safety codes, or agree to make necessary improvements/repairs for such code compliance on such schedule as DHCD shall determine.

PART IV. DISTRIBUTION OF FUNDS.

§ 4.1. Distribution of funds.

A. Funding priority.

There are no set asides although DHCD shall endeavor to fund both new construction and rehabilitation projects and to achieve equitable geographic distribution. General improvement grant funds will be available only to growers. Loan funds and energy grants will be made available to nonprofit organizations and governmental entities as well.

B. Competitive ranking.

All initial applications will be competitively ranked by DHCD within the areas of program design, project readiness, need for migrant housing or expansion requirements, leveraging of other resources, and cost effectiveness. (Total 100 points available.) Further explanation of selection criteria is as follows:

Completeness of Application - (20 points). The thorough presentation of the proposed project, as it relates to description of labor and migrant housing needs, the acquisition or construction which will meet the needs, and commitment of additional funding sources.

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Project Readiness - (30 points available). Firmness of any other funds required for the project, including documentation which indicates status of permits, use, health department, building drawings, cost estimates, work write-ups and other appropriate factors which indicate that the project will move forward in a timely fashion if funded.

Need for migrant housing or expansion requirements - (10 points available). Based on current condition of existing housing or need for expansion of housing supply.

Leveraging - (20 points available). Documented amount of other monetary resources to be contributed to this project by the applicant.

Cost effectiveness - (20 points available). Comparison of total project cost to the numbers of migrant farmworkers and their families which will benefit from the project.

C. Noncompetitive round.

If any funds remain following the expiration of the competitive round, the balance of the funds will be available on the first come - first serve basis.

D. Maximum amount per application.

There is no maximum amount available per loan or grant application. Funding decisions will be based on project feasibility and need per selection criteria and subject to funds availability. Awards may be offered in amounts below request.

PART V. LOAN AND GRANT TERMS AND CONDITIONS.

§ 5.1. Loan and grant terms and conditions.

A. Loans will have a 3.0% interest rate for a term of up to 15 years. Recipients will sign a note and deed of trust. Projects funded totally by loan funds shall be available to house migrant farmworkers and their families and shall be maintained suitable to migrant occupancy for the term of the loan.

B. Grants must be repaid to the Commonwealth during the first 10 years after the closing of the grant(s) if the property ceases to be occupied by migrant farmworkers and their families or if the property ceases to be maintained to post-rehab standards. The grants will be forgiven one-tenth per year.

C. Energy grants are forgiven after five years, with the same residency and property maintenance standards as migrant housing grants.

D. All loans and grants must be fully secured by a lien against the sponsor's property or other form of security

acceptable to DHCD.

E. The Virginia Housing Development Authority (VHDA) will disburse funds and collect payments for loans on behalf of DHCD in accordance with such schedules as DHCD shall approve.

F. The loan or grant may be assumed provided the new borrower continues to comply with the requirements of the loan or grant agreement, and approval is given to DHCD.

G. Migrant housing loans may not be prepaid unless authorized by DHCD.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

Title of Regulation: VR 425-01-64 Standard for Boiler and Pressure Vessel Operator Certification.

Statutory Authority: § 15.1-11.6 of the Code of Virginia.

Public Hearing Date: November 15, 1989 - 10 a.m.
(See Calendar of Event for section for additional information)

Summary:

The proposed regulation provides a uniform standard to be used by the governing bodies of counties, cities and towns which have adopted ordinances requiring the certification of boiler and pressure vessel operators.

Operators are classified either as a Class 1 Operator with authorization to operate any steam plant or as a Class 2 Operator limited to high pressure steam plant of 500 boiler horsepower or less, heating plants having low pressure steam boilers with pump return, and hot water plants.

If an individual holds a valid license or certificate pursuant to Chapter 3.1 (§ 40.1-51.5 et. seq.) of Title 40.1 of the Virginia Code, i.e., the Boiler and Pressure Vessel Safety Act, or is currently certified under this standard by another local jurisdiction, certification under this standard would not be required.

If an applicant presents a valid license or certificate from any other state or local government outside the Commonwealth and provides documentation that the requirements for such license or certificate are equal or greater to those established under this standard, certification under this standard may be provided without examination.

The local jurisdiction shall establish an agent or board to whom applications for certification will be made. Such agent or board will also issue the

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certificates of competency. A written test is to be supplied and evaluated by the department. The locality shall set its own fee and renewal structure.

The draft also provides for specific cases of exemption, reexamination, a maximum penalty, a basis for revocation and an appeals process.

VR 425-01-64. Standard for Boiler and Pressure Vessel Operator Certification.

§ 1. Definitions.

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

"Accredited" means accredited by an accrediting body recognized by the U.S. Department of Education.

"Act" refers to § 15.1-11.6 of the Code of Virginia.

"Agent" means the agent established by a county, city or town, under local ordinance to examine and determine an applicant's qualifications for certification under the Act.

"Approved" means acceptable to the Commissioner of Labor and Industry.

"Board" means the board established by a county, city or town, under local ordinance to examine and determine an applicant's qualifications for certification under the Act.

"Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat. The term "boiler" shall include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

"Boiler horsepower" shall be defined as (i) the evaporation of 34.5 pounds of steam per hour from and at 212°F; or (ii) 33475 British Thermal Units (B.T.U.) per hour; or (iii) 140 square feet of steam radiation; or (iv) 224 square feet of water radiation at 150°F; or (v) 10 kilowatt per hour electrical input to boiler.

"Boiler operator" means an individual who would normally be the senior operational and maintenance person at the site of the boiler who would be expected to react to changing operational and maintenance situations.

"Certificate of Competency" means a certificate issued to a person who has passed the prescribed examination as provided in subsection C of § 3 of these regulations.

"Commissioner" means the Commissioner of the Department of Labor and Industry.

"Department" means the Department of Labor and Industry.

"High pressure boiler" means a steam boiler where the safety valve(s) is (are) set to relieve at a pressure of more than 15 pounds per square inch.

"Horsepower rating of a boiler" for the purpose of this standard shall be the largest rating determined in accordance with each of the following (i) by dividing the square feet of boiler heating surface by 10; or (ii) the manufacturer's rated output in horsepower; or (iii) where the manufacturer's rated output is expressed in terms other than horsepower, such rating converted into horsepower by the use of one of the factors as defined in these standards.

"Hot water heating boiler" means any hot water boiler operated at pressures not exceeding 160 pounds or temperatures not exceeding 250°F.

"Jurisdiction" as referred to in this standard shall mean counties, cities and towns in the Commonwealth.

"Low pressure boiler" means a steam boiler where the safety valve(s) is (are) set to relieve at a pressure of 15 pounds per square inch or less and hot water heating boilers.

"Pressure vessel" as referred to in this standard shall be any vessel in which (i) the pressure is obtained from an external source, or by an internal or external application of heat; and (ii) is an auxiliary to a boiler plant.

§ 2. Authority and application.

A. This standard is established in accordance with § 15.1-11.6 of the Code of Virginia for use by counties, cities and towns for the certification of boiler and pressure vessel operators.

B. This standard shall apply to any person who engages in, or offers to engage in, for the general public for compensation, the operation or maintenance of a boiler or pressure vessel. All jurisdictions who choose to regulate the certification of boiler and pressure vessel operators shall utilize this standard for control of certification within the Commonwealth.

C. This standard shall not affect licensing or inspection under any other provision of the Code of Virginia.

D. Localities shall forward a copy of their certification ordinance upon adoption or amendment to the Office of Boiler and Pressure Vessel Safety in the Virginia Department of Labor and Industry.

E. The Department of Labor and Industry will provide advisory interpretations concerning applications of this standard upon request.

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F. This standard shall not apply to any person who, in his capacity as an employee, is engaged in the operation or maintenance of a boiler or pressure vessel owned by his employer.

§ 3. Certification.

A. Boiler operators and pressure vessel operators covered under this standard shall be duly certified in the proper class by the examining agent or board of the jurisdiction adopting a boiler certification ordinance.

B. The agent or board shall be appointed by the adopting jurisdiction. Any such agent or board shall provide for the examination of applicants for boiler and pressure vessel operator certification no less than 12 times per year.

C. The written examination for boiler operator certification shall be provided and evaluated by the Chief Boiler Inspector of the Commonwealth, or his designee, and be administered by the agency or board.

Such examination shall include questions, diagrams and practical tests of sufficient scope to demonstrate that the applicant has the necessary qualifications, experience and knowledge of the basic principles involved in operation, care and maintenance to operate safely the boiler and auxiliary pressure vessels of the class for which an application for certification has been made.

Specific competencies shall include, but not be limited to the following:

1. Principles of boiler design;
2. General operation practices;
3. Effects of water treatment;
4. Inspection requirements; and
5. Emergency shutdown procedures.

D. The class of certification and the training and experience requirements are as follows:

1. Class-1 Boiler Operator - To take charge of and operate any steam plant.

Requirements:

Two years experience as an operator of high pressure boiler beyond that experience which is required for a Class-2 Operator.

A baccalaureate degree in mechanical engineering from an accredited college, university or school of technology or successful completion of an approved boiler operator apprenticeship program may be substituted for one year of the required experience.

2. Class-2 Boiler Operator - To take charge of and operate any of the following:

- a. A high pressure steam plant where the total horsepower rating of the boiler is not in excess of 500 boiler horsepower, or a combination of high pressure boilers and heating boilers and auxiliary pressure vessels; or
- b. A heating plant having low pressure boilers with a pump return with no limitation on total capacity; or
- c. A heating plant having hot water heating boilers, with no limitation on total capacity.

Requirements:

At least two years experience in a high pressure steam plant of more than 75 boiler horsepower as an assistant boiler operator, fireman or oiler; or

Four years experience in a plant of not less than 50 boiler horsepower (7,000 square feet of steam radiation or 11,200 square feet of water radiation at 150°F).

A baccalaureate degree in mechanical engineering from an accredited college, university or school of technology or successful completion of any approved boiler operator apprenticeship program may be substituted for one year of the required experience.

E. In cases where a boiler operator has been operating a plant for a period of at least one year prior to the effective date of implementation of these standards by the adopting jurisdiction, or where the classification of such a boiler operator has been changed by this standard, such an operator may be conditionally certified by the agent or board in order that the operator may continue operation of that plant and no other. A suitable endorsement should be noted on his certification documents.

F. Application for examination in the class of certification shall be made on an approved form provided by the agent or board of the adopting jurisdiction. A notarized statement of education, training and experience in operating steam boilers or low pressure boiler plants and auxiliary pressure vessels shall be provided with the application.

G. No certification shall be required of an individual holding a valid license or certificate, under Chapter 3.1 (§ 40.1-51.5 et. seq.) of Title 40.1 of the Code of Virginia, or certified under this standard by another jurisdiction. An applicant who holds a valid certificate or license from any other state or local government outside the Commonwealth may be certified without examination upon the presentation of the following to the agent or board:

1. A valid certificate or license from that authority;

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and

2. The certification or licensure requirements of that authority;

provided that the authority's requirements for certification or licensure are equal to or greater than those established under this standard.

H. Applicants must successfully complete an examination and the other requirements to be deemed certified, except as indicated in subsection G above.

I. The agent or board shall receive and evaluate the applications and examinations and issue certificates of competency to applicants successfully completing the examination process.

J. The agent or board of the adopting jurisdiction may certify an applicant at a lower class than that for which the applicant was examined, if it is determined that an applicant lacks either experience or requisite knowledge of the class applied for.

K. Applicants who fail to pass the required examination may not be reexamined until 90 days after the date of the last examination.

L. Applicants shall be notified in writing by the agent or board of the results of their application within 30 days of the examination date.

M. The certification fee shall be established by the adopting jurisdiction.

N. Certificates of competency shall be provided by the department and issued by the adopting jurisdiction at a frequency established by the adopting jurisdiction.

O. When a certificate of competency has been lost or destroyed, the owner shall present a notarized statement to that effect and pay the fee established by that jurisdiction for issuance of a duplicate certificate.

§ 4. Reexamination.

Reexamination will be required when certification has been allowed to lapse. Reexamination for a lapsed certificate is unnecessary where the following conditions apply:

1. That such certification was not revoked during the period for which it was issued, and was valid on the date of expiration; and
2. That application for renewal has been made in writing within 30 days from the date such certification expired; and
3. If a certificate expires while the holder is in service of the U.S. Armed Forces, the certificate may

be renewed without examination upon presentation of the expired certificate to the examining agent or board within six months after discharge with proof that the holder was serving on active duty at the time of expiration. The established renewal fee shall be paid, and the new expiration date shall be established by the examining board.

§ 5. Exemptions from certification.

A. Exempt from certification are operators of:

1. Boilers and pressure vessels on boats or vessels operated under the regulations of the Marine Inspections, U.S. Coast Guard;
2. Steam driven vehicles used solely for traction or show purposes;
3. Hot water heating boilers having total boiler horsepower not exceeding 100 horsepower (22,400 square feet of water radiation at 150°F.);
4. Low pressure steam boilers having gravity or trap returns; and
5. Nuclear plant facilities under the control of the Nuclear Regulatory Commission.

B. Notwithstanding exemptions listed above, no provision herein shall be construed as authorizing or permitting operation of a boiler without a valid and unexpired certificate, where an ordinance requiring such a certification has been adopted.

§ 6. Penalties.

Section 15.1-11.6 of the Code of Virginia provides that penalties for noncompliance with this standard shall be set and levied by the governing body of a jurisdiction and may not exceed those penalties for a Class 3 misdemeanor.

§ 7. Revocation of certification.

The agent or board of the adopting jurisdiction may revoke a Certificate of Competency for either of the following:

1. Any misrepresentation in obtaining or renewing the certification; or
2. Negligence or incompetence in the practice of the profession.

§ 8. Appeals.

A. An individual may appeal a determination of the agent or board of the adopting jurisdiction in regard to:

1. The application of these standards.

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2. A decision of the agent or board.

B. Each local governing body shall establish a method of appeals.

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-3-400.1. Corporation Income Tax: Telecommunications Companies.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Public Hearing Date: October 27, 1989 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

Effective for taxable years beginning on and after January 1, 1989, telecommunications companies formerly subject to the state license tax on gross receipts, administered by the State Corporation Commission, will be subject to the Virginia corporation income tax. This change is the result of legislation enacted by the 1988 Virginia General Assembly (1988 Acts, Chapter 899).

Telecommunications companies will be subject to the greater of the Virginia corporation income tax or to the minimum tax based on gross receipts. In order to minimize the effects of the transition from the license tax on gross receipts to the corporation income tax, the full corporate income tax will be phased in over a 10-year period from 1989 through 1998. During this phase in period, telecommunications companies, which pay the corporate income tax, may be allowed a credit against the tax under certain conditions. If a company is subject to the minimum tax, it will not be eligible for a credit.

While the Department of Taxation will administer the taxation of telecommunications companies, the SCC will make all determinations regarding a company's status as a telecommunications company. The SCC will determine and certify the amount of gross receipts, as defined by law, to the department annually.

VR 630-3-400.1. Corporation Income Tax: Telecommunications Companies.

§ 1. Definitions.

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

"Calendar year" means a 12-month period beginning on January 1 and ending on December 31.

"Company" means a telecommunications company as

certified by the State Corporation Commission to the Department of Taxation.

"Department" means the Department of Taxation.

"Gross receipts" means the amount of "gross receipts" certified to the Department of Taxation by the State Corporation Commission. This amount is defined in § 58.1-400.1 of the Code of Virginia to mean all revenue from business done within the Commonwealth, including the proportionate share of interstate revenue attributable to the Commonwealth, if such inclusion will result in annual gross receipts exceeding \$5 million, with the following deductions:

1. Revenue billed on behalf of another such telephone company or person to the extent such revenues are later paid over to or settled with that telephone company or person; and

2. Revenues from carrier access charges received from a telephone company which is holding a certificate of public convenience and necessity from the State Corporation Commission or from a telephone utility company providing interstate communications service, together with all revenue from billing and collection amounting to less than \$500,000 per year, and all revenues from shared network facilities agreements established under federal court order and like revenue received by other local exchange carriers.

"License tax" means the tax imposed on a telecommunications company under Article 2 of Chapter 26 (§ 58.1-2600 et seq.) of the Code of Virginia.

"Minimum tax on telecommunications companies" or "minimum tax" means an amount of tax computed as a specified percent of the gross receipts of a telecommunications company pursuant to § 58.1-400.1 of the Code of Virginia.

"NOL" means net operating loss.

"NOLD" means net operating loss deductions.

"SCC" means the State Corporation Commission

"Sales" means the gross receipts of the telecommunications company from all sources not allocated under § 58.1-407 of the Code of Virginia regardless of whether or not such receipts are included in the amount of gross receipts, as defined above.

"Taxable year" means the calendar or fiscal year for federal income tax purposes.

"Telecommunications company (TC)" means a company certified to the Department of Taxation by the State Corporation Commission as a telecommunications company. Such a company is defined in § 58.1-400.1 of the Code of

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Virginia to mean a telephone company or other person holding a certificate of convenience and necessity granted by the State Corporation Commission authorizing local exchange telephone service, interexchange service, radio common carrier system or a cellular mobile radio communications system, or holding a certificate issued pursuant to § 214 of the Communications Act of 1934, as amended, authorizing telephone service; or a telegraph company or other person operating the apparatus necessary to communicate by telegraph.

"Telecommunications company income tax credit" means an amount computed with regard to the gross receipts of a telecommunications company available to offset the corporate income tax imposed on such company under § 58.1-400 of the Code of Virginia.

§ 2. Tax administration.

A. Generally.

Effective for taxable years beginning on and after January 1, 1989, telecommunications companies formerly subject to the license tax on gross receipts, administered by the State Corporation Commission (SCC), will be subject to the Virginia corporation income tax. This change is the result of legislation enacted by the 1988 Virginia General Assembly (1988 Acts, Chapter 899).

B. State Corporation Commission.

While no longer subject to the state license tax on gross receipts or to the state pole line tax, telecommunications companies will still pay regulatory revenue taxes to the SCC based on gross receipts (§§ 58.1-2660 through 58.1-2665 of the Code of Virginia). The SCC will continue to be the central state agency responsible for the assessment of all property of telecommunications companies.

The SCC will make all determinations regarding a company's status as a telecommunications company. The SCC will determine and certify the amount of gross receipts, as defined by law, to the department annually.

Telecommunications companies may petition the SCC for review and correction of the company's status or the amount of gross receipts certified. The petition should be in compliance with the Rules of Practice and Procedures of the SCC.

C. Department of Taxation.

For taxable years beginning on and after January 1, 1989, telecommunications companies will be subject to the greater of the Virginia corporation income tax or to a minimum tax based on gross receipts. In order to minimize the effects of the transition from the license tax on gross receipts to the corporation income tax, the full corporate income tax will be phased in over a 10-year period from 1989 through 1998. During this phase in period, telecommunications companies, which pay the

corporate income tax, may be allowed a credit against the tax under certain conditions. If a company is subject to the minimum tax, it will not be eligible for a credit.

D. Other regulations.

Except as provided in this regulation, the provisions of all regulations adopted pursuant to § 58.1-203 of the Code of Virginia to interpret Title 58.1 of the Code of Virginia are applicable to the taxation of telecommunications companies by the Department of Taxation.

§ 3. Imposition of tax.

A. Generally.

Telecommunications companies must calculate both their minimum tax as provided in § 4 and their income tax liability as provided in § 5 for each taxable year. For each taxable year, the tax liability of a telecommunications company will be the greater of its minimum tax or of its corporate income tax.

B. Amended return.

If due to a change in federal taxable income, or for any other reason, the Virginia taxable income or gross receipts of a telecommunications company is changed, an amended return must be filed. The minimum tax and corporate income tax must be recomputed to determine which tax is applicable to the telecommunications company.

EXAMPLE 1: Telecommunications Company (TC) is a calendar year filer for federal income tax purposes. For calendar year 1990, it has \$200,000 in gross receipts and Virginia taxable income equal to \$35,000. TC's minimum tax liability is \$2,400 ($\$200,000 \times 1.2\%$) and its Virginia income tax is \$2,100 ($\$35,000 \times 6.0\%$). Because TC's minimum tax liability exceeds its income tax liability, it is subject to the minimum tax and must pay \$2,400 in tax.

EXAMPLE 2: Same facts as in Example 1. In 1993 the Internal Revenue Service audits TC for calendar year 1990 and determines that the company overreported its wage expense by \$6,000; thus TC's federal taxable income for calendar year 1990 was underreported by \$6,000. TC subsequently amends its Virginia income tax return for calendar year 1990 to report the additional \$6,000 in taxable income. The amended return still shows a minimum tax liability of \$2,400 (no change in gross receipts) and an income tax liability of \$2,460, 6.0% of ($\$35,000 + 6,000$). Since TC's income tax liability is now higher than its minimum tax liability, it is now subject to the income tax. TC owes the department \$60 ($\$2,460 - \$2,400$).

§ 4. Minimum tax on telecommunications companies.

A. Generally.

Effective for any taxable year that includes January 1,

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1989, or begins after January 1, 1989, a telecommunications company may be subject to a minimum tax. The minimum tax will be applicable when such tax exceeds the corporate income tax imposed under § 58.1-400 of the Code of Virginia.

B. Determination of gross receipts.

For each taxable year, the minimum tax of a telecommunications company is computed on the gross receipts of such company for the calendar year which ends during the taxable year.

If a company files an income tax return for a period of less than 12 months, the minimum tax is computed on the gross receipts for the calendar year which ends during the taxable period. If no calendar year ends during the taxable period, the minimum tax is computed on the gross receipts of the most recent calendar year which ended before the taxable period.

For taxable years that begin before January 1, 1989, include January 1, 1989, and end before December 31, 1989, the minimum tax is computed on the gross receipts received during calendar year 1988. The minimum tax rate applicable to calendar year 1989 shall be used.

EXAMPLE 1. If Company A's taxable year begins on April 1, 1990, and ends March 30, 1991, the minimum tax would be computed on the gross receipts for calendar year 1990.

EXAMPLE 2. Company B, a calendar year filer, goes out of business on April 30, 1992. For income tax purposes, its taxable year begins on January 1, 1992, and ends on April 30, 1992. Its minimum tax would be computed on the gross receipts for calendar year 1991.

C. Minimum tax rate.

In computing the minimum tax, a telecommunications company will use the minimum tax rate applicable to the calendar year as determined in subsection B above. The applicable minimum tax rate for each calendar year will be phased down in accordance with the rate schedule set forth in § 58.1-400.1 of the Code of Virginia, as follows:

Gross Receipts Earned During Calendar Year	Minimum Tax Rate
1989	1.2% of gross receipts
1990	1.2% of gross receipts
1991	1.0% of gross receipts
1992	0.9% of gross receipts
1993	0.8% of gross receipts
1994	0.7% of gross receipts
1995	0.6% of gross receipts
1996 and years thereafter	0.5% of gross receipts

D. Computation of minimum tax.

1. Generally. For each taxable year, the minimum tax liability of a telecommunications company is computed by multiplying the gross receipts for the calendar year specified in subsection B by the minimum tax rate specified in subsection C.

EXAMPLE: For taxable year 1991, Telecommunications Company (TC) files its federal and Virginia income tax return on a fiscal year basis for the year beginning July 1, 1991, and ending June 30, 1992. For taxable year 1991, TC bases its minimum tax liability on its gross receipts earned during calendar year 1991, which is multiplied by the minimum tax rate for calendar 1991 (1.0%) to compute its minimum tax liability.

2. Short taxable periods. If the income tax return is filed for a taxable period of less than 12 months, the minimum tax should be computed as follows:

a. Compute the minimum tax as set forth in subsection D 1 above.

b. Prorate the tax by multiplying the minimum tax by the number of months in the short taxable period divided by 12.

EXAMPLE: The same facts as in the example above, except that TC goes out of business on December 31, 1991, and files a short taxable period return for the period beginning July 1, 1991, and ending December 31, 1991. TC bases its minimum tax liability on its gross receipts earned during calendar year 1991. The amount of gross receipts earned during calendar year 1991 is multiplied by the minimum tax rate for calendar year 1991 (1.0%) and the result is multiplied by 6/12 (the number of months in the short taxable period divided by 12) to compute its minimum tax liability.

§ 5. Corporation income tax.

A. Generally.

With the exception of the differences set forth in these regulations, a telecommunications company shall compute its Virginia taxable income and corporation income tax in accordance with the requirements applicable to corporations generally.

B. Business entirely within Virginia.

1. Generally. For purposes of determining if the entire business of a telecommunications company is conducted within Virginia, the provisions of § 58.1-405 of the Code of Virginia and VR 630-3-405 shall be applicable.

2. Computation of income tax. If under the provisions of subdivision 1 of this section, it is determined that the entire business of a telecommunications company is conducted within Virginia, the tax imposed by § 58.1-400 of the Code of Virginia shall be upon the

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entire Virginia taxable income.

C. Allocation and apportionment.

1. Generally. The Virginia taxable income of a telecommunications company which is subject to taxation both within and without Virginia, as defined in § 58.1-405 of the Code of Virginia and VR 630-3-405, shall be allocated and apportioned its Virginia taxable income as provided in §§ 58.1-407 through 58.1-416 of the Code of Virginia and regulations adopted pursuant to these sections and subject to the special requirements set forth below.

2. When sales are deemed to be made in Virginia. In determining when a sale, other than a sale of tangible personal property, occurs in Virginia, the location of the income producing activity must be determined. (Section 58.1-416 of the Code of Virginia and VR 630-3-416.)

For purposes of this regulation, the income producing activity is presumed to occur in Virginia for any services or charges billed to a Virginia service address, except that with respect to charges for interstate communications services, more income producing activity will be presumed to occur in Virginia than in any other state if both:

- a. Communications either originate or terminate within Virginia; and
- b. The charge for the communication is billed to a service address within Virginia.

3. Computation of income tax. The corporation income tax of a telecommunications company subject to taxation both within and without Virginia shall be computed in the same manner as any other corporation subject to taxation both within and without Virginia.

D. Net operating loss modifications.

In addition to the modifications applicable to corporations generally, telecommunications companies are required to make the following modifications to federal taxable income in the computation of Virginia taxable income:

1. Addition for net operating loss deduction. If federal taxable income for any taxable year has been reduced by a net operating loss deduction (NOLD) attributable to a net operating loss incurred in a taxable year beginning before January 1, 1989, then such NOLD must be added to federal taxable income.

2. Subtraction for net operating loss deduction. Because federal law required a NOLD to be carried back to the earliest year in which there is income to be offset, a telecommunications company incurring a

net operating loss in a taxable year beginning on or after January 1, 1989, might be required to carry such loss back to taxable years beginning before January 1, 1989. Since a telecommunications company was not subject to Virginia income tax for years beginning before January 1, 1989, it would receive no Virginia benefit from such carryback, and the NOLD for other taxable years would be reduced or eliminated by the required federal carryback.

In this situation, telecommunications companies must add back the NOLD actually allowed on their federal returns for taxable years beginning before January 1, 1989, which is attributable to a loss occurring in a taxable year beginning on or after January 1, 1989. A new NOLD is computed for Virginia purposes following the federal law and regulations except that no such loss is carried back to a taxable year beginning before January 1, 1989.

EXAMPLE 1: XYZ Co. is a telecommunications company reporting on a calendar year basis. For the years 1986 - 1992 XYZ Co. had no additions or subtractions to federal taxable income except for an adjustment for net operating loss deductions. The income of XYZ is as follows:

Federal taxable income before	1985	1986	1987	1988	1989
NOLD	50,000	50,000	25,000	(150,000)	75,000
NOLD	(50,000)	(50,000)	(25,000)	-	(25,000)
Federal taxable income	-0-	-0-	-0-	-0-	50,000
Virginia NOL adjustment					25,000
Virginia taxable income				(Virginia income tax not imposed)	75,000

Under federal law the 1988 net operating loss is first carried back to offset 1985, 1986 and 1987 income. There would be \$25,000 of the NOL remaining to be carried forward and deducted on XYZ Co.'s 1989 federal return. Because the loss occurred in a taxable year beginning before January 1, 1989, the NOLD on the 1989 return must be added to federal taxable income to determine Virginia taxable income.

EXAMPLE 2: Same facts as Example 1 except that the loss occurred in 1990. The income of XYZ Co. is as follows:

Federal taxable income before	1987	1988	1989	1990	1991
NOLD	25,000	25,000	75,000	(100,000)	75,000
NOLD	(25,000)	(25,000)	(50,000)	-	-0-
Federal taxable income	-0-	-0-	25,000	-0-	75,000
Virginia NOL adjustment			+50,000	(Virginia income)	(75,000)
Virginia taxable income			(Tax not imposed)	-0-	-0-
					50,000

Under federal law the 1990 net operating loss is first carried back to offset 1987 and 1988 income. The remaining \$50,000 NOL is carried back to the 1989

federal return.

Because the loss occurred in a taxable year beginning on and after January 1, 1989, the entire NOL will be available to offset Virginia income reported in taxable years beginning on and after January 1, 1989. The federal NOLD of \$50,000 is first added to the 1989 federal taxable income and then a new Virginia NOL carryback is computed and subtracted. The federal laws and regulations are followed except that no NOL shall be carried back further than 1989. The result is that the carryback to 1989 is \$75,000 instead of \$50,000 and there is still \$25,000 of the NOL left to carryover to the 1991 return.

3. In addition to the above modifications, since the carryback of a NOLD results in a change in federal taxable income, the minimum tax and corporate income tax must be recomputed to determine which tax is applicable to the telecommunications company. See § 3 B.

§ 6. Telecommunications company income tax credit.

A. In general.

If a telecommunications company is subject to the corporation income tax under § 58.1-400 of the Code of Virginia because its corporation income tax exceeds the minimum tax under § 58.1-400.1 of the Code of Virginia, the telecommunications company may be eligible for a credit against the corporation income tax. This credit is only applicable when the corporation income tax exceeds 1.3% of the gross receipts of the company. The amount of credit available against the corporation income tax will be phased out over a ten-year period from 1989 through 1989.

B. Determination of gross receipt.

For each taxable year, the telecommunications company income tax credit is computed on the gross receipts of such company for the calendar year which ends during the taxable year.

If a company files an income tax return for a period of less than 12 months, the telecommunications company income tax credit is computed with reference to the gross receipts for the calendar year which ends during the taxable period. If no calendar year ends during the taxable period, the telecommunications company income tax credit is computed with reference to the gross receipts of the most recent calendar year which ended before the taxable period.

For taxable years that begin before January 1, 1989, include January 1, 1989, and end before December 31, 1989, the credit is computed with reference to the gross receipts received during calendar year 1988 (prorated by the number of months in the taxable period divided by 12). The credit rate applicable to taxable year 1989 shall

be used.

EXAMPLE 1: If Company A's taxable year begins on April 1, 1990, and ends March 30, 1991, the telecommunication company income tax credit for taxable year 1990 would be computed on the gross receipts for calendar year 1990.

EXAMPLE 2: Company B, a calendar year filer, goes out of business on April 30, 1992. For federal income tax purposes, its taxable year begins on January 1, 1992, and ends on April 30, 1992. Its telecommunications company income tax credit for taxable year 1992 would be computed on the gross receipts for calendar year 1991.

C. Credit amount.

As set forth in § 58.1-434 of the Code of Virginia, the following credit is allowable to telecommunications companies to offset the tax imposed under § 58.1-400 of the Code of Virginia:

Taxable Year: 1989

Tax Credit: 80% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1990

Tax Credit: 70% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1991

Tax Credit: 60% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1992 and 1993

Tax Credit: 50% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1994

Tax Credit: 40% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1995 and 1996

Tax Credit: 30% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1997

Tax Credit: 20% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

Taxable Year: 1998

Tax Credit: 10% of the amount by which the tax imposed by § 58.1-400 exceeds 1.3% of gross receipts.

EXAMPLE: For taxable year 1991, Telecommunications Company (TC) files its federal income tax return on a fiscal year basis for the year beginning July 1, 1991, and ending June 30, 1992. For calendar year 1991 TC has gross receipts of \$100,000. Its corporate income tax for taxable year 1991 is \$1,400 and its minimum tax is \$1,000 (\$100,000 X 1.0%). Since its corporate income tax exceeds

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its minimum tax, TC is subject to the corporate income tax. Because TC is subject to the corporate income tax, not the minimum tax, and because its corporate income tax exceeds 1.3% of its gross receipts, TC is eligible to claim a credit equal to 60% of the amount by which the corporate income tax exceeds 1.3% of gross receipts.

The credit and tax due are computed as follows:

Corporate Income Tax	\$1,400
1.3% of Gross Receipts	<u>1,300</u>
Credit Base	100
Credit Percentage for 1991	<u>X 60%</u>
Corporate Income Tax Credit	\$ 60
Corporate Tax Before Credit	\$1,400
Less Credit	<u>- 60</u>
Net Tax Due	\$1,340

D. Short taxable periods.

If the income tax return is filed for a taxable period of less than 12 months, the gross receipts used to compute the credit shall be prorated by the number of months in the taxable period divided by 12.

EXAMPLE: Telecommunications Company (TC) goes out of business on December 31, 1991, and files a short taxable period return for the period beginning July 1, 1991, and ending December 31, 1991. For calendar year 1991 TC has gross receipts of \$100,000. Its corporate income tax for taxable year 1991 is \$700 and its minimum is \$500 ($\$100,000 \times 1.0\% \times 6/12$). Since its corporate tax exceeds its minimum tax, TC is subject to the corporate income tax. Because TC is subject to the corporate income tax, not the minimum tax, and because its corporate income tax exceeds 1.3% of its gross receipts, TC is eligible to claim a credit equal to 60% of the amount by which the corporate income tax exceeds 1.3% of gross receipts.

The credit and tax due are computed as follows:

Corporate Income Tax	\$700
1.3% of Gross Receipts*	<u>650</u>
Credit Base	50
Credit Percentage for 1991	<u>X 60%</u>
Allowable Credit	\$ 30
Corporate Tax Before Credit	\$700
Less Credit	<u>- 30</u>
Net Tax Due	\$670

* $\$100,000 \times 6/12 \times 1.3\% = \650

E. Limitation of credit.

1. If a company is subject to the minimum tax in a taxable year, it will not be eligible for a telecommunications company income tax credit in such year.

2. The amount of credit allowed in any taxable year may not exceed the actual income tax liability for such year. Any excess credit for a taxable year may not be carried over to another taxable year to be used to offset the tax liability in another year.

3. This credit shall be applied against the income tax liability prior to any other credits which may be applicable against the corporation income tax.

§ 7. Separate, combined or consolidated returns of affiliated corporations.

A. Generally.

The requirements set forth under § 58.1-442 of the Code of Virginia and VR 630-3-442 regarding the income tax filing status of affiliated corporations are applicable to telecommunications companies. Accordingly, if two or more affiliates of a telecommunications company previously elected to file separate returns or a consolidated or combined return, the telecommunications company must conform to the filing election previously made by other members of their affiliated group. If the first year in which a telecommunications company is subject to taxation by the Department of Taxation is the first year two or more members of an affiliated group of corporations, including the telecommunications company, are required to file Virginia income tax returns, the group may elect to file separate returns, a consolidated return or a combined return. All returns for subsequent years must be filed on the same basis unless permission to change is granted by the Department of Taxation.

B. Special computations required for consolidated and combined returns.

When affiliated corporations file a consolidated or a combined income tax return the losses of one corporation may be used to offset the income of another corporation. The tax paid by the affiliated group on a consolidated or combined return is the net amount of tax due from the affiliated group after losses and gains are netted. Because of the minimum tax and tax credit requirements applicable only to telecommunications companies, a special computation is required to determine the portion of the tax of the affiliated group that is attributable to the telecommunications company.

1. Determination of separate tax. To determine the portion of the tax liability shown on the consolidated or combined return that is attributable to the telecommunications company, each corporation included in the consolidated or combined filing must recompute its tax liability as if it was filing a separate return. The separate income tax liability of

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the telecommunications company is compared to the total tax liability shown on the consolidated or combined return.

The lesser amount is deemed to be the income tax imposed by § 58.1-400 of the Code of Virginia on the telecommunications company.

2. **Minimum tax.** If this amount is less than the minimum tax of the telecommunications company, as computed in § 4, the company is subject to the minimum tax in lieu of the tax imposed under § 58.1-400 of the Code of Virginia. The portion of the tax imposed under § 58.1-400 of the Code of Virginia paid by the affiliated group shall be credited toward the company's minimum tax liability.

If the telecommunications company's portion of the consolidated or combined tax imposed under § 58.1-400 of the Code of Virginia (as computed above) exceeds the minimum tax of the telecommunications company, the company is not required to pay any amount of minimum tax.

3. **Corporation income tax credit.** If the telecommunications company's portion of the affiliated group's corporate income tax exceeds the minimum tax, the affiliated group may be allowed a credit against its tax. If the telecommunications company's portion of the consolidated or combined income tax, as computed above exceeds 1.3% of the gross receipts of the company, the affiliated group is eligible to claim a credit against the portion of the consolidated or combined tax attributable to the telecommunications company. In no case shall the amount of credit claimed exceed the lesser of the consolidated or combined income tax shown on the return or the amount of income tax deemed to be imposed on the telecommunications company.

EXAMPLE 1. In taxable year 1992 Telecommunications Company (TC) files a calendar year consolidated income tax return with three other affiliated corporations: A, B, and C. TC's calendar year 1992 gross receipts are \$200,000 and its minimum tax is equal to \$1,800 (\$200,000 X .9%). The corporate income tax return shows a consolidated taxable income of \$ 33,333 and the tax due on the consolidated return is \$2,000. TC must make the following computations to determine if it is subject to the minimum tax.

Step 1: Determine TC's Portion of the Consolidated Tax.

Company	Taxable Income if Companies Separately File	Income Tax if Companies Separately File
A	(100,000)	0
B	(11,867)	0
C	125,000	7,500
TC	20,000	<u>1,200</u>
Total	33,333	8,700

TC's Portion of the Consolidated Tax = \$1,200. The lesser

of TC's eparate tax (\$1,200) or the consolidated tax (\$2,000).

Step 2: Determine Whether the Minimum Tax is Due.

Since the minimum tax of \$1,800 exceeds TC's portion of the affiliated corporate income tax (\$1,200), the minimum tax is applicable.

Step 3: Compute Additional Tax Due.

Minimum tax	\$1,800
Less TC's portion of consolidated tax	<u>-1,200</u>
Additional Tax Due	\$ 600

EXAMPLE 2. In taxable year 1992 Telecommunications Company (TC) files a calendar year consolidated income tax return with three other affiliated corporations: A, B, and C. TC's calendar year 1992 gross receipts are \$200,000 and its minimum tax is equal to \$1,800 (\$200,000 X .9%). The corporate income tax return shows a consolidated taxable income of \$33,333 and the tax due on the consolidated return is \$2,000. TC must make the following computations to determine if it is subject to the minimum tax.

Step 1: Determine TC's Portion of the Consolidated Tax.

Company	Taxable Income if Companies Separately File	Income Tax if Companies Separately File
A	(50,000)	0
B	(11,867)	0
C	55,000	3,300
TC	40,000	<u>2,400</u>
Total	33,333	5,700

TC's Portion of the Consolidated Tax = \$2,000. The lesser of TC's separate tax (\$2,400) or the consolidated tax (\$2,000).

Step 2: Determine Whether the Minimum Tax is Due.

Since the minimum tax of \$1,800 is less than TC's portion of the affiliated corporate income tax (\$2,000), the minimum tax is not applicable and TC is subject to the income tax instead.

Step 3: Determine if Income Tax Credit is Allowable.

Gross Receipts	\$200,000
	<u>X 1.3%</u>
1.3% of Gross Receipts	\$ 2,600

Since TC's portion of the consolidated tax (\$2,000) is less than 1.3% of gross receipts, no credit is applicable.

EXAMPLE 3. In taxable year 1992 Telecommunications

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Company (TC) files a calendar year consolidated income tax return with three other affiliated corporations: A, B and C. TC's calendar year 1992 gross receipts are \$200,000 and its minimum tax is equal to \$1,800 (\$200,000 X .9%). The corporate income tax return shows a consolidated taxable income of \$83,333 and the tax due on the consolidated return is \$5,000. TC must make the following computations to determine if it is subject to the minimum tax.

Step 1: Determine TC's Portion of the Consolidated Tax.

Company	Taxable Income if Companies Separately File	Income Tax if Companies Separately File
A	0	0
B	(11,667)	0
C	5,000	300
TC	90,000	<u>5,400</u>
Total	83,333	5,700

TC's Portion of the Consolidated Tax = \$5,000. The lesser of TC's separate tax (\$5,400) or the consolidated tax (\$5,000).

Step 2: Determine Whether the Minimum Tax is Due.

Since the minimum tax of \$1,800 is less than TC's portion of the affiliated corporate income tax (\$5,000), the minimum tax is not applicable and TC is subject to the income tax instead.

Step 3: Determine if Income Tax Credit is Allowable.

Gross Receipts	\$200,000
	X <u>1.3%</u>
1.3% of Gross Receipts	\$ 2,600

Since TC's portion of the consolidated tax is more than the 1.3% of gross receipts, the credit is applicable.

Step 4: Determine Amount of Credit.

TC's Portion of the consolidated tax	\$5,000
1.3% of Gross Receipts	<u>-2,600</u>
Credit Base	\$2,400
Credit percentage for 1992	<u>50%</u>
Corporate Income Tax Credit	\$1,200

§ 8. Transitional rule for initial fiscal year.

The license tax administered by the SCC is computed on the gross receipts for a calendar year basis regardless of the taxable year used for filing federal income tax returns. Tax year 1989, which subjects the gross receipts earned during calendar year 1988 to the license tax, is the last tax year telecommunications companies are subject to the license tax. Therefore, any

telecommunications company which has a taxable year for federal income tax purposes that begins before January 1, 1989, includes January 1, 1989, and ends on a day other than December 31, 1989, must file a transitional short taxable year Virginia corporation income tax return to report the income earned after December 31, 1989, and before the first day of their fiscal year 1989 period.

To determine which tax the company must pay, the company must compute the corporate income tax on the company's income for the 12-month fiscal year and the minimum tax on the company's gross receipts for calendar year 1988. To compute the tax due on the transitional taxable year return, the tax (either the corporate income tax less any applicable credit or the minimum tax) may be prorated based upon the number of months of the 12-month fiscal year included in calendar year 1989.

§ 9. Estimated taxes.

A. Generally.

The requirements imposed under § 58.1-500 (et seq.) of the Code of Virginia regarding the filing of a declaration of estimated income taxes and the payment of estimated income taxes, shall be applicable to telecommunications companies regardless of whether such company expects to be subject to the minimum tax or to the corporate income tax.

B. Exceptions to the addition to tax.

1. For purposes of determining the applicability of the exceptions under which the addition to tax for the underpayment of any installment of estimated taxes will not be imposed, it is irrelevant whether the tax shown on the return for the preceding taxable year is corporate income tax, minimum tax or a license tax on gross receipts.

2. The addition to tax for the failure to pay estimated income tax (§ 58.1-504) will not be imposed on the tax liability resulting from the transitional short taxable year return required to be filed for the period that begins after December 31, 1988, and ends before the first day of a telecommunications company's 1989 taxable year.

§ 10. Noncorporate telecommunications companies.

A. Generally.

Unless specifically exempt under § 58.1-401 of the Code of Virginia, every telecommunications company certified as such by the SCC is subject to the minimum tax even though it may be exempt from, or not subject to, the corporate income tax under § 58.1-400 of the Code of Virginia. To the extent that the income of a noncorporate telecommunications company is subject to Virginia income tax at the entity level or in the hands of a partner or

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other person for whom the income retains its character, the telecommunications company will be deemed to have paid corporate income tax for purposes of computing the minimum tax and credit under subsection B.

B. Computation of minimum tax and credit.

A noncorporate telecommunications company must calculate its minimum tax liability as provided in § 4. If the income of the noncorporate telecommunications company is deemed to be subject to Virginia income tax under subsection A, the minimum tax liability shall be compared to the income tax liability of the entity computed as if it were a corporation. The minimum tax, income tax, and credit provisions shall be applied as follows:

1. **Minimum tax.** If the income of the entity is not deemed to be subject to Virginia income tax under subsection A, the entity shall pay the minimum tax. If the income of the entity is deemed to be subject to Virginia income tax under subsection A, and if the minimum tax exceeds the entity's income tax computed as if it were a corporation, the entity must pay an amount equal to the difference between the minimum tax and the corporate income tax.

2. **Income tax.** If the income of the entity is deemed to be subject to Virginia income tax under subsection A, and if the minimum tax does not exceed the entity's income tax computed as if it were a corporation, the entity shall not be required to pay the corporate income tax under § 58.1-400 merely because it computes such a tax for comparison with the minimum tax liability.

3. **Telecommunications company income tax credit.** If the income of the entity is deemed to be subject to Virginia income tax under subsection A, and if the entity's income tax computed as if it were a corporation exceeds 1.3% of its gross receipts, then the entity is eligible for a credit under § 58.1-434. The credit shall be computed by the entity as if it were a corporation but shall be claimed by the entity, partner, or other person, as the case may be, in proportion to the portion of the entity's income included in each taxpayer's taxable income. In no case shall the credit allowable exceed the income tax liability of the entity, partner, or other person.

C. Return preparation.

If the income of a telecommunications company is deemed to be subject to Virginia income tax under the provisions of subsection A, it must file a return each taxable year which contains the following information:

1. The gross receipts for such taxable year;
2. The total amount of minimum tax for such taxable year;

3. The taxable income and income tax computed as if it were a corporation subject to the corporate income tax under § 58.1-400 of the Code of Virginia;

4. The amount of the telecommunications company's income tax credit; and

5. A schedule which includes the name, address, tax identification number and proportionate share of the telecommunications company's income and credit taxable to each entity, partner or other person under Virginia law.

Example 1. Telecommunications Company (TC) operates as a partnership with two corporate partners. TC is a calendar year filer for federal income tax purposes. For calendar year 1990, TC has \$200,000 in gross receipts. Computing its taxable income as if a corporation, TC has a Virginia taxable income equal to \$35,000. TC's minimum tax liability is \$2,400 (\$200,000 X 1.2%) and its Virginia income tax is \$2,100 (\$35,000 X 6.0%). Since TC's minimum tax liability exceeds its income tax liability, it is subject to the minimum tax and must pay \$300 (\$2,400 - 2,100). Because TC is a partnership, its income tax liability is deemed to be paid by its partners.

Example 2. Telecommunications Company (TC) operates as a partnership with two corporate partners. Corp A owns 60% of TC and Corp B owns 40% of TC. TC is a calendar year filer for federal income tax purposes. For calendar year 1990, TC has \$200,000 in gross receipts. Computing its taxable income as if a corporation, TC has a Virginia taxable income equal to \$50,000. TC's minimum tax liability is \$2,400 (\$200,000 X 1.2%) and its Virginia income tax is \$3,000 (\$50,000 X 6.0%). Since TC's income tax liability exceeds its minimum tax liability, it must determine the amount of income tax credit that would be allowable against the tax, if it paid the tax.

The credit is computed as follows:

Corporate Income Tax (deemed paid by partners)	\$3,000
1.3% of Gross Receipts	2,600
Credit Base	400
Credit Percentage for 1990	X 70%
Corporate Income Tax Credit	\$ 280

TC would pay no tax and Corp A would be allowed a credit of \$168 (\$280 X 60%) against its separate tax liability and Corp B would be allowed a credit of \$112 (\$280 X 40%) against its separate tax liability.

§ 11. Administrative appeals.

A. State Corporation Commission.

As set forth under § 2 of this regulation, the SCC will make all determinations regarding a company's status as a telecommunications company and will determine and certify the amount of gross receipts, as defined in § 58.1-400.1 of the Code of Virginia, to the department annually.

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Telecommunications companies may petition the SCC for review and correction of the company's status or the amount of gross receipts certified. The petition should be in compliance with the Rules of Practice and Procedures of the SCC.

B. Department of Taxation.

Company status or gross receipts. Any application for correction of an erroneous assessment pursuant to § 58.1-1821 of the Code of Virginia that is contingent upon the status of a company as a telecommunications company or upon the amount of gross receipts of a telecommunications company, will be held without action until a final determination has been made by the SCC on a petition filed pursuant to the Rules of Practice and Procedures of the SCC.

Any application pursuant to § 58.1-1821 filed with the Department of Taxation that is not contingent upon the status of a company as a

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR THE)

Title of Regulation: VR 670-02-01. Regulations to Govern the Operation of Vending Facilities in Public Buildings and Other Property.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Public Hearing Date: September 28, 1989 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

The Department for the Visually Handicapped proposes to repeal existing regulations and promulgate new regulations under which the Business Enterprises Program for the Blind is operated. The regulations set forth criteria for the issuance of licenses, termination of licenses, vending facility equipment and initial stock, maintenance and replacement of equipment, setting aside of funds, distribution and use of income from vending machines on federal property, agreement between the department and blind vendor, department administrative review, transfer and promotion of vendors, training program, election organization and function of vending facility, vendors council, arbitration of vendor complaints, evidentiary hearings, access to program and financial information, and explanation of vendor rights and responsibilities.

VR 670-02-01. Regulations to Govern the Operation of Vending Facilities in Public Buildings and Other Property.

PART I. INTRODUCTION.

§ 1.1. Definitions.

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

"Act" means the Randolph-Sheppard Vending Stand Act (P.L. 74-732), as amended by P.L. 83-565 and P.L. 93-516, 20 U.S.C., Chapter 6A, § 107.

"Blind licensee" means a blind person licensed by the state licensing agency to operate a vending stand or vending facility on public or other property.

"Blind person" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Custodian" means any person or group of persons having the authority to grant permission for the installation and operation of vending facilities and vending stands.

"Department" means the Department for the Visually Handicapped.

"Direct competition" means the presence of an operation of a vending machine or a vending facility on the same premises as a vending facility operated by a blind vendor. (Vending machines or vending facilities operated in areas where the majority of employees do not have direct access to the vending facility operated by a blind vendor, shall not be considered to be in direct competition with the vending facility operated by a blind vendor.)

"DVH" means the Department for the Visually Handicapped.

"License" means a written instrument issued by the state licensing agency to a blind person, authorizing such person to operate a vending facility or vending stand.

"Management services" means supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities and vending stands operated by blind vendors. "Management services" does not include those services or costs which pertain to the on-going operating of an individual facility after the establishment period.

"Net proceeds" means the amount remaining from the sale of articles or services of vending facilities, vending stands, or other income accruing to blind vendors after deducting the cost of such sale and other expenses.

"Nominee" means a nonprofit agency or organization designated by a state licensing agency through a contractual arrangement to act as its agent in the provision of services to blind licensees as set forth in §§ 63.1-145 and 63.1-146 of the Code of Virginia.

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"Permit" means the official approval given to a state licensing agency by a department, agency, or instrumentality in control of maintenance operation and protection of federal property, or person in control of public and private buildings and other properties, whereby the state licensing agency is authorized to establish a vending facility or vending stand.

"Program" means all the activities of the state licensing agency under these regulations related to public and private buildings and other properties throughout the Commonwealth.

"Public and private buildings and other properties throughout the Commonwealth" means buildings, land, or other property owned by or leased to the Commonwealth or a political subdivision, including a municipality, or a corporation or individual.

"Set aside funds" means funds which accrue to a state licensing agency from an assessment against the net proceeds of each vending facility or vending stand in the state's vending facility program and any income from vending machines on public and private buildings and other properties which accrue to the state licensing agency.

"State vocational rehabilitation agency" means the state agency designated by the Secretary of Education to issue licenses to blind persons for the operation of vending facilities and vending stands on public and private buildings and other properties throughout the Commonwealth.

"Vending facility" means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending for any lottery authorized by state law and conducted by an agency of a state within such state.

"Vending stand" means an installation in any public or private building for the sale of newspapers, periodicals, confections, tobacco products, soft drinks, ice cream, wrapped foods, and other such articles as may be approved by the custodian thereof and the department.

"Vending machine" means a coin or currency operated machine which dispenses articles or services, except that those machines operated by the United States Postal Service for the sale of stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

"Vending machine income" means receipts from public,

private, and other property after deducting applicable costs where the machines are operated by the property custodian or commissions are received by the property custodian or activity from a commercial vending firm which provides vending machines on the property with the approval of the property custodian.

"Vendor" means a blind licensee who is operating a vending facility or vending stand on federal property, public and private building or other property throughout the Commonwealth.

PART II. ELIGIBILITY.

§ 2.1. Issuance of licenses.

The department shall cause the issuance of a license to operate a vending facility to persons who are in need of employment and meet the following criteria:

- 1. A blind person;*
- 2. Citizen of the United States;*
- 3. At least 18 years of age; and*
- 4. Have successfully completed the prescribed training and have satisfactorily completed all probationary periods.*

§ 2.2. Termination of licenses.

A. Licenses issued to blind persons to operate vending facilities shall be issued for an indefinite period but shall be subject to suspension or termination if, after affording the vendor an opportunity for a full evidentiary hearing, the department finds that the vending facility is not being operated in accordance with its regulations, the terms and conditions of the permit, or the terms and conditions of the written agreement with the vendor.

B. Additionally, the license of an individual vendor for the operation of a vending facility on federal or other property may be suspended or terminated for any of the following reasons:

- 1. Improvement of vision so that the vendor no longer meets the definition of blind person;*
- 2. Extended illness with medically documented diagnosis of prolonged incapacity of the vendor to operate the vending facility in a manner consistent with the needs of the location or other available locations in the vending facility program;*
- 3. Withdrawal of the vendor from the program upon his written notification to the department.*

PART III. OPERATIONS.

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§ 3.1. Vending facility equipment and initial stock.

The department is responsible for furnishing each vending facility with adequate, suitable equipment and initial stocks of merchandise necessary for the establishment and operation of such facility.

The right, title to, and interest in the equipment of each vending facility (exclusive of automatic coin-operated machines, except for those facilities that are totally coin operated) used in the program and the stock of merchandise shall be vested in the department; provided that title, at the discretion of the department, may be vested in an agency or organization designated by the department under terms of a written agreement as its nominee, to hold such title for program purposes only, subject to the paramount right of the department to direct and control the use, transfer, and disposition of such vending facility equipment and stock of merchandise.

§ 3.2. Maintenance and replacement of equipment.

The department, through its nominee, shall maintain all vending facility equipment in good repair and in attractive condition, and shall replace worn out or obsolete equipment as required to ensure the continued successful operation of the vending facility.

The department, through its nominee, shall cause the repair or replacement of vending facility equipment upon the recommendation of the vendor and the business counselor and the approval of the program manager. When equipment is no longer functional and has been fully depreciated, the equipment is placed in the surplus process through the Department of General Services in accordance with state regulations.

Each vendor shall take reasonable care of the equipment in his facility and shall carry out routine, day-to-day maintenance procedures prescribed for such equipment.

§ 3.3. Operating agreement between the department and blind vendor.

The department shall cause to be signed an agreement between the department and each blind vendor which shall be developed with the active participation of the vending facility vendors council covering the basic terms and conditions including, but not restricted to, the following:

1. The duties of the vendor and the performance of such duties in accordance with standards prescribed by the department. Such standards shall be developed with the active participation of the vending facility vendors council, with regard to applicable health laws and regulations, and the terms of the permit granted by, or the contract entered into with, the federal or other agency or organization in control of the site of the vending facility.

2. The responsibilities of the department to provide management services to the vendor including assistance and supervision, and the ways in which such responsibilities will be carried out.

3. A statement that the vendor shall receive the net proceeds from the vending facility which he operates.

4. The responsibility of the vendor to furnish such reports as the department may require.

5. The right of the vendor to terminate the operating agreement at any time.

6. The termination of the operating agreement upon termination of the permit or contract.

7. The termination or revocation of the operating agreement upon failure of the vendor to operate the vending facility or vending stand in accordance with the operating agreement or applicable federal, state, or local laws or regulations.

§ 3.4. Transfer and promotion of vendors.

A. The department shall use as a basis for vendor upward mobility or transfer, the following criteria:

1. Sanitation inspections;
2. Business counselor evaluation for upward mobility;
3. Tenure in program;
4. Gross profit percentage;
5. Vendor attitude toward the program;
6. Appearance;
7. Attendance (Daily);
8. Building host-employee relations; and
9. Customer relations.

B. Each category is evaluated independently of the other with no single category outweighing the other. The total score of each vendor is the sum of scores in each category.

C. Vendors who apply for upward mobility/transfer and who are denied their request are entitled to review the evaluation and results be shown cause for the nonaward by the state licensing agency.

§ 3.5. Training of blind vendors.

A. The department, with the active participation of the vending facility vendors council, shall ensure that effective programs of vocational and other training services,

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including personal and vocational adjustment, books, tools, and other training materials, shall be provided to eligible blind individuals as vocational rehabilitation services under the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1974.

B. These programs shall include classroom as well as on-the-job training in all aspects of vending facility operation for blind persons with the capacity to operate a vending facility, and upward mobility training (including further education and additional training or retraining for improved work opportunities) for all blind licensees. The department shall ensure that post-employment services shall be provided to blind vendors in vocational rehabilitation services as necessary to assure that the optimum vocational potential of such vendors is achieved and suitable employment is maintained within the vending facility program.

§ 3.6. Election, organization and function of the Vending Facility Vendors Council.

A. The function of the vending facility vendors council shall be:

1. To participate with the state agency in major administrative actions and program development;
2. To receive grievances of blind vendors and serve as advocates for such vendors;
3. To participate with the state agency in the development and administration of a transfer and promotion service for blind vendors;
4. To participate with the state agency in developing a training and retraining program;
5. Sponsorship with the state agency in meeting and instructional conferences for blind vendors; and
6. Such other functions as may be of interest to blind vendors.

B. The state licensing agency has the ultimate responsibility for the administration of the state vending facility program. When the agency position is opposed to that of the vending facility vendors council, the agency will notify the council in writing of the decision reached or the action taken and the reasons thereof.

C. Council membership.

The vending facility vendors council shall consist of nine vendors. Two from the Richmond district; two from the Norfolk district; two from the Roanoke district; and three from the Northern Virginia district.

D. Elections.

1. All elections shall be conducted by the DVH or its

nominee in the district to be represented. The election shall be opened to all vendors in the district. A simple majority shall elect.

2. The members of the council shall elect the chairman by simple majority to serve for a one-year term; however, the chairman must be elected after the elections of council members, but before October 1. The chairman may serve two consecutive terms by a simple majority vote of council members.

E. Terms of office.

All terms of office shall be two years. Councilmen shall be eligible for two consecutive terms. The terms of office shall start October 1 of the year elected.

F. Meetings of council.

The vending facility vendors council shall meet at least biannually. When the vending facility vendors council meets to conduct business, there must be a quorum of not less than four members present, provided that all council members have been previously advised of the meeting. Subcommittees will be appointed by the council to carry on the business between regular council meetings.

G. Removal of a councilman and vacancies.

Any councilman found abusing, misusing, or neglecting his office may be required to show cause at a meeting of the vendors in his district why he should not be removed from office. Removal shall require a two-thirds majority vote by the vendors council membership. Vacancies on council will be filled by a special election held by DVH or its nominee in the district concerned.

H. Financial data and reports.

1. The DVH shall provide relevant financial data concerning the vending facility program to each of the nine councilmen.
2. To the extent permissible under applicable federal or state laws pertaining to the disclosure of confidential information, the department shall provide quarterly and annual financial reports and program data to the vending facility vendors council. Such data shall be made available by recorded tape to each blind vendor, upon request; and when requested, the department will arrange a convenient time to assist in the interpretation of such data.

I. Amendments to council guidelines and reference.

Any changes in these guidelines are to be presented in the following manner:

1. If a vendor or the state licensing agency wishes formal changes in the guidelines, such proposed

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changes shall be prepared in writing at least 30 days prior to the annual vendors meeting. Copies should be distributed to each vendor, the Commissioner of DVH and the program manager.

2. The proposed change will be incorporated into the business meeting of the annual vendors meeting. Discussion will occur on the merit of the proposed change and the change will be approved or rejected by a simple majority of the blind vendors at the annual vendor's meeting.

3. Reference. The Vending Facility Vendors Council may be referred to as the V.F.V. Council.

§ 3.7. Standards of operation in management of a vending facility.

A. The following standards shall constitute the department's minimum policy requirements for the operation and supervision of the vending facility program.

1. Operations manual. An operations manual shall be maintained in each facility. A blind licensee shall operate the facility so as to comply with requirements as specified in the operations guidelines.

2. Vacations. Since the blind licensee receives the net proceeds from the facility, any vacation taken by the blind licensee will be at his own expense and the salary paid the substitute manager will be deducted from the proceeds. Requests for vacations shall be filed in writing with the nominee on or before March 1 of the calendar year in which the vacation is to be taken. Both the time for requesting vacation and the selection of the substitute manager shall be subject to prior approval by the department.

3. Sick leave. In the event of illness, the nominee will supply a substitute manager whose salary will be deducted from the proceeds of the facility. In instances of incapacity or prolonged illness the blind licensee may be replaced at the discretion of the department. Incapacity or prolonged illness is defined as one lasting six months or longer. This will be considered as an accumulation of absences due to illness and incapacity within the calendar year. In such cases, management, with input from the vendors committee, will determine the final outcome to the blind licensee. Blind licensees in facilities producing draw or less shall have expenses for sick leave subtracted from draw.

4. Permits and contracts. All official permits and contracts with building management shall be made by an official representative of the department. Such permits and contracts are the property of the department. Any request made by building management shall be referred to the department.

5. Building host relationship. The blind licensee and

Assistant Deputy Commissioner for Business Facilities or his designee shall meet together with building management.

6. Customer relationship. Use of alcoholic beverages and illegal drugs within the facility shall be prohibited. Smoking is prohibited in food preparation and serving area. A blind licensee shall always be pleasant and alert to serving the customer's needs. The blind licensee shall be responsible for all financial transactions conducted by the facility.

7. Sanitation. Blind licensee shall adhere to sanitation regulations set forth by building management, Health Department, and any other applicable regulations.

8. Personal hygiene. It is expected that all personnel working in the vending facility shall present a clean and neat appearance. Good grooming techniques shall be followed.

9. Advertisement. No materials or advertising, other than those pertaining to business, shall be allowed to be displayed in facility. No advertisement or material shall be displayed other than that supplied or approved by the department or its nominee.

10. General maintenance. Blind licensee shall exercise reasonable judgment in performance of maintenance of equipment in facility. Damage resulting from gross neglect may result in financial charge to the blind licensee.

B. The department shall furnish to each blind licensee copies of documents relevant to the operation of the vending facility including the regulations, a written description of the arrangements for providing services, and the agreement and permit covering the operation of the vending facility. The documents shall be read to the blind licensee and his receipt taken that they have been explained to his satisfaction.

PART IV.

FISCAL: INCOME AND DISTRIBUTION OF FUNDS.

§ 4.1. Setting aside of funds

A. Funds will be set aside from the net proceeds of the operations of the vending facilities under the program and from retained vending machine income according to the formula submitted to and approved by the Commissioner of Rehabilitation Services Administration and Secretary of Education in an amount determined to be reasonable.

B. These charges shall be assessed quarterly. Statements shall be prepared and rendered, along with settlement, to each blind vendor quarterly.

C. Moneys collected from the setting aside of funds shall be used solely for the following purposes:

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1. Maintenance and replacement of equipment;
2. Purchase of new equipment;
3. Management services;
4. Assuring a fair minimum return to vendors;

5. The establishment and maintenance of retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is so determined by a majority vote of blind vendors licensed by the state licensing agency, after such agency provides to each vendor information on all matters relevant to such proposed purposes.

D. The charge for each of the listed purposes will be determined by the department on the basis of records or expenditures made for each of these purposes over a reasonable period of time, with allowances for reasonable charges for improving services, fluctuation in costs, and for program expansion. The charges shall be reviewed and approved by the commissioner of the department with the assistance of the operations management team. Charges will be reevaluated periodically and necessary adjustments made. Adequate records will be maintained by the department to support the reasonableness of the charge for each of the purposes listed, including any reserves necessary to assure that such purposes can be achieved on a consistent basis.

E. The setting aside of funds policy has been developed with the active participation of the vending facility vendors council.

§ 4.2. Distribution and use of income from vending machines.

A. Income from vending machines on property which has been disbursed to the department by a property managing department, agency, or instrumentality of the United States and public and private buildings and other properties throughout the Commonwealth, with the exception of revenues derived from the state highway vending program, shall accrue to each vendor operating a vending facility on such property in an amount not to exceed the average net income of the total number of blind vendors within the Commonwealth as determined each fiscal year on the basis of each prior year's operation, except that vending machine income shall not accrue to any blind vendor in any amount exceeding the average net income of the total number of blind vendors in the United States.

B. No blind vendor shall receive less vending machine income than he was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling.

C. No limitation shall be imposed on income from vending machines combined to create a vending facility

when such facility is maintained, serviced, or operated by a blind vendor.

D. The department will disburse vending machine income to eligible blind vendors on a quarterly basis.

E. The department will retain vending machine income disbursed in excess of the amounts eligible to accrue to blind vendors which will be used for the establishment and maintenance of retirement pension plans, for health insurance contributions, and for the provisions of paid sick leave and vacation time for blind vendor, if it is so determined by a majority vote of the licensed vendors, after each vendor has been furnished information on all matters relevant to such purposes. Any vending machine income not necessary for such purposes shall be used for one or more of the following:

1. Maintenance and replacement of equipment;
2. Purchase of new equipment;
3. Management services; and
4. Assuring a fair minimum return to vendors.

F. Any assessment charged to blind vendors shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

§ 4.3 Administrative review of income and distribution of funds.

A. The department shall receive on an annual basis a budget prepared by the nominee which sets forth the anticipated revenue and the designated uses thereof.

B. The budget shall be developed with the active participation of the vending facility vendors council.

C. Quarterly updates to the revenue projections and revisions to the proposed budget will be submitted by the nominee to the commissioner of the department.

D. An annual budget summary will be submitted to the commissioner of the department at the end of the budget cycle.

E. The commissioner of the department shall determine the time of submission for such documents.

F. The proposed budget of the nominee shall be submitted by the commissioner to the board of the department for final approval.

G. The nominee shall submit to the commissioner and to the board of the department an annual financial audit. The audit is to be performed by an independent firm of certified public accountants to be secured in accordance with the Virginia Procurement Act, §§ 11-35 through 11-80 of the Code of Virginia.

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PART V. VENDOR'S RIGHTS AND APPEALS.

§ 5.1. Administrative review of blind vendor grievance.

The administrative review provides a blind vendor or his representative an opportunity to express and seek remedy for his dissatisfactions with any agency action arising from the operation or administration of the vending facility program. The administrative review procedures shall be as follows:

A. A blind vendor or his designee (who may be a member of the Vending Facility Vendors Council) may request in writing, within 15 working days of the occurrence of the action, administrative review of an agency action relating to the operation or administration of the vending facility program with which the blind vendor is aggrieved. The administrative review will be conducted by a member or members of the administrative staff of the department or its nominee who has not participated in the agency action in question.

B. The administrative review shall be held at a time and place convenient to the blind vendor requesting such review. The administrative review should be held during regular agency working hours at a district or local office location.

C. It is expected that an administrative review will be conducted within 15 working days of receipt by the department of such a written request.

D. Transportation, reader, or other communication services, if needed, shall be arranged for the blind vendor by the department.

E. Documentation as to written requests for administrative review, actions, and decisions resulting thereof shall be maintained as part of the official record of the administrative review process.

F. When an administrative review does not resolve a dispute to the satisfaction of a blind vendor, such blind vendor may request of the department a full evidentiary hearing.

§ 5.2. Procedures for a full evidentiary hearing.

A. When a blind vendor is dissatisfied with any agency action arising from the operation or administration of the vending facility program, such blind vendor may file a complaint with the department requesting a full evidentiary hearing.

B. Blind vendors shall be informed in writing of their rights and the procedures in obtaining a full evidentiary hearing at the time they are licensed. The procedures for obtaining a full evidentiary hearing are:

1. If a blind vendor requests a full evidentiary

hearing, such request shall be made in writing either within 15 working days after an adverse decision based on an administrative review or, in absence of an administrative review, within 15 working days of the occurrence of the action with which the blind vendor is dissatisfied. The request shall be transmitted to the commissioner of the department personally or by certified mail, return receipt requested. The request may be transmitted through the vending facility vendors council. Such a request shall indicate consent by the blind vendor for release of such information as is necessary for the conduct of a full evidentiary hearing or an ad hoc arbitration panel.

2. A blind vendor is entitled to legal counsel or other representatives in a full evidentiary hearing. A blind vendor may wish to obtain his own counsel at his own expense or may wish to avail himself of any legal services available through public agencies, such as the Department for Rights of the Disabled or other community resources.

3. Reader services or other communication services shall be arranged for the blind vendor should he request it. Transportation costs and per diem shall be provided also to the blind vendor during the pendency of the evidentiary hearing if the location of the hearing is in a city other than the legal residence of the blind vendor.

4. The hearing shall be held at a time and place convenient and accessible to the blind vendor requesting a full evidentiary hearing. The hearing shall be scheduled by the department within 15 working days of its receipt of such a request, unless the department and the blind vendor mutually agree, in writing, to some other period of time. The blind vendor shall be notified in writing of the time and place fixed for the hearing and of his right to be represented by legal or other counsel. The blind vendor shall be provided a copy of the hearing procedures and other relevant information necessary to enable him to prepare his case for the hearing.

5. The presiding officer at the hearing shall be an impartial and qualified official who has no involvement either with the department action which is at issue in the hearing or with the administration or operation of the Randolph-Sheppard vending facility program. (He may be a staff member or official of another state agency or a state agency hearing officer.)

6. The presiding officer shall conduct a full evidentiary hearing, avoid delays, maintain order and make sufficient record of the proceedings for a full and true disclosure of the facts and issues. To accomplish these ends, the presiding officer shall have all powers authorized by law and may make all procedural and evidentiary rulings necessary for the conduct of the hearing. The hearing shall be open to

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the public unless the presiding officer determines otherwise for good cause shown.

7. The blind vendor and the department are entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross-examination of witnesses as may be required for a full and true disclosure of all facts bearing on the issues.

8. All papers and documents introduced into evidence at the hearing shall be filed with the presiding officer and provided to the other party. All such documents and other evidence submitted shall be open to examination by the parties and opportunities shall be given to refute facts and arguments advanced on either side of the issues.

9. A transcript shall be made of the oral evidence and shall be made available to the parties. The department shall pay all transcript costs and shall provide the blind vendor with at least one copy of the transcript.

10. The transcript of testimony, exhibits, and all papers and documents filed in the hearing shall constitute the exclusive record for decision.

11. The decision of the presiding officer shall set forth the principal issues and relevant facts adduced at the hearing, and the applicable provisions in law, regulation, and agency policy. It shall contain findings of fact and conclusions with respect to each of the issues, and the reasons and basis therefor. The decision shall also set forth any remedial action necessary to resolve the issues in dispute. The decision shall be made within 15 working days after the receipt of the official transcript. The decision shall be mailed promptly to the blind vendor and the department.

12. If a blind vendor is dissatisfied with the decision rendered after a full evidentiary hearing, he may request that an ad hoc arbitration panel be convened by filing a complaint with the Secretary of the U.S. Department of Education. Such complaint shall be accompanied by all supporting documents, including a statement of the decision rendered and the reasons in support thereof.

* * * * *

Title of Regulation: VR 670-03-1. Regulation Governing Provisions of Services in Vocational Rehabilitation.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Public Hearing Date: September 28, 1989
(See Calendar of Events section for additional information)

Summary:

These regulations are intended to state the department's policies under which vocational rehabilitation services are provided. The regulations set forth criteria for eligibility for services, order of selection for services, the type and duration of services, the conditions under which persons may receive services, and their rights and responsibilities including their right to appeal department decisions affecting them.

The Virginia Department for the Visually Handicapped (DVH) is empowered by the Code of Virginia to administer the Vocational Rehabilitation Program for the blind and visually impaired. The Federal Program Regulations (Federal Register, Vol. 46, No. 12, January 19, 1981) for Title I of the Rehabilitation Act of 1973, as amended, forms the basis for the department's vocational rehabilitation client service policies to the applicable federal regulations—the proposed rules are present in Parts II through VI.

The only substantive changes in the Vocational Rehabilitation regulations are as follows: (i) inclusion of rehabilitation engineering services; (ii) inclusion of supported employment services; (iii) inclusion of a statement that the agency will conduct a public hearing prior to implementation of the order of selection; and (iv) exclusion of the formula for determining when to implement an order of selection.

All other changes and revisions in these regulations are for the purposes of consistency in definitions, clarity in writing, and grammatical correctness.

PART I. INTRODUCTION.

§ 1- § 1.1. Definitions.

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

"Audiological examination" means the testing of the sense of hearing.

"Board" means the Board of the Department for the Visually Handicapped.

"Client" means any person receiving a service provided by the Department for the Visually Handicapped, whether referred to as a client, participant, patient, resident, or other term.

"Client Assistance Program" means a program located within the Department for Rights of the Disabled for the purpose of advising applicants or clients about all available services under the Rehabilitation Act of 1973, as amended, and to assist them in their relationship with programs,

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projects, and facilities providing rehabilitation services.

"Commissioner" means the Commissioner of the Department for the Visually Handicapped.

"Comparable services and benefits" means any appropriate service of financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an individualized written rehabilitation program for a handicapped individual.

"Department" means Virginia Department for the Visually Handicapped.

"Economic needs test" means a test used to consider the financial need of handicapped individuals for the purpose of determining the extent of their participation in the cost of services provided by this program.

"Eligibility" means, when used in relation to an individual's qualification for vocational rehabilitation services, a certification that an individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment and that vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

"Employability" means a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor markets, the practice of a profession, self-employment, homemaking, farm or family work (including work for which payment is in kind rather than in cash), sheltered employment, homebound employment, or other gainful work.

"Evaluation of vocational rehabilitation potential" means, as appropriate, in each case (i) a preliminary diagnostic study to determine that an individual is eligible for vocational rehabilitation services; (ii) a thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's handicap to employment and vocational rehabilitation potential, in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability; (iii) any other goods or services necessary to determine the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability; (iv) referral to other agencies or organizations, when appropriate; and (v) the provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual is a handicapped individual for whom a vocational goal is feasible.

"Extended evaluation" means the provision of vocational

rehabilitation services necessary for determination of rehabilitation potential.

"Family member or member of the family" means any relative by blood, marriage, or adoption of a handicapped individual living in the same household. If the family member lives outside the household and is not emancipated, he is a member of the family unit.

"Higher education/Institutions of higher education" means training or training services provided by universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

"Individual Written Rehabilitation Program (IWRP)" means an individualized written rehabilitation program for each individual being provided services by this program.

"Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the state agency to conduct a vocational rehabilitation program in the locality under the supervision of the state agency in accordance with the state plan.

"Long range goals and intermediate objectives" means the establishment of a vocational goal with job placement, physical restoration, personal adjustment and the achievement of vocational skills as possible objectives needed to attain the goal.

"Ophthalmologist" means a medical doctor skilled in eye disease and eye treatment.

"Optometrist" means a person licensed to practice optometry by the Virginia Board of Optometry.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement which is caused by bodily injury, birth defect, or illness.

"Post-employment services" means services which are required to maintain the individual in employment after closure.

"Prevocational training" means individual and group instruction, counseling, or both; the controlled use of varied activities; and the application of special behavior modification techniques. Clients/patients are helped to: (i) develop physical and emotional tolerance for work demands and pressures; (ii) acquire personal-social behaviors which would make them acceptable employees and co-workers on the job; and (iii) develop the basic manual, academic, and communication skills needed to acquire basic job skills.

"Prosthetic and orthotic appliances" means any

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mechanical equipment that improves or substitutes for one of more of an individual's senses or for impaired mobility or motor coordination.

"Public safety officer" means an individual who performs duties directly related to the enforcement, execution, and administration of law or fire prevention, fire fighting, or related public safety activities and whose handicapping condition arose from a disability sustained in the line of duty while performing as a public safety officer and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition.

"Rehabilitation engineering" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with handicaps in areas that include education, rehabilitation, employment, transportation, independent living, and recreation.

"Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (i) vocational rehabilitation services, including under one management medical, psychiatric, psychological, social, and vocational services; (ii) testing, fitting, or training in the use of prosthetic and orthotic devices; (iii) prevocational conditioning or recreational therapy; (iv) physical and occupational therapy; (v) speech and hearing therapy; (vi) psychological and social services; (vii) evaluation of rehabilitation potential; (viii) personal and work adjustment; (ix) vocational training with a view toward career advancement (in combination with other rehabilitation services); (x) evaluation or control of specific disabilities; (xi) orientation and mobility services and other adjustment services to blind individuals; and (xii) transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market.

"Reservation" means a federal or state Indian reservation; public domain Indian allotment; former Indian reservation in Oklahoma; and land held by incorporated native groups, regional corporations, and village corporations under the provision of the Alaska Native Claims Settlement Act.

"Services to groups" means the provision of facilities and services which may be expected to contribute substantially to the vocational rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation program of any one handicapped individual.

"Severely visually impaired" means vision no better than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.

"Sheltered employment" means a service which provides supervised, guided remunerative employment for an individual whose current assessment indicates employment in a sheltered setting representing the individual's maximum level of vocational functioning. This service may involve the development of social, personal, and work-related skills based on an individualized client rehabilitation/habilitation plan.

"Similar benefits" means any appropriate service or financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an individualized written rehabilitation program for a handicapped individual.

"Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

"Supported employment" means competitive work in an integrated work setting with ongoing support services for individuals with severe handicaps for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe handicaps.

"Third party funding" means the use of money from a public or private source to match available allocations to the Department for the Visually Handicapped from the General Assembly.

"Vocational evaluation" means a systematic, formalized assessment and subsequent recommendations. The assessment is for the purpose of determining an individual's vocational objectives based on his assets and limitations. The assessment methods are client centered and include evaluation techniques appropriate to the individual. The assessment results in specific recommendations to be used in the development of the individual rehabilitation/habilitation plan.

"Vocational rehabilitation services" when provided to an individual means evaluation of vocational potential, counseling and guidance, physical and mental restoration, vocational and other training, maintenance, transportation, services to family members, interpreter and note-taking services, reader services, telecommunications services, placement, post-employment services, other goods and services which can reasonably be expected to benefit the individual in terms of employability; when provided for the benefit of groups of individuals, also means (i) the establishment of a rehabilitation facility; (ii) the construction of a rehabilitation facility; (iii) the provision of other facilities and services, including services provided at rehabilitation facilities that promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized

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written rehabilitation program of any one handicapped individual; (iv) the use of existing telecommunications systems; and (v) captioned films or video cassettes for deaf persons.

"Vocational skill training" means a program of organized and systematic instruction conducted by qualified instructors and designed to enable clients to acquire marketable skills in a specific occupation or trade.

"Work activity" means therapeutic work activities and educational, social, personal, and vocational adjustment training to assist severely disabled individuals to attain their optimal level of vocational development and to enhance their ability to function independently within the community.

"Work adjustment training" means a treatment/training process utilizing individual and group work or work-related activities to assist individuals in understanding the meaning, value, and demands of work; to modify or develop attitudes, personal characteristics, and work behavior; and to develop functional capacities, as required, in order to assist individuals toward their optimum level of vocational development.

"Workshop" means a rehabilitation facility or that part of a rehabilitation facility that provides work opportunity at a less-than-competitive level.

PART II. REFERRAL AND ELIGIBILITY.

§ 2. § 2.1. Processing referrals and applications.

A. Certain items of information are required in order to open a case record on individuals who are referred for rehabilitation services. The Vocational Rehabilitation Program shall open a case record on every individual who is referred and regarding whom the required items of information are known.

B. A referred individual regarding whom the Vocational Rehabilitation Program has the required items of information and who requests in writing consideration for eligibility for the Vocational Rehabilitation Program shall be considered an applicant. All applicants are informed regarding the availability of the Client Assistance Program.

§ 2. § 2.2. Eligibility for vocational rehabilitation services.

A. The DVH Vocational Rehabilitation Program shall serve only individuals with visual impairments. The Virginia Department of Rehabilitative Services (VDRS) is empowered in the Code of Virginia to provide vocational rehabilitation services to individuals with disabilities not involving visual impairment. A cooperative agreement exists between the DVH and VDRS which delineates the client populations to be served by DVH and by VDRS. A multihandicapped individual, one of whose impairments is legal blindness, is to be served by the DVH.

B. No vocational handicap exists on a usual basis if the disabled individual is not of working age. Therefore, the DVH program does not provide vocational rehabilitation services to individuals who have not attained the age of 14. One exception exists to the age of 14 lower limit — an individual may be served at age 13 if he clearly meets all other requirements, is in immediate need of vocational rehabilitation services, and no community resources or similar benefits are available to defray the cost of vocational rehabilitation services.

C. Any qualified applicant residing in Virginia will be served by the DVH Vocational Rehabilitation Program. Services may be provided to aliens who have a permanent or working visa. To provide services to an alien, there must be documentation in the case records that the individual has either a permanent or work visa, or the green card registration number.

D. The presence of a physical disability for purposes of eligibility for the DVH Vocational Rehabilitation Program shall constitute one or more of the following:

1. Legal blindness—having not better than 20/200 central visual acuity in the better eye measured at 20 feet with correcting lenses or having visual acuity greater than 20/200 but with the widest diameter of the visual field in the better eye subtending an angle of no greater than 20 degrees measured (at a distance of 33 centimeters using a three-millimeter white test object, a Goldman III-4e target, or other equivalent equipment);

2. 20/100 to 20/200 distance vision in the better eye with correcting glasses or a field limitation to 30 degrees or less in the better eye, if the person has been unable to adjust satisfactorily to the loss of vision and if it is determined by the DVH rehabilitation counselor that the person is in need of the specialized services available through DVH Vocational Rehabilitation Program;

3. Night blindness or a rapidly progressive eye condition which, in the opinion of a qualified ophthalmologist, will reduce the distance vision to 20/200 or less; and

4. Recommendation by an eye doctor for eye surgery or special treatments, regardless of visual acuity, as long as the eye surgery or special treatment is not merely to improve cosmetic effect.

E. The federal requirement for the presence of a substantial handicap to employment is met if the visually impaired individual is unemployed or is employed but at employment which is determined by the DVH rehabilitation counselor to be marginal or unstable. The DVH does not provide vocational rehabilitation services to successfully employed visually impaired individuals seeking job promotions or a career change.

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F. The federal vocational rehabilitation eligibility requirement that there be a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability is carried out by the DVH rehabilitation counselor as described in § 4.A § 2.3 below. In order for a visually impaired individual to be eligible for vocational rehabilitation services under this criteria, the DVH rehabilitation counselor must determine that the visually impaired individual is likely to enter remunerative employment, or function as a homemaker, as a result of the delivery of vocational rehabilitation services.

G. The DVH elects not to provide vocational rehabilitation services on the basis of an interim determination of eligibility.

§ 4. § 2.3. Evaluation of vocational rehabilitation potential; preliminary diagnostic study.

A. In order to determine if an applicant is eligible for vocational rehabilitation services, the DVH requires the following items:

1. An eye report from an ophthalmologist or optometrist.
2. An appraisal of the current general health status of the individual. This appraisal is to be procured from a qualified physician, except in instances where the individual is referred solely for sponsorship for eye surgery or special treatments. In such instances, the DVH rehabilitation counselor may review health information supplied by the applicant in lieu of a general preoperative medical exam by a physician.
3. A determination by the DVH rehabilitation counselor that the applicant will likely be able, as a result of vocational rehabilitation services, to enter or reenter remunerative employment or to function as a homemaker. This determination shall be based on the applicant's general health status, his general level of functioning apart from the visual limitation, and his family status.
4. The DVH rehabilitation counselor will secure such additional examinations or testing as may be indicated by the findings from §§ 4.A-1, 4.A-2, and 4.A-3 § 2.3 A 1-3 above in order to assist in determining eligibility for vocational rehabilitation services. Such additional examinations and tests may include but are not necessarily limited to: specialty medical exams, psychological or psychiatric exams, and vocational evaluations.

B. The applicant for vocational rehabilitation services from the DVH may use a qualified physician(s) of his choice in obtaining the necessary eye and general health appraisals.

§ 5. § 2.4. Evaluation of vocational rehabilitation potential;

thorough diagnostic study.

A. The DVH rehabilitation counselor shall assess the medical, psychological, vocational, education, and other factors relating to employment and rehabilitation needs.

B. An assessment to the extent appropriate will consist of the following tests and evaluation data.

1. Specialty medical reports;
2. Psychological or psychiatric reports;
3. Vocational evaluations reports;
4. Activities of daily living (ADL) skills evaluation; and
5. Low vision evaluation.

PART III. SERVICES.

§ 6. § 3.1. Order of selection for services.

A. The following order of selection will prevail in the Vocational Rehabilitation Program of the Virginia Department for the Visually Handicapped. The order of selection will be implemented if the Virginia Department for the Visually Handicapped cannot serve, due to limited financial resources, all individuals who apply and are potentially eligible for services.

1. A legally blind individual means having a visual acuity of no better than 20/200 in the better eye with correction, or who have a field loss of 20 degrees or less in the better eye.
2. Those who are severely disabled, based on visual acuity which means their vision cannot be better than 20/70 in the better eye with correction, or if there is a field of less than 70 degrees in the better eye.
3. The nonseverely disabled.

B. ~~When cumulative average monthly expenditures exceed 5.0% of the total funds available for two consecutive months, the order of selection will be immediately implemented. The order of selection can be lifted when the level of expenditures return to the total level of available funding for two consecutive months. When the Vocational Rehabilitation Program of the DVH determines it is necessary to go on an order of selection, a public hearing will be held prior to the implementation of the order of selection.~~

C. The Vocational Rehabilitation Program of the DVH shall give top priority to serving public safety officers disabled in the line of duty.

§ 7. § 3.2. Services to handicapped American Indians.

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Eligible American Indians, whether or not residing on the Indian reservation in Virginia, will be provided vocational rehabilitation services to the same extent and in the same fashion as other eligible individuals.

§ 8. The individualized written rehabilitation program: procedures.

A. It is Vocational Rehabilitation Program policy that the individual's views be taken into account and that the individualized written rehabilitation plan be jointly developed. As evidence that the individualized written rehabilitation program was jointly developed by the DVH rehabilitation counselor and the disabled individual, the rehabilitation counselor will do the following:

1. Forward a copy of the plan to the individual along with a stamped, self-addressed postcard for the individual to sign and return. The postcard states that the individual has received the copy and is aware of the provisions of his plan.
2. Enter the individual's views, either in paraphrase or verbatim, regarding his rehabilitation program on the "plan of services" page of the individualized written rehabilitation program.

B. It is Vocational Rehabilitation Program policy that the DVH rehabilitation counselor inform the individual or his representative of all agency procedures and requirements affecting the development and review of the individualized written rehabilitation program.

C. The periodic review of the individual's individualized written rehabilitation program (IWRP) will be conducted by the rehabilitation counselor in a face-to-face interview with the individual whenever possible. The review will be conducted via telephone if a face-to-face interview is not feasible. The individual's views will always be taken into account in redeveloping the IWRP. In all cases, a written copy of the periodic review and redeveloped IWRP will be forwarded to the individual along with a stamped, self-addressed postcard for the individual to sign to indicate that he has received a copy of his updated, redeveloped IWRP and is aware of its content.

D. The Vocational Rehabilitation Program fully complies with the federal regulations relating to the termination of services if an individual is determined to be no longer eligible for services. When a case is closed by the Vocational Rehabilitation Program from active status because it has been determined that the individual no longer has rehabilitation potential, the required annual review at that time is done by a representative of the agency's Program Evaluation and Support team (PEST) rather than the rehabilitation counselor who made the ineligibility decision.

§ 9. § 3.3. Scope of state unit program: vocational rehabilitation services for individuals.

A. Evaluation of vocational rehabilitation potential. (See §§ 5-A and 5-B 2.4 A and 2.4 B of these regulations or applicable requirements.)

The Department for the Visually Handicapped reserves the right to require, prior to commitment of case services funds, to conduct or procure evaluative studies and reports which in the department's opinion are necessary to determine the individual's eligibility for vocational rehabilitation, and to determine the nature and scope of services needed by the individual.

B. Counseling, guidance, and referral.

It is the policy of the Virginia Department for the Visually Handicapped to provide counseling, including vocational counseling and adjustment counseling, as appropriate to all vocational rehabilitation clients. It is also policy of the Virginia Department for the Visually Handicapped that its clients will be referred as appropriate to other agencies for needed services.

C. Physical and mental restoration and training: *Scope of vocational rehabilitation services appropriate to the needs of individuals:*

1. Physical and mental restoration services can be provided only to correct or substantially modify a physical or mental condition which is stable or slowly progressive.
2. The Vocational Rehabilitation Program does not sponsor visually handicapped individuals for physical restoration when the sole objective is improvement of cosmetic effect, except when the individual's vocational goal requires extensive, interpersonal, or public contact.
3. The Vocational Rehabilitation Program, in determining rates of payment for various medical services for its clients, abides by the medical fee schedule developed and maintained by the Virginia Department of Rehabilitative Services. In instances where the Virginia Department of Rehabilitative Services has not established rates of payments, the Vocational Rehabilitation Program will set rates of payment seeking and considering the views of medical practitioners, medical insurance carriers, and the Medical Advisory Committee of the Virginia Department of Rehabilitative Services.
4. In determining the amount to be paid for any physical or mental restoration service for a handicapped individual covered by medical insurance, the Vocational Rehabilitation Program will pay only after the similar benefit *comparable services or benefits* or insurance has paid. The Vocational Rehabilitation Program of the Virginia Department for the Visually Handicapped deems the amount established in the medical fee schedule of the Virginia Department of Rehabilitative Services (VDRS) for any

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given medical procedure or services to be the full reasonable charge for such medical procedure or service.

5. Individuals eligible for physical restoration services from the Vocational Rehabilitation Program and who are also eligible for Medicare parts A and B are entitled to having the Vocational Rehabilitation Program pay only the Medicare deductible amounts for parts A and B, only to having the Vocational Rehabilitation program pay the established fee less the Medicare parts A and B payment.

6. The Vocational Rehabilitation Program does not sponsor individuals for experimental surgery or special treatments. A decision as to whether any given surgery or special treatment is experimental versus having demonstrated benefit will be made by the Vocational Rehabilitation Program after consultation with appropriate physicians.

7. The following rules govern rule governs the purchase of hearing aids for clients:

a. Hearing aids will be provided only on the recommendation of an otologist or audiologist with a hearing aid evaluation.

b. Binaural hearing aids will be purchased only after the client has successfully adjusted to the use of a monaural aid.

8. The Vocational Rehabilitation Program will not provide routine dental care and prophylaxis (such as, routine cleaning, filling cavities, etc.). Oral surgery, orthodontic services, and dental prosthesis may be provided when necessary in order to assist vocational rehabilitation clients obtain employment.

9. Eye surgery or treatment will be provided by a physician skilled in diseases of the eye.

10. The client will exercise free choice in the selection, if necessary, of a physician skilled in the diseases of the eye or an optometrist from those who are duly qualified. If the client desires the Vocational Rehabilitation Program staff to select an ophthalmologist or optometrist, the client will be referred to the optometrist or ophthalmologist most convenient to the client's home.

11. The Vocational Rehabilitation Program will not provide routine "maintenance" drugs (such as, high blood pressure medication, eye drops for the control of glaucoma, insulin for diabetics, etc.) for clients. Prescription drugs may be provided incidental to eye surgery or other special treatments or to stabilize a client's medical or eye condition. The Vocational Rehabilitation Program will not pay amounts in excess of the maximum allowable charge (MAC) as described in 45 CFR Part 19 Limitations on Payment or

Reimbursement for Drugs.

12. On-the-job training is used by the Vocational Rehabilitation Program as a means of giving a client practical experience on a job without putting an extra expense on an employer because of a longer learning period on the part of the blind worker. On-the-job training is also a means of persuading reluctant employers to give vocational rehabilitation clients a job trial without cost to the employer. Clients placed in on-the-job training must be paid at least the federal minimum wage plus the employer's part of the FICA. One exception to the minimum wage rule is in sheltered workshops that have been approved by the U.S. Department of Labor for payment of less than minimum wage to these workers. A maximum time limit of three months is placed on Vocational Rehabilitation Program sponsorship for on-the-job training. A monthly training progress report from the employer is required in order for the Vocational Rehabilitation Program to process the bill.

13. The following policies shall apply to the Vocational Rehabilitation Program sponsorship for college training:

a. It is the policy of the Virginia Department for the Visually Handicapped to sponsor college student-clients in Virginia state-supported colleges and universities. If the necessary curriculum is not available to the student-client in a Virginia state-supported college or university, or if there exists other adequate justification for sponsoring a student-client at an out-of-state college or university, the Vocational Rehabilitation Program may sponsor the student-client in an out-of-state college or university.

b. The Vocational Rehabilitation Program is permitted to sponsor students at public and private colleges and universities in the Commonwealth whose primary purpose is to provide a collegiate education. Students may be sponsored at nonsectarian and public colleges and universities out of state. Any college or university to be used by the Vocational Rehabilitation Program must be on the list of approved colleges and universities maintained by the Virginia Department of Rehabilitative Services.

c. In determining whether to sponsor a client for college, the Vocational Rehabilitation Program staff will consider high school grade transcripts, aptitude test scores, and psychological test results. The Vocational Rehabilitation Program is not obligated to sponsorship for college unless a determination can be made that the student-client has a reasonable chance of successfully completing his chosen curriculum.

d. In sponsoring a student-client, the Vocational

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Rehabilitation Program will pay the actual cost of the education or an amount that does not exceed the amount charged by the most expensive state-supported college or university, whichever is lower. Student-clients not categorically ineligible for Pell Grant assistance must apply annually for such assistance before the Vocational Rehabilitation Program will obligate itself to pay toward the cost of college training. The Vocational Rehabilitation Program requires maximum utilization of Pell Grant or other available educational grants. Student-clients who are categorically ineligible for Pell Grant assistance (example: graduate students) are required to apply for other available scholarships, fellowships, etc., and to make maximum utilization of same. The client shall send to the DVH rehabilitation counselor a copy of the Student Eligibility Report (SER) when he receives it from the college scholarship service. Those who are ineligible to apply for a Pell Grant are required to have a letter by the college sent to the rehabilitation counselor verifying that he has applied for all available scholarship aid and the amounts of assistance, if any. The student-client must apply for Pell Grant or other financial aid within the college's deadline for accepting such applications. Failure to provide SER or other written verification will result in the Vocational Rehabilitation Program not providing sponsorship for the year. The student-client must provide the DVH rehabilitation counselor with the required SER or other written verification at least 60 days prior to the beginning of the college quarter or semester in order to receive sponsorship from the DVH.

e. The student-client must complete required course work within the "normal" period of time. Ordinarily for a bachelor's degree, this will be four academic years. Student-clients receiving maintenance, transportation, or personal incidents must complete a minimum academic load of 12 hours per regular term and nine during summer term. No student will be sponsored for more than two summer terms, unless he plans to finish college in three academic years and three summer terms; and this must be documented on his IWRP when the service is authorized. Graduate students are required to carry an equivalent load. If at any time the number of hours completed by a student-client receiving maintenance, transportation, or personal incidentals from Vocational Rehabilitation Program falls under 12 hours per term, sponsorship by DVH will be withdrawn except in exceptional circumstances, such as illness. The requirements for minimum credit hours as described immediately above do not apply to student-clients receiving tuition only.

f. All college students, who have been declared emancipated, are required to apply for SSI/SSDI benefits before receiving financial assistance from DVH.

g. At the end of the first term of the freshman year, the student-client is expected to have attained a grade point average of at least 1.8 on a 4.0 scale. Following the first term of the freshman year, the student-client is expected to maintain a 2.0 average. Failure to do so will result in suspension of sponsorship by the DVH. The DVH will also withdraw sponsorship if the student-client fails to achieve a 2.0 for any two consecutive terms. (Examples: (i) If a student-client achieves a 1.8 grade point average for the first term of the freshman year, he must achieve a 2.2 the second term in order for the DVH to continue sponsorship; (ii) a student-client cannot achieve a 1.7 or lower quality point average for the first semester of the freshman year and continue to receive DVH sponsorship.) DVH sponsorship for college can resume at such time that the student-client brings his cumulative grade point average to a 2.0 or above. However, in no case will the total DVH college sponsorship exceed four academic years and two summer terms or three academic years and three summer terms.

h. The DVH will pay maximum of \$300 per academic year for books and supplies and \$100 for summer sessions.

i. Each vocational rehabilitation client being sponsored for college training is required to review and sign a document called the VR-27C (Terms and Conditions of DVH Sponsorship of College Students). Failure to sign and return the "Terms and Conditions" document constitutes grounds for termination of DVH college sponsorship. Failure to comply with the terms and conditions as set forth in "Terms and Conditions" document will also result in termination of DVH college sponsorship. The VR-27C must be reviewed and signed annually by the client. This must be done prior to the development of the IWRP and authorization for the academic year involved.

j. DVH clients attending college will be served by the DVH rehabilitation counselor who serves the territory in which the college is located. Student-clients attending college out-of-state but within 25 miles of Virginia will be served by the DVH rehabilitation counselor whose territory is in closest proximity to the college. Where more than one DVH rehabilitation counselor's territory is in equal proximity to an out-of-state college (such as in Washington, D.C.), the DVH rehabilitation counselors involved will divide as equally as possible the number of such college student-clients to be served. Student-clients attending colleges more than 25 miles from the Virginia state line will be served by the DVH rehabilitation counselor in whose territory the student-client resides when not at college.

14. It is the policy of the Vocational Rehabilitation

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Program to provide personal and vocational adjustment training services in the least expensive manner compatible with adequate quality and comprehensiveness of service. Sponsorship decisions involving selection of training vendors/providers will be so governed.

15. Vocational training sponsorship for any vocational rehabilitation client will be limited to that which prepares the client to meet the minimum entry job qualifications for the job he plans to obtain. If, due to the presence of high numbers of qualified job seekers, it is determined that the vocational rehabilitation client will need more than minimum qualifications to reasonably expect to gain employment in the chosen job field, the Vocational Rehabilitation Program may provide training which prepares the vocational rehabilitation client at more than minimum qualification level. In such situations, the sponsorship decision will be made by the Vocational Rehabilitation Program on an individual basis—taking into account available information regarding qualification profiles of entry-level personnel in the client's chosen career field. In instances where an individual's employment is interrupted by sudden blindness, the Vocational Rehabilitation Program will make every effort to assist the individual to return to his previous employment or to an equivalent position.

16. Vocational training will not be provided by the Vocational Rehabilitation Program for clients whose vision is restored by physical restoration to normal or near normal status. That is, clients who after the provision of physical restoration services have vision better than 20/100 distance acuity in the better eye with glasses or who is left with a visual field of more than 30 degrees in the better eye are not eligible for vocational rehabilitation sponsorship for vocational training.

17. In order for the Vocational Rehabilitation Program to continue vocational training sponsorship, the vendor/provider of such training must provide the Vocational Rehabilitation Program with periodic training reports dealing with the client's performance and progress. "Periodic" here is defined as the time period stipulated in writing by the Vocational Rehabilitation Program at the time of authorizing the service.

18. In sponsoring its clients for vocational evaluation or adjustment and vocational adjustment training at a sheltered workshop or other rehabilitation facility, the Vocational Rehabilitation Program will abide by the fee schedule developed and maintained by the Virginia Department of Rehabilitative Services (VDRS). In instances where out-of-state rehabilitation facilities are not listed in the VDRS fee schedule, the Vocational Rehabilitation Program will pay the same amount as the state vocational rehabilitation agency (agencies) pay for services.

19. Vocational Rehabilitation Program clients will be sponsored, as needed, for prevocational training services in a variety of settings. Such prevocational training consists of, but is not necessarily limited to, work adjustment training and behavior modification training.

20. The following rules apply to provision of maintenance services:

a. Hospitalization incidental to treatment of intercurrent illness is deemed by the (federal) Rehabilitation Services Administration to be maintenance; and therefore, any vocational rehabilitation client to be sponsored for hospitalization for intercurrent illness must be eligible for maintenance services as described in this section of these regulations.

b. It is the policy of the Vocational Rehabilitation Program to pay maintenance, as far as possible, at the prevailing rate in the community. Payment rates and schedules are revised as needed to keep them current.

c. Maintenance payments are provided only to enable individuals to participate in other vocational rehabilitation services. Maintenance may only be provided when supportive of other vocational rehabilitation services. Maintenance payments may be made to cover food, shelter, clothing, personal incidentals, intercurrent illness, and other subsistence expenses.

d. Maintenance payments may be provided during diagnosis and evaluation, active case services, and post-employment.

e. Payments for maintenance shall not exceed the amount of increased expenses that the rehabilitation program causes to the individual or his family.

f. Maintenance can be paid by the Vocational Rehabilitation Program for clients who reside at home during their rehabilitation programs, but only to the extent of increased costs to the client as a result of participating in the rehabilitation program. When training is outside of their home area, maintenance may be paid only to the extent of increased cost to the client after all available *similar benefits comparable services and benefits* have been used.

g. Vocational Rehabilitation Program clients who are SSDI or SSI recipients are not eligible for maintenance payments from the Vocational Rehabilitation Program, except when there is an increased maintenance cost due to participating in a rehabilitation program. In such instances, the Vocational Rehabilitation Program may pay the difference between actual maintenance costs and the

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amount of the client's monthly SSDI or SSI benefits.

21. The Vocational Rehabilitation Program makes payments when necessary for transportation for vocational rehabilitation clients incidental to participating in their rehabilitation programs. The amount of payment is limited to that of the least expensive available common carrier. If common carrier service is not available in the client's locality, the Vocational Rehabilitation Program may pay up to the current amount per mile for travel by automobile which is authorized for employees of the Commonwealth of Virginia. It is the policy of the Vocational Rehabilitation Program to provide necessary transportation for eligible clients in the least expensive manner. Transportation, in the sense of relocation and moving expenses necessary for clients to enter employment, is also available to eligible individuals.

22. The Vocational Rehabilitation Program provides services to the vocational rehabilitation client's family members when necessary to the vocational rehabilitation of the client. Due to the highly individualized nature of client situations, the provision of services to family members must be considered on an individualized basis to determine the "necessity." Examples of services to client's family members include: (i) providing bookkeeping training to the client's spouse if the Vocational Rehabilitation Program intends to assist the client start a small family business and (ii) providing child care service if the client is a single parent with small children and the client's vocational rehabilitation involves vocational training or other activities requiring the client's being out of the home.

23. The Vocational Rehabilitation Program provides tactile interpreting for deaf-blind vocational rehabilitation clients when necessary for them to achieve their vocational objectives. The rate of payment, when it is necessary to purchase such tactile interpreter service, is determined in consultation with the Virginia Department for the Deaf and Hard of Hearing.

24. The Vocational Rehabilitation Program provides reader services for its clients when necessary to assist them in vocational training. The Vocational Rehabilitation Program requires that other available resources for this service be utilized before or in place of the Vocational Rehabilitation Program. The maximum number of hours per academic year for which the Vocational Rehabilitation Program will purchase this service per client is 400 hours. Rates of payment for reader service for vocational rehabilitation clients will be set by the Virginia Department for the Visually Handicapped at as nearly as possible to the federal minimum wage amount—taking into account available fiscal resources of the Vocational Rehabilitation Program.

25. The Vocational Rehabilitation Program provides rehabilitation teaching services to its clients through an arrangement with the Rehabilitation Teaching Program of the Virginia Department for the Visually Handicapped and through the Virginia Rehabilitation Center for the Blind.

26. The Vocational Rehabilitation Program discharges its responsibility of payment for note taking in academic and vocational training by providing adaptive equipment which may be used by the blind and severely visually handicapped to take notes. The equipment consists of slate and stylus, tape recorder, or braillewriter.

27. The Vocational Rehabilitation Program discharges its responsibility for provision of orientation and mobility instruction for its clients through DVH staff. The following client group priorities exist for providing orientation and mobility instruction services:

- a. Clients employed or entering employment;
- b. Clients in or entering vocational evaluation or vocational training;
- c. Clients enrolled in personal adjustment training only; and
- d. Clients having limited (restricted to home and yard) mobility needs and objectives.

At such times that DVH orientation and mobility instructors' workloads require prioritization of clients in terms of waiting periods for services, the above-listed priority sequence will be followed.

28. The Vocational Rehabilitation Program provides, as necessary and as its operating budget allows, telecommunications, sensory, and other technological aids and devices for its clients to assist them to achieve their rehabilitation objectives. Due to the high cost of many such telecommunications and other sensory aids and devices, the Vocational Rehabilitation Program commits itself only to providing them when they are essential to the client's successful achievement of his rehabilitation objectives. Clients in or entering employment or vocational training are accorded first priority in the provision of such aids and devices. Any purchase of an aid or device with costs exceeding \$2,000 must receive the prior approval of the Vocational Rehabilitation Program Director.

29. In determining the most appropriate sensory aid to provide, the Vocational Rehabilitation Program will provide the least expensive aid or device which is determined to adequately meet the client's needs in relation to achieving his vocational goal. In instances involving the proposed provision of a closed circuit television, optical to tactile conversion system (Optacon), or other device designated by the

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Vocational Rehabilitation Program, a DVH low vision examination report must certify that the client does not have sufficient vision to use less expensive optical aids.

30. Clients of the Vocational Rehabilitation Program will receive necessary vocational rehabilitation services incidental to opening new employment opportunities in the fields of rehabilitation, medicine, health, welfare, public safety, law enforcement, and other appropriate public service employment.

31. Placement in suitable employment is provided by the Vocational Rehabilitation Program through designated staff members of the DVH.

32. Vocational Rehabilitation Program staff, in providing the job placement service, may assign certain tasks to the client (such as, reviewing newspaper personnel recruitment ads, contacting prospective employers to arrange for employment interviews, completing sample employment applications, etc.). Failure by the client to discharge reasonable task assignments may constitute grounds for discontinuing job placement assistance from the Vocational Rehabilitation Program.

33. Clients requesting sponsorship from the Vocational Rehabilitation Program in establishing self-employment enterprises are required to cooperate in any feasibility studies which are deemed necessary by the Vocational Rehabilitation Program. Failure to cooperate in such feasibility studies will result in termination of consideration for sponsorship.

34. Post-employment services necessary to maintain suitable employment are provided, as necessary, by the Vocational Rehabilitation Program. Any vocational rehabilitation services may be provided in post-employment status but cannot involve a complex or comprehensive rehabilitation effort unrelated to the original IWRP. Only individuals who have been served by the Vocational Rehabilitation Program in the past and have been determined to be rehabilitated can be eligible for post-employment services from the Vocational Rehabilitation Program. If the Vocational Rehabilitation Program determines that complex or comprehensive vocational rehabilitation services are necessary, the individual cannot be served in post-employment status but shall undergo determination of eligibility for vocational rehabilitation services as described in § 3-A § 2.2 A above.

35. Although federal law and regulations (the Rehabilitation Act of 1973, as amended, and its implementing regulations) do not prescribe a specific time limit for the duration of post-employment services, it is clear from federal (Rehabilitation Services Administration) guidance that post-employment services are not to be "complex" or "comprehensive" and must be related to the original

handicapping condition and IWRP. Therefore, the following rules apply for provision of post-employment services by the Vocational Rehabilitation Program:

a. To be eligible for consideration for post-employment services, the individual must have been determined within the previous 12-month period to have been rehabilitated.

b. The provision of post-employment services by the Vocational Rehabilitation Program shall not exceed 12 months in duration.

c. Individuals being assisted by the Vocational Rehabilitation Program in post-employment status shall have their post-employment services and arrangements documented via amendments to their IWRP.

36. The Vocational Rehabilitation Program will assist clients as necessary to procure occupational licenses (including any license, permit, or other written authority required by a state, city, or other governmental unit to be obtained in order to enter an occupation or enter a small business), tools, equipment, initial stocks, and supplies. Such assistance will include the payment of examinations or issuance fees.

37. The Vocational Rehabilitation Program may provide other goods and services which can reasonably be expected to benefit a handicapped individual in terms of employability.

38. Rehabilitation engineering services may be provided for disabled individuals when such services are necessary to enable the individual to access a training program or employment.

a. An evaluation to determine the need for rehabilitation engineering services may be provided as part of the thorough diagnostic evaluation, and is not based on financial need. The cost of the rehabilitation engineering service following the evaluation is based on financial need.

b. Rehabilitation engineering should be considered on an individual basis as appropriate.

c. Rehabilitation engineering is appropriate when modification of equipment or adaptive equipment is necessary to enable an individual to participate in training or employment. The vocational rehabilitation counselor must use his judgment when there is more than one alternative available for adapting or modifying equipment for training or employment or both.

d. Rehabilitation engineering services shall be entered on the individual's individualized written rehabilitation program.

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§ 3.4. Supported employment services.

Supported employment is available as a vocational option to individuals who were traditionally not eligible for vocational rehabilitation services.

A. Individuals who are eligible for supported employment services are those who are blind or who are visually impaired with a second physical or mental disability, and who cannot successfully become employed without ongoing supported services.

B. Vocational rehabilitation pays for the time-limited phase of supported employment, and third party funding must be available for the ongoing phase of supported employment before vocational rehabilitation can obligate funds for the time-limited phase of supported employment.

C. Supported employment must occur in an integrated work setting. Individuals shall be employed for an average of 20 hours per week over the pay period.

PART IV.

PROGRAM PROCEDURES AND REVIEWS.

§ 4.1. The individualized written rehabilitation program: procedures.

A. It is vocational rehabilitation program policy that the individual's views be taken into account and that the individualized written rehabilitation plan be jointly developed. As evidence that the individualized written rehabilitation program was jointly developed by the DVH rehabilitation counselor and the disabled individual, the rehabilitation counselor will do the following:

1. Forward a copy of the plan to the individual along with a stamped, self-addressed postcard for the individual to sign and return. The postcard states that the individual has received the copy and is aware of provisions of his plan.

2. Enter the individual's views, either in paraphrase or verbatim, regarding his rehabilitation program on the "plan of services" page of the individualized written rehabilitation program.

B. It is vocational rehabilitation program policy that the DVH rehabilitation counselor inform the individual or his representative of all agency procedures and requirements affecting the development and review of the individualized written rehabilitation program.

C. At least once a year a review of the individual's individualized written rehabilitation program (IWRP) will be conducted by the rehabilitation counselor in a face-to-face interview with the individual whenever possible. The review will be conducted via telephone if a face-to-face interview is not feasible. The individual's views will always be taken into account in redeveloping the IWRP. In all cases, a written copy of the periodic

review and redeveloped IWRP will be forwarded to the individual along with a stamped, self-addressed postcard for the individual to sign to indicate that he has received a copy of his updated, redeveloped IWRP and is aware of its content.

D. The vocational rehabilitation program fully complies with the federal regulations relating to the termination of services if an individual is determined to be no longer eligible for services. When a case is closed by the vocational rehabilitation program from active status because it has been determined that the individual no longer has rehabilitation potential, the required annual review at that time is done by a representative of the agency's program evaluation and support team (PEST) rather than the rehabilitation counselor who made the ineligibility decision.

§ 10. § 4.2. Rates of payment.

A. Reference to policies governing rates of payment may be found in the following sections of this document:

1. Medical Fees § ~~0.C.4.~~ § 3.3 C 4

2. College Fees § ~~0.C.13.~~ § 3.3 C 13

3. Obligation of Sheltered Workshops or Other Rehabilitation Facilities for Vocational Evaluation and Adjustment § ~~0.C.18.~~ § 3.3 C 18

4. Maintenance § ~~0.C.20.~~ § 3.3 C 20

5. Transportation § ~~0.C.21.~~ § 3.3 C 21

6. Interpreter Service for Deaf-Blind § ~~0.C.23.~~ § 3.3 C 23

7. Reader Service § ~~0.C.24.~~ § 3.3 C 24

B. The vendor's acceptance of an authorized fee from the medical fee schedule shall be considered a payment in full for medical services.

C. The vendor's acceptance of an authorized fee for a nonmedical service is considered payment in full for that service unless mutually agreed otherwise by the vendor, the client, and the Vocational Rehabilitation Program of the Department for Visually Handicapped.

PART V.

FINANCIAL MEASURE.

§ ~~11.~~ § 5.1. Participation by handicapped individuals in the cost of vocational rehabilitation services.

A. The Virginia Department for the Visually Handicapped has elected to uniformly apply a financial needs assessment for vocational rehabilitation clients in the Commonwealth. Financial need, however, is not applied in order that clients receive the following services:

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1. Reader service for clients enrolled in college or in a vocational training program.
2. Adjustment training provided at the Virginia Rehabilitation Center for the Blind in Richmond.
3. Prevocational adjustment training, such as, rehabilitation teaching, provided to vocational rehabilitation clients by the Department for the Visually Handicapped field staff.
4. Interpreter services for the deaf-blind.
5. Diagnosis and evaluation.
6. Counseling, guidance, and referral.
7. Job placement and follow-up.
8. Orientation and mobility training.
9. Summer work experience for high school and college students.

B. Those services where financial need will be assessed include:

1. Tuition for college or other training.
2. Medical treatment and physical restoration services.
3. Books and supplies.
4. Equipment.
5. Services to members of a handicapped individual's family when necessary to the vocational rehabilitation of the handicapped individual.
6. Occupational licenses, tools, equipment, and initial stock and supplies.
7. Maintenance during training.
8. Personal incidentals during training.
9. Post-employment services.
10. Telecommunications, sensory, and other technological aids and devices.
11. Transportation.
12. *Rehabilitation engineering services when not incidental to the evaluation of rehabilitation potential.*

C. Vocational rehabilitation clients will be required to utilize all available similar benefits for maintenance, training, transportation, medical treatment, and physical restoration when it is appropriate to utilize such benefits.

D. Financial eligibility will be based on the following:

1. Gross income. Income level will be adjusted periodically and will be done uniformly for all independent living vocational rehabilitation clients.
2. Income from real property. Real property will not be considered for financial eligibility, but income from such property is to be considered as part of the client's gross income.
3. Liquid assets. Will be applied toward the cost of those services for which financial need is considered when the liquid assets exceed the amount established for financial eligibility.
4. Allowable deduction.

a. Unusual medical costs. The only deductions that will be considered will be unusual medical expenses which will mean these expenses are not of a routine nature and for which the costs will not be covered by similar benefits, comparable services and benefits. The medical conditions that are not considered routine are those which are acute or have arisen from trauma traumatic and which place an additional burden upon the family income and resources. Other medical expenses which could be deferred because they are not of a routine nature would be unusual dental braces, retainers, etc. Those routine medical expenses that could not be deferred would include routine doctors' visits and hospital insurance premiums.

b. Tuition costs for client or family member to attend a private or public educational facility.

When the client's gross income, liquid assets, or both exceed the financial eligibility requirement after allowable deductions have been considered, the client and his family will have to apply the excess toward the cost of those services provided by independent living vocational rehabilitation for which there is financial need considered. The income eligibility is based on 80% of the federal estimated median income in Virginia, which is published annually in the Federal Register. The median income levels will be reviewed on an annual basis and updated as appropriate. The chart below reflects the gross income level and liquid assets exemptions for financial eligibility as applied by the vocational rehabilitation program:

Normal Living Requirements

Number of Persons	Annual Amounts	Monthly Amounts
1	\$15,760	\$ 1,313
2		1,717

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20,609		
	3	2,122
25,459		
	4	2,526
30,308		
	5	2,929
35,157		
	6	3,334
40,007		
	7	3,410
40,916		
	8	3,485
41,825		

Add \$300 per month for each additional person in the family, if more than eight.

Exemptions for Liquid Assets

Number in Family	Amount
1	\$ 6,000
2	7,200
3	8,400
4	9,600
5	10,800
6	12,000
7	13,200
8	14,400

PART VI. CLIENT'S RIGHTS.

§ 12. § 6.1. Appeal procedures.

A. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.

B. When an individual files a formal complaint, he will meet with the employee and his supervisor. The grievant will be reminded as to the availability of the Client Assistance Program within the Department for Rights of the Disabled to assist him in the appeals process.

C. If resolution is not reached at Step B, the Assistant Deputy Commissioner for Services meets with the grievant, his representative, the employee, and his supervisor.

D. If resolution is not reached at Step C, the grievant can request a hearing before an impartial hearing officer.

E. The impartial hearing officer will submit his decision to the Commissioner of the Department for the Visually Handicapped, who can either accept or overturn the decision of the impartial hearing officer. ~~The commissioner's decision is final in the appeal process; however, the grievant can elect to continue his complaint within the judicial system.~~

F. DVH vocational rehabilitation staff will inform each applicant or individual being provided vocational rehabilitation services of the procedure to file a complaint, including the names and addresses of those persons with whom to file a complaint.

§ 12. § 6.2. Protection, use, and release of personal information.

A. The Virginia Department for the Visually Handicapped's Vocational Rehabilitation Program ~~considers the names of~~ *considers all information about* prospective clients, current clients, and past clients as confidential information.

B. Any information or documents (such as, eye and medical reports, financial reports, narrative reports, and general data sheet) are considered to be confidential.

C. B. Individuals referred for vocational rehabilitation services will receive an explanation at intake of the confidentiality of personal information including:

1. The need for confidential information.
2. Conditions for accessing and releasing this information.
3. The authority under which confidential information is collected.
4. The principle purpose for which DVH will use or release the information.
5. Explanation of whether information the client is providing is mandatory or voluntary and the effects of not providing the information.
6. Identification of those situations where the agency does or does not require the client's written permission to release the information.
7. Identification of agencies to which information is routinely released.

D. C. Explanation of policies and procedures affecting personal information will be made by appropriate media by DVH's Vocational Rehabilitation Program to individuals who do not communicate in English or who rely on special modes of communication.

E. D. Policies and procedures concerning protection, use, and release of personal information will be utilized to provide the highest standard for confidentiality which is provided for in federal or state law.

F. E. DVH's Vocational Rehabilitation Program will use personal information only for purposes directly connected with the administration of the Vocational Rehabilitation Program. Information containing identifiable personal information will not be shared by DVH's Vocational

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Rehabilitation Program with advisory or other bodies which do not have official responsibility for the administration of the program.

G. F. When requested in writing, DVH/Vocational Rehabilitation Program will make all case information promptly available to the individual or his representative.

H. G. Personal information obtained by DVH's Vocational Rehabilitation Program from other agencies or organizations will be released only by, or under conditions established by, the other agency or organization.

I. H. DVH's Vocational Rehabilitation will release personal information to an organization, agency, or individual for audit, evaluation, or research when such endeavors are directly connected with the administration of the Vocational Rehabilitation Program, when it would significantly improve the quality of life for the visually handicapped individual, and if assurances are given that:

1. The information will be used only for the purposes for which it is being provided.
2. The information will be released only to persons officially connected with the audit, evaluation, or research.
3. The information will not be released to the individual involved.
4. *The information will be managed in a manner to safeguard confidentiality.*
4. 5. The final product will not reveal any identifying personal information without the informed, written consent of the involved individual or his representative.

J. I. DVH's Vocational Rehabilitation Program releases personal information to other agencies or organizations for program purposes only if they demonstrate that the information is necessary for their program and upon receipt of informed, written consent of the individual.

K. J. Medical or psychological information which is determined by a physician or psychologist to be harmful to the individual may be released when the other agency or organization assures DVH that the information will be used only for the purpose for which it is provided and that it will not be released to the involved individual.

L. K. DVH's Vocational Rehabilitation Program will release any personal information required:

1. ~~To fulfill~~ *When required by federal law;*
2. ~~To fulfill~~ *In response to judicial order or and in response to a law-enforcement investigation, fraud, or abuse (except where expressly prohibited by federal law) investigations in connection with law*

enforcement, fraud, or abuse (except where expressly prohibited by federal or state law); and

3. To protect the individual or others when the individual poses a threat to the safety of himself or others.

M. L. Upon the request of the U.S. Secretary of Education or his designee, the DVH's Vocational Rehabilitation Program will release to the secretary or his designee a complete and certified copy of the case record including transcripts of the fair hearing decision for the purpose of the secretary's review of the final decision.

§ 14. § 6.3. Periodic review of extended employment in rehabilitation facilities.

The Virginia Department for the Visually Handicapped annually reviews and reevaluates the status of handicapped clients it has placed in employment in rehabilitation facilities to determine their potential for placement or training for future placement in the competitive labor market. These reviews and reevaluations are conducted by administrative staff. Where potential for competitive labor market placement or training is found, a referral is made to the appropriate rehabilitation counselor.

* * * * *

Title of Regulation: VR 670-03-2. Regulations Governing Provision of Services for the Infants, Children, and Youth Program.

Statutory Authority: § 22.1-217 of the Code of Virginia.

Public Hearing Date: September 28, 1989 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

These regulations are summarized as follows: (i) includes definitions used in the regulations and the legal basis; (ii) defines the population served; (iii) describes the policies governing discretionary services to which certain visually impaired infants, children, and youth are entitled and the priority in which visually impaired children will receive services; (iv) contains information about the department's "Service Complaint or Grievance" policy and procedure; (v) contains information about the department's "Protection, Use, and Release of Personal Information" policy and procedure.

VR 670-03-2. Regulations Governing Provision of Services for the Infants, Children, and Youth Program.

PART I.
INTRODUCTION.

Article 1.

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Definitions.

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

"Client" means any person receiving a service provided by the Program for Infants, Children, and Youth of the Department for the Visually Handicapped.

"Department" means the Virginia Department for the Visually Handicapped.

"Infant" means a child age birth through two years inclusive.

"PICY" means Program for Infants, Children, and Youth.

"Visual impairment" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially sighted and blind children.

Article 2: Legal Basis.

§ 1.2. Section 22.1-217, Article 2, Chapter 13, Title 22.1, of the Code of Virginia sets forth the responsibility of the Department for the Visually Handicapped in cooperation with the Virginia Board of Education to provide services to visually impaired children.

PART II. POPULATION SERVED.

§ 2.1. The department serves children who meet the following requirements:

1. Ages birth through 21 inclusive.
2. Have a visual impairment.

PART III. SERVICES.

§ 3.1. Except where stipulated, all services which are available through the Program for Infants, Children, and Youth are provided free of charge from public funds and in a fashion that is appropriate to the individual members of the population.

§ 3.2. The following services are provided free of charge for students who meet the Title XX financial eligibility requirement whose family's income is less than 70% of the federally estimated median income for Virginia as determined by the U.S. Department of Health and Human Services, Family Support Administration :

1. An eye examination is available once per year.
2. One pair of glasses is available once per year.

§ 3.3. The Subject to the limitations specified in § 3.7, the department will be responsible for, but not limited to, providing the following discretionary services as appropriate for each individual client:

1. Orientation and mobility services.

Orientation and mobility services include teaching body image; spatial concepts; compass directions; protective travel techniques for the visually impaired; the proper use of a "long cane" if appropriate; and independent travel skills for residential, city, and rural settings as appropriate for the client's needs.

2. Low vision services.

a. Low vision services include a functional vision evaluation, a low vision examination if indicated, training in the use of prescribed low vision aids, and teaching vision utilization skills.

b. These services are available to partially sighted clients.

3. Infant development services.

a. Infant development services are provided using the diagnostic-prescriptive model in which the department's specialists work with the parent and infant program teachers to help them understand the nature of the client's visual disability and the needs associated with that disability. Technical assistance is provided so that developmental techniques can be adapted to meet the client's needs.

b. These services are available to clients age birth to two years of age.

c. If the client is enrolled in an infant program, then the department's services will supplement those of the infant program.

4. Transition services.

Transition services include technical assistance to schools who have clients enrolled in vocational education programs. This technical assistance will include suggestions for both curriculum modification and special or modified equipment.

§ 3.4. Discretionary services will be provided in accordance with the department's service plan and the client's individual education plan (IEP) from his school division or, lacking an IEP, the department's education plan.

§ 3.5. The department will lend braille or large-print textbooks and specific equipment to the school divisions for use with visually impaired children. The children for

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which the items are loaned must be on the active service rolls of the department. The list of equipment which is available is updated annually and kept on file at the department's Instructional Materials and Resource Center. The equipment and textbooks can only be ordered by the department's staff and the public school division's Itinerant Vision Program teachers.

Article 2. Client Priority Determination.

§ 3.6. The following is a list of priorities to be used in determining the level and extent of services to be provided to visually impaired children.

1. Age. The younger the child the higher the priority to provide services.
2. Visual acuity. The more severe the child's visual loss the higher the priority to provide services.
3. When the visual impairment occurred. The more recently a child developed a visual impairment the higher the priority to provide services.

§ 3.7. The level and extent of services, equipment, and materials which is available to visually impaired are subject to the personnel and fiscal constraints on the department.

PART IV. CLIENT APPEALS PROCESS.

§ 4.1. Appeal procedures.

1. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.
2. Before requesting a fair hearing, clients of the Virginia Department for the Visually Handicapped should make every effort to resolve the dispute through frank discussions with the employee whose decisions are in dispute. It is normally expected that virtually all grievances can be handled in this manner. If, however, the grievance is not resolved, the complainant should proceed.
3. First step. If the grievance is not resolved within 10 full working days after discussions between the client and the employee, the grievant must reduce his grievance to writing on a form obtainable from regional managers, facility administrators, or supervisors. The fully completed grievance form shall be delivered by the grievant to the employee of the Virginia Department for the Visually Handicapped with whom discussions were held. A copy shall also be delivered to that employee's immediate supervisor. The immediate supervisor of this employee shall meet with the grievant and the affected employee within a

reasonable time not to exceed two weeks of receipt of the grievance form. The grievant may have a representative or legal counsel, or both, of his choice present at this meeting. Every effort will be made to reach a mutually satisfactory solution during the first step fair hearing.

4. Second step. If the supervisor's reply from the first step meeting is not acceptable to the grievant, he may request, in writing, a meeting with the Assistant Deputy Commissioner for Services. Such request must be submitted within a reasonable time not to exceed two weeks after the first step decision is made. The Assistant Deputy Commissioner for Services shall meet with the grievant or his representative, or both, or legal counsel and the employee within five full working days of the grievant's request and reply in writing to the grievant within three full working days following the second step meeting. The agency may, however, at its own option omit the second step and choose a panel to hear the grievance in accord with the provisions of the third step of this procedure.

5. Third step. If the Assistant Deputy Commissioner's reply from the second step meeting is not acceptable to the grievant, he may submit the grievance to a third step panel hearing. The request for panel hearing must be received within seven full working days after the conclusion of the second step. The panel shall be selected by the Commissioner of the Virginia Department for the Visually Handicapped and will consist of three persons, including the Assistant Deputy Commissioner who served in the second step and the Commissioner who shall be chairman. The panel has the responsibility to interpret the application of appropriate agency policies and procedures in the case. It does not have the prerogative to formulate or change policies or procedures.

The panel shall set the time and place for the hearing, which shall be held as soon as practicable but no more than 10 full working days after the panel has been selected. The grievant may have present at this meeting a representative or legal counsel at his own expense. Copies of the grievance form shall be sent to the panel members.

The conduct of the hearing shall be as follows:

- a. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing.
- b. The panel may at the beginning of the hearing ask for statements clarifying the issues involved.
- c. Exhibits, when offered by the grievant, may be received in evidence by the panel; and when so received, shall be marked and made part of the record.

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d. The grievant or his representative and the agency employee shall then present claims and proofs and witnesses who shall submit to questions or other examination. The panel may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs.

e. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and the parties.

f. The majority decision of the panel shall be final, except that vocational rehabilitation clients have the right to appeal to the Secretary of Education.

The panel chairman shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the chairman shall declare the hearing closed.

The hearing may be reopened by the panel on its own motion or under application of a party for good cause shown at any time before the decision is made.

Copies of the decision shall be transmitted in writing to the grievant no later than 15 full working days after the completion of the hearing. The grievant shall be informed that this final decision completes all administrative action but does not preclude further pursuit of his grievance through the judicial or other process if he so desires. (See step f.)

Nothing in this procedure is intended to circumvent or modify the existing right of the Virginia Department for the Visually Handicapped to do the following, provided, however, that none of these may be exercised in an arbitrary or capricious manner :

- a. Establish and maintain service standards.
 - b. Determine the methods and means by which services are to be carried on.
 - c. Direct the work of its employees.
 - d. Maintain the efficiency of governmental operations and services to clients.
6. If the department is unable to resolve a complaint in 30 full working days, it shall notify the Virginia Department of Education of the substance of the complaint and the reason for the delay.

**PART V.
PROTECTION, USE, AND RELEASE OF PERSONAL
INFORMATION.**

§ 5.1. Protection, use, and release of personal information.

1. The DVH Infants, Children, and Youth Program considers the names of prospective clients, current clients, and past clients as confidential information.

2. Any information or documentation, such as eye reports, medical reports, financial reports, psychological reports, progress reports, DVH Plan for Services, DVH Narratives, and General Data Sheet, is considered to be confidential.

3. Individuals referred for Infants, Children, and Youth Program services will receive an explanation at intake of the confidentiality of personal information including:

- a. The need for confidential information;*
- b. Conditions for accessing and releasing this information;*
- c. The authority under which confidential information is collected;*
- d. The principal purpose for which DVH will use or release the information;*
- e. Explanation of whether information the client is providing is mandatory or voluntary and the effects of not providing the information; and*
- f. Identification of those situations where the agency requires the client's written permission to release the information.*

4. Explanation of policies and procedures affecting personal information will be made in appropriate media by DVH's Infants, Children, and Youth Program to individuals who do not communicate in English or who rely on special modes of communication.

5. DVH's Infants, Children, and Youth Program will use personal information only for purposes directly connected with the administration of the Infants, Children, and Youth Program. Identifiable personal information will not be shared by DVH's Infants, Children, and Youth Program with advisory or other bodies which do not have official responsibility for the administration of the program.

6. When requested in writing, the DVH's Infants, Children, and Youth Program make all case information promptly available to the individual's parent(s) or guardian(s).

7. Personal information obtained by DVH's Infants, Children, and Youth Program from other agencies or organizations will be released only by, or under conditions established by, the other agency or

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organization.

8. DVH's Infants, Children, and Youth Program will release personal information to an organization, agency, or individual for audit, evaluation, or research when such endeavors are directly connected with the administration of the Infants, Children, and Youth Program, when it would significantly improve the quality of life for the visually handicapped individual, and when assurances are given that:

- a. The information will be used only for the purpose for which it is being provided;
- b. The information will be released only to persons officially connected with the audit, evaluation, or research; and
- c. The final product will not reveal any identifying personal information without the informed, written consent of the involved individual's parent(s) or guardian(s).

9. DVH's Infants, Children, and Youth Program will release personal information to other agencies or organizations for program purposes only if they demonstrate that the information is necessary for their program and upon receipt of informed, written consent of the individual's parent(s) or guardian(s).

10. DVH's Infants, Children, and Youth Program will release any personal information required:

- a. To fulfill federal law;
- b. To fulfill court order or in response to a law-enforcement investigation, fraud, or abuse (except where expressly prohibited by federal law); and
- c. To protect the individual or others when the individual poses a threat to the safety of himself or others.

11. Upon the request of the Secretary of Education or his designee, the DVH's Infants, Children, and Youth Program will release to the Secretary or his designee a complete and certified copy of the case record including transcripts of the fair hearing decision for the purpose of the secretary's review of the final decision.

* * * * *

Title of Regulation: VR 670-03-3. Provision of Services in Rehabilitation Teaching.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Public Hearing Date: September 28, 1989 - 7 p.m.

Summary:

These regulations state the basis for the provision of rehabilitation teaching services. They define the criteria for eligibility, the scope and duration of services, referral of applicants, and the financial participation of clients.

The only revisions in these regulations are to provide conformity of definitions and clarity in accordance with appropriate state and federal statutes.

VR 670-03-3. Provision of Services in Rehabilitation Teaching.

PART I. INTRODUCTION.

§ 1. § 1.1. Definitions.

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

"Assessment" means the systematic evaluation/identification of the clients' need for services.

"Client" means any person receiving a service provided by the Rehabilitation Teaching Program of the Department for the Visually Handicapped.

"Individualized Written Rehabilitation Program (IWRP)" means an individualized written rehabilitation program for each individual being provided specified services by this program.

"Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Reasonable expectation" means that rehabilitation teaching services will significantly assist an individual to improve his ability to function independently.

"Rehabilitation teaching" means the process of guiding and instructing a visually impaired person through an individualized plan of instruction designed to develop and raise the level of adaptive coping skills, and functional independence.

"Severely visually impaired" means vision no better 20/70 in the better eye with correction or a field restricted to 70 degrees or less in the better eye.

PART II. REFERRAL.

§ 2. § 2.1. Referral.

The department shall expeditiously and equitably process referrals for rehabilitation teaching services.

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A. Referral.

A referral is any person for whom rehabilitation teaching services have been requested and for whom the worker has obtained the following information:

1. Name and address;
2. Date of birth and sex;
3. Disability; and
4. Referral source and date of referral.

B. Processing referrals.

An assessment by the Department for the Visually Handicapped is required of each severely disabled person who applies for rehabilitation teaching services. The assessment is limited to that information necessary to determine whether the individual is eligible to be provided rehabilitation teaching services and to determine which rehabilitation teaching services are needed.

PART III. ELIGIBILITY/INELIGIBILITY.

§ 3. § 3.1. Eligibility for rehabilitation teaching services.

A. To be eligible for rehabilitation teaching services, a client must have a visual disability which, for the individual, constitutes or results in a substantial handicap to personal independent functioning.

A. The presence of a visual disability for purposes of eligibility for the Department for the Visually Handicapped's rehabilitation teaching services shall constitute one or more of the following:

1. Be legally blind.
2. 20/100 to 20/200 distance vision in the better eye with correcting glasses or a field limitation to 30 degrees or less in the better eye, and if the person has been unable to adjust to the loss of vision and if it is determined by the rehabilitation teacher that the person is in need of the specialized services available through the Department for the Visually Handicapped's rehabilitation teaching.
3. Night blindness or a rapidly progressive eye condition which, in the opinion of a qualified ophthalmologist, will reduce the distance vision to 20/200 or less.

B. A reasonable expectation that rehabilitation teaching services will significantly assist the individual to improve his ability to cope with blindness and to function more independently.

§ 4. § 3.2. Certification of eligibility.

A. Prior to or simultaneously with acceptance of a visually handicapped individual for rehabilitation teaching services, there must be ~~documentation in the case narrative; the documentation certification; the certification~~ shall state the basis for the visual eligibility and a reasonable expectation that rehabilitation teaching will significantly assist the individual in achieving functional independence.

B. The certification is approved, dated, and signed by a DVH staff member.

§ 5. § 3.3. Certification of ineligibility.

When an individual is determined ineligible for rehabilitation teaching services, the rehabilitation teacher must inform the client of the ineligibility determination, stating the reasons(s); this may be done during a personal contact or by a letter. A ~~case narrative certification of ineligibility~~ shall be placed in the case folder explaining the reasons the client is ineligible.

PART IV. SERVICES.

§ 6. § 4.1. The Individualized Written Rehabilitation Teaching Program (IWRP).

A. Initial plan development.

1. The IWRP shall be initiated and periodically updated for individually provided rehabilitation teaching services.
2. Rehabilitation teaching services shall be provided in accordance with IWRP.
3. The IWRP shall be initiated after certification of eligibility for rehabilitation teaching services.

§ 7. § 4.2. Scope of rehabilitation teaching services.

Services provided through the rehabilitation teaching services program may include:

1. Intake counseling to determine the handicapped individual's need for specific rehabilitation teaching services.
2. Referral to and information regarding available community resources that might benefit the individual.
3. Counseling to assist the visually handicapped individual cope with visual loss.
4. Provision of low vision services. This includes: assessment of need, arrangement for examination, arrangement for/coordination of purchase of low vision aids, and the provision of instruction and follow-up services (*services provided in accordance with regulations for Low Vision Services*).

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5. Instruction in the following areas:

- a. Personal management skills/activities of daily living;
- b. Home management skills;
- c. Communication skills: reading, writing braille, typing, script, and use of electronic equipment;
- d. Other appropriate adaptive coping skills, i.e., leisure and recreational activities; and
- e. Information and instruction in the acquisition of and use of adaptive equipment.

PART V. FINANCIAL.

§ 8. § 5.1. Financial participation.

There is no financial participation required for the counseling, referral, and instructional services provided through rehabilitation teaching.

* * * * *

Title of Regulation: VR 670-03-4. Provision of Independent Living Rehabilitation Services.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Public Hearing Date: September 28, 1989 - 7 p.m.

(See Calendar of Events section for additional information)

Summary:

These regulations state the basis for the provision of independent living rehabilitation services to those eligible to receive them. They define the criteria for eligibility, the scope and duration of services, referral of applicants, financial participation of clients, confidentiality of personal information, and the appeals procedures for clients of independent living rehabilitation services.

The revisions to these independent living regulations are only for the purpose of providing conformity of definitions and clarity in accordance with appropriate state and federal regulations.

VR 670-03-4. Provision of Independent Living Rehabilitation Services.

PART I. INTRODUCTION.

§ 1. § 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning unless the

context clearly indicates otherwise:

"Center for independent living" means a program of services which offers a combination of independent living services for severely handicapped individuals or groups of severely handicapped individuals.

"Client Assistance Program" means a program located within the Department for Rights of the Disabled for the purpose of advising independent living rehabilitation applicants or clients about all available services under the Rehabilitation Act of 1973, as amended, and to assist them in their relationship with programs, projects, and facilities providing independent living rehabilitation services.

"Comparable services and benefits" means any appropriate service of financial assistance available from a program other than independent living to meet, in whole or in part, the cost of independent living services to be provided under an individualized written rehabilitation program for a handicapped individual.

"Economic needs test" means a test used to consider the financial need of handicapped individuals for the purpose of determining the extent of their participation in the costs of services provided by this program.

"Independent living" means control over one's life based on the choice of acceptable options that minimize reliance on others in making decisions and performing everyday activities. This includes managing one's affairs, participating in day-to-day life in the community, fulfilling a range of social roles, making decisions that lead to self-determination, and the minimization of physical and psychological dependency on others.

"Individual with a severe disability" means an individual whose ability to function independently in a family or a community or whose ability to engage or continue in employment is so limited by the severity of his physical or mental disability that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning in a family or a community or engaging or continuing in employment. Independent living rehabilitation services needed by an individual with a severe disability generally are appreciably more costly and of appreciably greater duration than vocational rehabilitation services that might be provided under 34 CFR, Part 361.

"Individualized Written Rehabilitation Program (IWRP)" means an individualized written rehabilitation program for each individual being provided specified services by this program.

"Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Reasonable expectation" means an expected outcome of services provision based on a judgment/decision made jointly by an applicant (or parent or guardian) and a case

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manager that the services requested and provided will enable the applicant to improve independent functioning.

"*Severely visually impaired*" means vision no better than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.

PART II. REFERRAL.

§ 2. § 2.1. Referrals.

The department shall expeditiously and equitably process referrals for independent living services.

A. Referral.

A referral is any person for whom independent living rehabilitation services have been requested and for whom the worker has obtained the following information:

1. Name and address;
2. Date of birth and sex;
3. Disability(ies); and
4. Referral source and date of referral.

PART III. ELIGIBILITY/INELIGIBILITY.

§ 3. § 3.1. Eligibility for independent living services.

A. Eligibility requirements shall be applied without regard to sex, race, creed, color, or national origin. No group or individual shall be excluded or found ineligible solely on the basis of the type of disability or on the basis of age. No residence requirement shall be imposed which excludes from services any individual who is presently in the Commonwealth.

B. An assessment/evaluation by the Department for the Visually Handicapped (DVH) is required of each severely disabled person who applies for independent living services. The assessment is limited to that information necessary to determine whether the individual is eligible to be provided independent living services, and to determine which independent living services are needed.

C. All applicants for independent living services must be apprised of the services of the Client Assistance Program within the Department for Rights of the Disabled.

§ 4. § 3.2. Basic conditions for eligibility.

The following set forth criteria for basic eligibility:

1. The presence of legal blindness, which constitutes or results in a substantial impediment to the individual's ability to function independently in the

family or community.

2. A reasonable expectation that independent living services will significantly assist the individual to improve his ability to function independently in his family or community or to engage in or continue employment.

3. Center for independent living. In addition to the basic conditions for eligibility contained in items subdivisions 1 and 2 of § 4 § 3.2, an individual must possess a second severe physical, mental, or emotional disability which constitutes or results in a substantial impediment to the individual's ability to function independently in a family or community.

§ 5. § 3.3. Certification of eligibility.

A. Prior to or simultaneously with acceptance of an individual with a severe disability for independent living rehabilitation services, there must be a certification that the individual has met the basic requirements specified in § 4 § 3.2.

B. The certification is approved, dated, and signed by a DVH staff member.

§ 6. § 3.4. Certification of ineligibility.

A. When it is determined that independent living rehabilitation services cannot be expected to assist an individual to engage or continue in employment or to function more independently in family or community, a certification of ineligibility shall be signed and dated by a DVH staff member. A copy shall be provided to the individual simultaneously.

Such determination shall be made only after full consultation with the individual or, as appropriate, his guardian, or other representative. After affording a clear opportunity for this consultation, the DVH shall ensure notification in writing of the action taken and shall inform the individual of his rights and the means by which he may express and seek remedy for any dissatisfaction, including procedures for administrative review and fair hearings. The individual shall be provided a detailed explanation of the availability of the resources within the Client Assistance Program, Department for Rights of the Disabled; and as appropriate, referral shall be made to other agencies and facilities, including, when appropriate, the vocational rehabilitation program.

B. Review of ineligibility determination.

When DVH has certified the ineligibility of an applicant for independent living rehabilitation services because of a determination that these services cannot be expected to assist the individual to engage or continue employment or to continue to function more independently in family or community, the individual's ineligibility status will be reviewed annually. The review will not be conducted in

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situations where the individual has refused the review, is no longer present in Virginia, or the individual's whereabouts are unknown.

§ 7. § 3.5. The individualized written independent living rehabilitation program (IWRP).

A. Initial plan development.

1. The IWRP shall be initiated and periodically updated for individually provided independent living services.
2. Independent living services shall be provided in accordance with the IWRP and approved by DVH staff member. A copy of the IWRP and any amendments shall be provided to the blind individual or his parents, guardian, or other representative.
3. The IWRP must be initiated after certification of eligibility for independent living services.

B. IWRP review.

The IWRP shall be reviewed as often as necessary but at least on an annual basis. Each blind individual or his parents, guardian, or other representative shall be given an opportunity to review the IWRP and, if necessary, jointly modify the IWRP.

C. Determination of ineligibility under IWRP.

If it becomes necessary to terminate services for any reason under an IWRP, the following conditions and procedures shall be met and carried out:

1. The decision shall be made only with the full participation of the blind individual, or his parents, guardian, or other representative, unless the individual has refused to participate, the individual is no longer residing in Virginia, or his whereabouts are unknown. When the full participation of the individual or a representative of the individual has been secured in making the decision, the reviews of the individual shall be recorded in the IWRP.
2. The basis for the ineligibility decision shall be recorded as an amendment to the IWRP, certifying that the provision of independent living services has not enabled the individual to function more independently in family or community or engaging or continuing employment. A certification of ineligibility is then completed.
3. There shall be at least an annual review of the ineligibility decision in which the individual is given an opportunity for full consideration in the reconsideration of the decision, except in situations where a periodic review would be precluded because the individual has refused services, has refused a periodic review, the individual is no longer living in

Virginia, or his whereabouts are unknown. The first periodic review of the ineligibility decision shall be initiated by DVH staff. Any additional reviews shall be provided at the request of the individual.

D. Coordination with vocational rehabilitation, developmental disabilities and education program.

The development of the IWRP for independent living services will be coordinated with the IWRP for vocational rehabilitation services if there is such a program, as well as with any individualized written rehabilitation program for the individual prepared under Developmental Disabilities Assistance and Bill of Rights Act or with any individualized education program for the individual.

PART IV. SCOPE OF SERVICES.

§ 8. § 4.1. Scope of independent living rehabilitation services for individuals.

The following independent living rehabilitation services may be provided if deemed necessary to the independence of the individual:

1. Intake counseling to determine the severely handicapped individual's need for specific independent living services;
2. Counseling services, including psychological counseling, psychotherapeutic counseling, peer counseling, and related services;
3. Advocacy for disabled individuals with respect to legal and economic rights and benefits;
4. Housing incidental to the provision of independent living rehabilitation service—this includes assistance in finding adequate housing and minor modifications to make housing accessible;
5. Independent living skills, counseling, and training:
 - a. Special tutorial and training services;
 - b. Orientation and mobility;
 - c. Special communication skills for deaf-blind;
 - d. Interpreter services for deaf-blind;
 - e. Rehabilitation teaching; and
 - f. Education and training necessary for living in the community and consumer education.
6. Transportation associated with the provision of essential independent living services;
7. Reader services;

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8. Recreation activities—group and individual;
9. Attendant care—attendant for short-term care—to enable a multihandicapped blind person who has potential for acquiring skills to expand his independent living skills;
10. Interpreter services for deaf-blind;
11. Services to members of a blind individual's family when needed for improving the individual's ability to live and function more independently;
12. Provision of physical, occupational, and speech therapy;
13. Purchase of special adaptive aids and appliances;
14. Vocational and other training services;
15. Information, referral, and outreach;
16. Other programs and services necessary to provide resources, training, counseling, services, or other assistance of substantial benefit on promoting the independence, productivity, and quality of life for the severely handicapped individual; and
17. Any appropriate preventive services necessary to decrease the future needs of a blind individual assisted under the program for similar services.

PART V. FINANCIAL RESPONSIBILITIES.

§ 0. § 5.1. Participation by blind individuals and blind multihandicapped in the cost of independent living services.

A. An economic needs test will be utilized to determine the extent of client participation in the cost of independent living services. Services exempt from consideration for financial participation will be diagnostic and evaluation, counseling, guidance and referral, and interpreter services for the deaf.

B. Groups exempt are:

1. Recipients of General Relief;
2. Recipients of Aid to Families with Dependent Children by the client or family in which the client is dependent;
3. Recipients of Supplemental Security Income (SSI); and
4. Recipients of Social Security Disability Income (SSDI).

C. The department will make an assessment of similar

benefits available to pay for independent living rehabilitation services. The department will not pay program costs which could otherwise be provided by similar benefits unless it is documented that the delay in securing such benefits would be detrimental to the Independent Living Rehabilitation Program.

D. Financial eligibility will be based on the following:

1. Gross income. Income level will be adjusted periodically and will be done uniformly. A uniform income level will be used for all independent living clients. An annual review will be made and updated as needed.

The Virginia median income for a family of four is \$ 37,885. The visually handicapped, as a special condition group, is set at 80% of the median income level.

Family Unit	Monthly Income	Annual Income
1	\$ 1,313	\$15,760
2	1,717	20,609
3	2,122	25,459
4	2,526	30,308
5	2,929	35,157
6	3,334	40,007
7	3,410	40,916
8	3,485	41,825

Add \$300 per month for each additional person in the family, if more than eight.

2. Income for real property. Real property will not be considered for financial eligibility, but income from such property is to be considered as part of the client's income.

3. Liquid assets. Will be applied toward the cost of services when the liquid assets exceed the amount established for financial eligibility.

Exemptions for Liquid Assets

Number in Family	Amount
1	\$ 10,000
2	11,200
3	12,400
4	13,600
5	14,800
6	16,000
7	17,200
8	17,400

4. Allowable deduction.

a. Unusual medical costs. The only deductions that will be considered will be unusual medical expenses which will mean these expenses are not of a routine

nature and for which the costs will not be covered by ~~similar benefits, comparable services and benefits.~~ *Medical* conditions that are not considered routine are those which are acute or have arisen from trauma *traumatic* and which place an additional burden upon the family income and resources. ~~Other medical expenses which could be deferred because they are not of a routine nature would be unusual dental braces, retainers, etc.~~ Those routine medical expenses that could not be deferred would include routine doctors' visits and hospital insurance premiums.

b. Tuition costs for client or family member to attend a private or public educational facility.

When the client's gross income, liquid assets, or both exceed the financial eligibility requirement after allowable deductions have been considered, the client and his family will have to apply the excess toward the cost of those services provided by independent living for which there is financial need considered.

PART VI. CLIENT'S RIGHTS.

§ 10. § 6.1. Appeal procedures.

A. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.

B. When an individual files a formal complaint, he will meet with the employee and his supervisor. The grievant will be reminded as to the availability of the Client Assistance Program within the Department for Rights of the Disabled to assist him in the appeals process.

C. If resolution is not reached at Step B, the Assistant Deputy Commissioner for Services meets with the grievant, his representative, the employee, and his supervisor.

D. If resolution is not reached at Step C, the grievant can request a hearing before an impartial hearing officer.

E. The impartial hearing officer will submit his decision to the Commissioner of the Department for the Visually handicapped, who can either accept or overturn the decision of the impartial hearing officer. ~~The commissioner's decision is final in the appeal process; however, the grievant can elect to continue his complaint within the judicial system.~~

F. DVH independent living staff will inform each applicant or individual being provided independent living rehabilitation services of the procedure to file a complaint, including the name and addresses of those persons with whom to file a complaint.

§ 11. § 6.2. Protection, use, and release of personal

information.

A. The DVH Independent Living Rehabilitation Services Program considers the names of *all personal information about* prospective clients, current clients, and past clients as confidential information.

B. ~~Any information or documentation, such as, an eye and medical report, financial reports, psychological reports, progress reports, and General Data Sheet are considered to be confidential.~~

C. *B.* Individuals referred for independent living rehabilitation services will receive an explanation at intake of the confidentiality of personal information including:

1. The need for confidential information;
2. Conditions for accessing and releasing this information;
3. The authority under which confidential information is collected;
4. The principle purpose for which DVH will use or release the information;
5. Explanation of whether information the client is providing is mandatory or voluntary and the effects of not providing the information;
6. Identification of those situations where the agency does or does not require the client's written permission to release the information; and
7. Identification of agencies to which information is routinely released.

D. *C.* Explanation of policies and procedures affecting personal information will be made by appropriate media by DVH's independent living rehabilitation services to individuals who do not communicate in English or who rely on special modes of communication.

E. ~~Policies and procedures concerning protection, use, and release of personal information will be utilized to provide the highest standard for confidentiality which is provided for in federal and state law.~~

F. *D.* DVH's Independent Living Rehabilitation Program will use personal information only for purposes directly connected with the administration of the Independent Living Rehabilitation Services Program. Identifiable personal information will not be shared by DVH's independent living rehabilitation services with advisory or other bodies which do not have official responsibility for the administration of the program.

G. *E.* When requested in writing, DVH/Independent Living Rehabilitation Services will make all case information promptly available to the individual or his

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representative.

H. F. Personal information obtained by DVH's Independent Living Rehabilitation Services from other agencies or organizations will be released only by, or under conditions established by the other agency or organization.

I. G. DVH's Independent Living Rehabilitation Services will release personal information to an organization, agency, or individual for audit, evaluation, or research when such endeavors are directly connected with the administration of the Independent Living Rehabilitation Program, when it would significantly improve the quality of life for the visually handicapped individual, and when assurances are given that:

1. The information will be used only for the purpose for which it is being provided;
2. The information will be released only to persons officially connected with the audit, evaluation, or research;
3. The information will not be released to the individual involved;
4. *The information will be managed in a manner to safeguard confidentiality.*
4. 5. The final product will not reveal any identifying personal information without the informed, written consent of the involved individual or his representative.

J. H. DVH's Independent Living Rehabilitation Services will release personal information to other agencies or organizations for program purposes only if they demonstrate that the information is necessary for their program and upon receipt of informed, written consent of the individual.

K. I. Medical or psychological information which is determined by a physician or psychologist to be harmful to the individual may be released when the other agency or organization assures DVH that the information will be used only for the purpose for which it is provided and that it will not be released to the involved individual.

L. J. DVH's Independent Living Rehabilitation Services will release any personal information required:

1. ~~To fulfill~~ *When required by federal law;*
2. ~~To fulfill~~ *In response to judicial order or and in response to a law-enforcement investigation, investigations, in consideration with law enforcement, fraud, or abuse (except where expressly prohibited by federal law); and*
3. To protect the individual or others when the

individual poses a threat to the safety of himself or others.

M. K. Upon the request of the Secretary of Education or his designee, the DVH's Independent Living Rehabilitation Program will release to the secretary or his designee a complete and certified copy of the case record including transcripts of the fair hearing decision for the purpose of the secretary's review of the final decision.

PART VII. INDEPENDENT LIVING CENTER SERVICES.

~~§ 12.~~ § 7.1. Centers for independent living.

The department operates independent living centers for blind multihandicapped Virginians in its regional offices. The centers shall adhere to the regulations in the previous sections of these regulations.

~~§ 13.~~ § 7.2. Governing board of centers for independent living.

A. There shall be a governing board consisting of a majority number of persons with disabilities.

B. Independent living advisory committees.

1. Each independent living center shall have an advisory committee consisting of no less than seven persons, established for the purpose of assistance in planning, developing, and implementing a comprehensive system of delivering independent living services to blind and blind multihandicapped individuals.

2. The advisory committee shall contain a majority number of persons with disabilities.

~~§ 14.~~ § 7.3. Staff.

Independent living center staff shall include as large a proportion of persons with disabilities as is practicable.

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Title of Regulation: VR 670-03-5. Supervision of Administrative Regulations Governing Intake and Social Services.

Statutory Authority: §§ 63.1-77 and 63.1-78 of the Code of Virginia

Public Hearing Date: September 28, 1989 - 7 p.m.

Summary:

The Virginia Department for the Visually Handicapped (DVH) shall, through powers conferred and imposed upon the department as to matters relating to social services to the blind and visually handicapped,

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provide supervision and administration of its provisions. The department shall make rules and regulations; establish minimum standards of service and personnel based upon training, experience, and general ability for the personnel employed by the department; and maintain those standards.

The purpose of these regulations is to provide guidelines to the procedures for intake and program referral.

The only changes to these regulations are for purposes of clarity, conformity of definitions, and grammatical correctness.

VR 670-03-5. Supervision of Administrative Regulations Governing Intake and Social Services.

PART I. PROCEDURES.

§ 1. § 1.1. Intake process.

The welfare services specialists shall handle all referrals processed through the applicable Virginia Department for the Visually Handicapped (DVH) regional office with the following exceptions: individuals in primary, secondary school, or under the age of 14 and individuals in need of physical restoration. These individuals shall be referred to Program for Infants, Children, and Youth Services and Vocational Rehabilitation Services, respectively. This procedure expedites the referral process by matching need with service in the most effective way. If other services are indicated, the appropriate service provider shall make the subsequent referral.

A. Welfare services specialist shall contact the referred individual to arrange an interview within 10 workdays.

B. If unable to contact individual within 10 workdays, a contact letter shall be mailed to the individual with a brochure describing services through the Department for the Visually Handicapped.

C. If the individual desires to receive services from the department, he shall sign the application for services and release of information ~~form~~ forms.

D. Among the elements of information gathered is data on the income of the individual. This enables the service providers to determine financial eligibility for specific programs, Vocational Rehabilitation, Independent Living, and Rehabilitation Teaching Services ; and Title XX .

E. Arrangements shall be made for an eye examination or the acquisition of an eye examination if recently completed.

PART II. SERVICES.

§ 2. § 2.1. Services of the Department for the Visually Handicapped not indicated.

During the intake process, it may be determined that services other than intake shall not be delivered to an individual. This referral is deemed services not indicated. A services not indicated referral shall be referred to other community services outside the department with the permission of the referred individual. There are two categories:

A. Inappropriate referral.

1. The individual is not visually impaired or does not possess a deteriorating eye condition.
2. The individual may have physical or mental handicaps so severe to prevent him from benefiting from services.
3. The individual is visually impaired but is not prepared to accept services.

B. Refused services referral.

A person has the legal right to refuse all services regardless of how severe the visual impairment.

Title of Regulation: VR 670-03-6. Regulations Governing Deaf-Blind Services.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Public Hearing Date: September 28, 1989 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

These regulations set forth the requirements and procedures relating to needs of deaf-blind persons. The agency recognizes that deaf-blind persons have unique needs that can best be met by highly specialized programs of service that provide the deaf-blind individual with training in skills he must master in order to attain the highest degree of physical, emotional, and economic functioning possible.

The only revisions to these regulations are to provide clarity and conformity of definitions in accordance with state and federal regulations.

VR 670-03-6. Regulations Governing Deaf-Blind Services.

PART I. INTRODUCTION.

§ 1. § 1.1. Definitions.

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

"Client" means any person receiving a service provided by Deaf-Blind Services of the Department for the Visually Handicapped

"Deaf" means those individuals who cannot hear and understand speech through the ear alone under normal conditions, with or without amplification; a hearing loss greater than 70 decibels in the better ear without amplification; a speech discrimination score below 40%; or both.

"Deaf-Blind Services" means special services a client would need due to a combined loss of vision and hearing; i.e., interpreter for the deaf-blind; communication skills assessment and training; and assessment of special aids and devices such as tactile or visual signaling systems, telecommunication devices, and assistive listening devices.

"Hearing impaired" means those individuals whose hearing is impaired to an extent that makes hearing difficult but does not preclude the understanding of spoken communication through the ear alone, with or without amplification. Hearing loss is in the range of 30 decibels to 70 decibels, a speech discrimination score below 75%, or both.

"Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Severely visually impaired" means vision no better than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.

"Speech discrimination" means the ability to hear and understand spoken communication.

PART II. ELIGIBILITY.

§ 2. § 2.1. Eligibility.

An individual with a combined loss of vision and hearing who is blind or severely visually impaired, and also deaf or hearing impaired, is eligible for deaf-blind services.

"Blind" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Severely visually impaired" means vision no better than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.

"Deaf" means inability to hear and understand speech through the ear alone under normal conditions, with or without amplification; a hearing loss greater than 70

decibels in the better ear without amplification; a speech discrimination score below 40%; or both.

"Speech discrimination" means the ability to hear and understand spoken communication.

"Hearing impaired" means hearing is impaired to an extent that makes hearing difficult but does not preclude the understanding of spoken communication through the ear alone, with or without amplification. Hearing loss is in the range of 30 decibels to 70 decibels, a speech discrimination score below 75%, or both.

The agency practices nondiscrimination in serving multiply handicapped visually impaired individuals.

PART III. SERVICES.

§ 3. § 3.1. Delivery of services.

It is the intent of these regulations that deaf-blind clients be fully integrated into the service programs provided by the department to the extent practical.

Procedures for the delivery of deaf-blind services will be *are being* developed in the manuals of the following agency programs: Intake and Social Services; Independent Living Rehabilitation Services; Rehabilitation Teaching Services; Vocational Rehabilitation Services; Program for Infants, Children, and Youth; and Volunteer Services; and Low Vision .

* * * * *

Title of Regulation: VR 670-03-7. Regulations Governing Low Vision.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Public Hearing Date: September 28, 1989
(See Calendar or Events section for additional information)

Summary:

The procedures, instructions, and guidelines set forth the requirements and procedures relating to the provision of low vision services. The Virginia Department for the Visually Handicapped operates a low vision services program that is comprehensive and community based. It is designed to meet the needs of all citizens of the Commonwealth who could benefit from these services.

The only substantive revisions in these regulations are in §§ 3.1 and 3.2, financial eligibility and § 4.1, bioptics. Other revisions were made for the purposes of clarity, conformity of definitions, and grammatical correctness.

VR 670-03-7. Regulations Governing Low Vision.

PART I. INTRODUCTION.

§ 1. § 1.1. Definitions.

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

"*Bioptics*" means telescopes mounted in a superior position in carrier lenses.

"*Client*" means any person receiving a service provided by the Low Vision Program of the Department for the Visually Handicapped.

"*Low vision*" means reduced visual functioning. It is the condition which exists when no further medical or surgical procedures or regular prescription lenses are beneficial but residual vision exists.

"*Low vision aids*" means optical and nonoptical devices which are prescribed for the purpose of enhancing subnormal or low vision.

"*Low vision services*" means all aspects which are necessary to the comprehensive provision of services, i.e., preexamination evaluations, low vision examination, provision of prescribed low vision aids, and follow-up training and counseling in the use of low vision aids.

"*SSI*" means Supplemental Security Income which is supplemental income for individuals in economic need. It is administered and regulated by the Social Security Administration.

PART II. REFERRAL AND ELIGIBILITY.

§ 2. § 2.1. Low vision services referral.

An individual who has low vision and needs and desires low vision services may be referred for services. A case record shall be opened for every individual who is referred for low vision services. Each case record shall include a referral form and a narrative report. The narrative report shall state the desired outcome of the provision of services and the means by which the decision to receive services was made.

§ 3. § 2.2. Eligibility.

An individual shall be eligible for low vision services if the individual's corrected visual acuity is 20/70 or worse in the better eye.

§ 4. § 2.3. Preexamination.

Prior to the scheduling of a low vision examination by an agency case manager, the receipt of an ophthalmological or optometrical eye report shall be

required, except where an ophthalmologist or optometrist examiner has stated the necessity for an examination prior to the sending of the report. The eye report shall have been made within one year from the date of the scheduled low vision examination; except where the eye condition is stable, the eye report may have been made within two years from the date of the scheduled low vision examination.

An authorization form issued by the agency case manager *authorizing agent* shall be prepared for all clients in order to pay for the examination through an appropriate payment source in the agency as long as that source has determined that funds are available.

PART III. FINANCIAL PARTICIPATION.

§ 5. § 3.1. Financial participation.

A. General provision.

Endowment fund sponsorship shall be limited solely by the availability of funds. Endowment fund sponsorship is available for an individual whose income is at or below the level established for Medicaid.

B. Low vision examination.

There is no charge to the individual for a low vision examination as long as funds are available for this activity as determined by the agency.

C. Low vision aids.

An individual shall be eligible for endowment fund sponsorship for the provision of low vision aids if the individual's family income falls at or beneath the established levels for Medicaid eligibility or SSI eligibility as established by the federal government, whichever is higher. An individual who is eligible for endowment fund sponsorship shall receive the prescribed low vision aids at no charge. This provision of aids through endowment fund sponsorship shall be limited to a maximum of:

1. One near aid;
2. One distance aid;
3. A pocket magnifier; and
4. Sun wear.

All of these shall be stock items.

An individual who is not eligible for endowment fund sponsorship or other funding source sponsorship shall be required to purchase the aids. The aids shall be dispensed at cost.

VDVH has elected to uniformly apply a financial needs

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assessment for low vision clients in the Commonwealth except where prohibited by federal law or regulations. This financial needs assessment will apply as of January 1, 1990, for both low vision exams and low vision aids.

A. Low vision examinations and low vision aids.

Financial eligibility will be based on the following:

1. *Gross income.* The Virginia median income for a family of four is \$37,885. The visually handicapped, as a special condition group, is set at 80% of the median income level.

Normal Living Requirements

Number of Persons Depending on Income	Monthly Amounts	Annual Amounts
1	\$ 1,313.00	
\$15,760.00		
2	1,717.00	
20,609.00		
3	2,122.00	
25,459.00		
4	2,526.00	
30,308.00		
5	2,929.00	
35,157.00		
6	3,334.00	
40,007.00		
7	3,410.00	
40,916.00		
8	3,485.00	
41,825.00		

Add \$300 per month for each additional person in the family, if more than eight.

2. *Income for real property.* Real property will not be considered for financial eligibility, but income from such property is to be considered as part of the client's income.

3. *Liquid assets.* Will be applied toward the cost of services when the liquid assets exceed the amount established for financial eligibility.

Exemptions for Liquid Assets

Number in Family	Amount
1	\$ 6,000.00
2	7,200.00
3	8,400.00
4	9,600.00
5	10,800.00
6	12,000.00
7	13,200.00
8	14,400.00

4. Allowable deductions.

a. *Unusual medical costs.* The only deductions that will be considered will be unusual medical expenses which not of a routine nature for and which the costs will be covered by comparable goods and services. Medical conditions that are not considered routine are those which are acute or traumatic and which place an additional burden upon the family income and resources. Those routine medical expenses that could not be deferred would include routine doctors' visits and hospital insurance premiums.

b. *Tuition costs for client or family members to attend a private or public education facility.*

§ 3.2. When the client's gross income, liquid assets, or both, exceed the financial eligibility requirement after allowable deduction have been considered, the client and his family will have to apply the excess toward the cost of those services provided by low vision services for which there is financial need considered.

PART IV. SERVICES.

§ 6. § 4.1. Driving with bioptics. Bioptics.

Low vision services will provide evaluation for bioptic systems, where appropriate, and will prescribe them as indicated in order to enhance residual vision. telecommunications company or upon the amount of gross receipts of a telecommunications company will be acted upon by the Department of Taxation.

STATE WATER CONTROL BOARD

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

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

Public Hearing Date: October 17, 1989 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

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

compliance with the screening criteria.

These proposed amendments to the Toxics Management Regulation will allow for the conduct of instream impact studies prior to the submittal of the toxicity reduction evaluation plan. They will also remove all references to water quality criteria, which are being converted to water quality standards in VR 680-21-00, thus making the term water quality criteria obsolete.

Scope and Purpose:

This regulation is established for the purpose of controlling the levels of toxic pollutants in surface waters discharged from all sources holding NPDES (VPDES) permits issued pursuant to applicable State Water Control Board regulations. The goal of this regulation is to assure that toxic pollutants are not present in surface waters at levels which are causing or may cause toxicity. This regulation is designed to provide standards and procedures by which the permittee shall minimize, correct or prevent any discharge of toxic pollutants in amounts which have a reasonable likelihood of adversely affecting human health or the environment.

VR 680-14-02. Toxics Management Regulation.

§ 1. Definitions.

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

"Acute toxicity" means an effect that usually occurs shortly after the administration of either a single dose or multiple doses of a pollutant. Lethality to an organism is the usual measure of acute toxicity. Where death is not easily detected immobilization is considered equivalent to death.

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

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

2. The use of acute and chronic tests which directly measure effluent toxicity to aquatic organisms. These toxicity tests can be used to identify toxic discharges and may help establish effluent limits for permits.

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

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

"Contaminated nonprocess wastewater" means any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct, or waste product by means of rainfall runoff, accidental spills, leaks caused by failure of process equipment or discharges from safety showers and related personal safety equipment.

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

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

"Groundwater" means any water beneath the land surface in the zone of saturation.

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

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

"Mixing" means the process by which an effluent is incorporated into the receiving waterbody.

"National Pollutant Discharge Elimination System (NPDES) (VPDES) Permit" means a permit issued by the board, pursuant to Board Regulation No. 6, (VR 680-14-01), authorizing, under prescribed conditions the potential or actual discharge of pollutants from a point source to state waters.

"Noncontact cooling water" means water which is used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat), byproduct or finished product.

"No observed effect concentration (NOEC)" means the highest concentration of toxic pollutant or the highest percentage, by volume, of an effluent to which organisms are exposed in a full life cycle or partial life cycle test, which causes no statistically significant adverse effect on

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the observed parameters (usually survival and growth or reproduction).

"Permit" means a NPDES (VPDES) permit issued by the board pursuant to applicable board regulations, the Law and the Act.

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

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

"Privately Owned Treatment Works (PVOTW)" means any sewage treatment works not publicly owned.

"Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. This definition does not include noncontact cooling waters.

"Publicly Owned Treatment Works (POTW)" means any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

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

"Stormwater" means flows which are from conveyances or systems of conveyances used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with any raw material, intermediate products, finished products, byproduct, or waste products located on the site of such operations.

"Surface waters" means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate "wetlands";
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

a. Which are or could be used by interstate or foreign travelers for recreational or other purposes;

b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

c. Which are used or could be used for industrial purposes by industries in interstate commerce;

4. All impoundments of waters otherwise defined as surface waters under this definition;

5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

6. The territorial sea; and

7. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

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

"Toxicity" means the inherent potential or capacity of a material to cause adverse effects in a living organism, including acute or chronic effects to aquatic life, detrimental effects on human health or other adverse environmental effects.

§ 2. General provisions.

Whenever NPDES (VPDES) permits for discharges to surface waters are issued, reissued or modified, a determination of the need for toxics management shall be made. The initial step of toxics management shall be a program of biological and chemical monitoring for toxic pollutants. The purpose of this monitoring program shall be to develop data to aid in establishing water quality based effluent limitations and assessing the extent of effluent toxicity. Further toxics management activities, to include toxicity reduction if needed, shall be required in the permit whenever the results of this monitoring program indicate that toxicity does or may exist. Following the initial data generation, biological monitoring may be required of certain categories of discharges to assure continued compliance with the goals of this regulation. This regulation does not apply to:

1. Discharges to wells or groundwater,
2. Discharges of stormwater, and
3. Discharges of noncontact cooling waters with instream waste concentrations of less than 1.0% and which are not treated with chemical additives.

A. Applicability.

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

1. A discharge which has demonstrated actual or potential toxicity, as defined in § 4 below, or contains toxic pollutants.
2. Any industry that falls into one of the Standard Industrial Classification (SIC) Codes identified in Appendix A.
3. Any industry with a daily maximum wastewater flow greater than or equal to 50,000 gallons per day.
4. Publicly Owned Treatment Works (POTW's) with flow greater than or equal to one million gallons per day.
5. Any POTW with a pretreatment program.
6. Any other discharge that the board deems has the potential for toxicity or instream impact based on an evaluation of manufacturing processes, indirect discharges, treatment processes, effluent or receiving stream data, or other relevant information.

B. Permit reopening.

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

§ 3. Toxics monitoring program.

A. Testing requirements.

Each permitted outfall to surface waters which falls under the applicability criteria in § 2 A shall be tested in the prescribed manner. Modifications to or exemptions from these requirements may be allowed on a case-by-case basis where the specific conditions of the discharge or receiving stream indicate that a full scale toxics monitoring program is not necessary to establish the toxicity of an effluent. Data submitted under any previous toxics monitoring program may be used to satisfy these data requirements if it is indicative of current process and effluent conditions. Test protocol, including sampling requirements, shall be approved by the board staff prior to initiation of testing. All data shall be generated within the quality assurance/quality control specifications of the test protocol.

B. Data requirements.

All dischargers identified under § 2 shall be required to

obtain and report the following monitoring data except as modified in § 3 A.

1. Acute effluent toxicity tests conducted quarterly over a one-year period on each of two species of aquatic organisms (one vertebrate and one invertebrate), as specified by the board staff. The toxicity tests shall be conducted in such a manner and at sufficient dilution to allow calculation of a valid LC50.
2. Chronic effluent toxicity tests conducted quarterly in conjunction with the acute toxicity tests on the same species of aquatic organisms or other species approved by the board staff. The tests shall be designed to determine the no observed effect concentration of the effluent on survival and growth or reproduction of the test organism. All discharges with an IWC of less than 1.0% shall be exempted from the requirement for chronic toxicity testing.
3. Chemical analysis for compounds referenced under § 307 (a) of the Act on four independent effluent samples collected in conjunction with the toxicity tests specified in subdivisions 1 and 2 above. In addition, for each sample, the permittee shall tentatively identify a maximum of 30 organic substances which are detected but are not listed pursuant to § 307 (a) of the Act. Tentative identifications shall be based upon the EPA accepted mass spectral library associated with the detection device and do not require the use of an internal standard. All of the substances of greatest apparent concentration not listed pursuant to § 307 (a) of the Act for each volatile organic fraction, to a maximum of 10, and all of the substances of greatest apparent concentration not listed pursuant to § 307 (a) of the Act for the combined base/neutral/acid fraction, to a maximum of 20, shall be tentatively identified. Discharges from facilities within the SIC code 4953 shall identify all organic substances detected in the volatile and combined base/neutral/acid fractions.

The permittee may provide additional samples to address data variability during the one-year period of initial data generation. These data may be included in the evaluation of effluent toxicity. The results of all such additional analyses shall be reported.

C. The following shall be considered when determining effluent mixing:

1. When calculating instream waste concentration, complete mixing will be assumed for discharges to streams, rivers, and riverine estuaries, unless site specific information indicates that other than complete mixing is more appropriate.
2. The critical stream flows to be used shall be the 7 day-10 year low flow value when considering protection of aquatic life and the 30 day-5 year low

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flow when consideration is for protection of human health effects. Stream flows other than these critical flow values may be applied on a case-by-case basis when mixing is considered for noncontinuous discharges.

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

4. Toxic pollutants are considered to be conservative when calculating instream waste concentration. A conservative substance is one which enters the water column and persists in downstream segments of the water column unaffected by reactive or mechanical forces. The assumption of conservatism may be waived based on pollutant-specific and site-specific information provided by the permittee.

§ 4. Effluent toxicity decision criteria.

A. If the following screen is passed, the effluent shall be considered to have demonstrated no actual or potential toxicity and the permittee shall conduct compliance monitoring according to the requirements of § 5. If at any time the effluent fails to meet any one of these criteria, for the purposes of this regulation, it shall have demonstrated actual or potential toxicity, and the permittee shall be required to proceed to the toxicity reduction evaluation as described in § 6, unless the permittee elects to conduct instream impact studies pursuant to § 4 B. The decision to require a toxicity reduction evaluation may be made whenever the data indicate the following decision criteria have not been met.

1. LC50 greater than or equal to 100% in six of the total of eight acute toxicity tests, or in at least 75% of the tests conducted if more than eight tests are conducted.

2. NOEC greater than or equal to instream waste concentration (IWC) in six of the total of eight chronic toxicity tests, or in at least 75% of the tests conducted if more than eight tests are conducted.

3. No instream exceedence of water quality standards or criteria for protection of aquatic life or human health, where applicable pursuant to the Virginia Water Quality Standards (VR 680-21-00), based on any of the four samples required under § 3 B 3.

B. If the permittee elects to conduct instream impact studies pursuant to this subsection, the requirement of § 6

B for submission of a comprehensive toxicity reduction plan shall be stayed until the staff (executive director) makes a final determination on the studies as set forth in the last sentence of this subsection, or § 4 D. A proposal to conduct instream impact studies shall be submitted to the board for approval within 120 days of notification that the effluent fails to meet any one of the decision criteria of § 4 A. The study shall be designed pursuant to § 4 C in order to make the showing required by § 4 D. Upon approval of the plan by the staff (executive director), the permittee shall conduct the studies. If the staff review determines that the proposal to conduct instream impact studies is inadequate, it shall be returned to the permittee with a written explanation of deficiencies that must be corrected within 45 days. If at the end of that 45 days the permittee has not submitted an acceptable proposal, or upon notification that the studies have failed to make the showing required by § 4 D, or upon the second anniversary of the initial notification that the effluent fails to meet any one of the decision criteria of § 4 A (and the staff (executive director) has not made the determination under § 4 D), whichever happens first, the permittee shall submit the comprehensive toxicity reduction plan required by § 6 B within 120 days.

C. A permittee may conduct field studies to further define the actual impact of the discharge on aquatic life and human health. These studies shall be conducted at stream flows which are as close as practicable to the critical flow of the receiving stream. If instream studies are not conducted at or near critical flow conditions, the results of the studies must be predictive of the impacts of the effluent at critical flows. The predictability of the study must be demonstrated prior to its initiation. These studies may not extend the time schedule for submitting a toxicity reduction evaluation plan beyond two years, plus the 120 days prescribed in § 6 B. Protocols for these studies shall be approved by the board staff prior to their initiation.

D. Where the results of the instream impact studies or other information available to the staff demonstrate to the satisfaction of the staff (executive director) that there is, or would be, no adverse impact from the discharge on all reasonable and beneficial uses of the state's waters, the effluent shall be considered to have demonstrated no actual or potential toxicity and the permittee shall conduct compliance monitoring according to the requirements of § 5.

§ 5. Compliance monitoring.

This monitoring shall be conducted on every discharge of process wastewater, contaminated nonprocess wastewater, POTW effluent or PVOTW effluent which has not exhibited actual or potential toxicity as determined in § 4. These monitoring requirements shall also apply to all discharges which have completed toxicity reduction evaluations. The purpose of this monitoring shall be to demonstrate continued compliance with the decision criteria of § 4. Where a satisfactory demonstration of no

impairment of reasonable and beneficial uses has been made, case specific decision criteria will be established in the permit for evaluating the results of compliance monitoring. The species to be used in the following toxicity tests shall be the one most sensitive species as determined by the testing required in § 3 B or an alternative species approved by the board staff. Test protocols, including sampling requirements, shall be approved by the board staff prior to the initiation of testing.

1. Annual acute toxicity tests shall be conducted on all process wastewater, contaminated nonprocess wastewater, POTW and PVOTW discharges.

2. Annual chronic toxicity tests shall be conducted in conjunction with the annual acute toxicity tests on process wastewater, contaminated nonprocess wastewater, POTW and PVOTW discharges with an IWC of 1.0% or greater.

If the acute toxicity tests result in an LC50 of less than 100% effluent or the chronic toxicity tests result in an NOEC less than the IWC, the test shall be repeated within three months.

If the results of the retest are also indicative of a toxic or potentially toxic effluent, the permittee shall begin the data generation requirements of § 3 B within three months. The discharge shall be subject to the toxicity reduction or elimination requirements of § 5 § 6 or, at the permittee's option, the instream impact studies requirements of § 4 B if the results of this data generation effort indicate actual or potential effluent toxicity according to the criteria in § 4 A.

If the results of the retest do not confirm the first indication of actual or potential effluent toxicity, the permittee may resume annual toxicity testing.

§ 6. Toxicity reduction or elimination measures.

A. Imposition.

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

B. Procedures.

Upon notification by the staff (executive director) that a discharge is determined to be actually or potentially toxic by the *decision* criteria set forth in § 4 A above, the permittee shall begin to develop a toxicity reduction evaluation plan *unless the permittee elects to conduct instream impact studies pursuant to § 4 B*. The requirement of the plan shall be to bring the effluent into compliance with the decision criteria set forth in § 4 A or to demonstrate no adverse impact on all reasonable and beneficial uses of state waters per § 6-D: § 4 B and D.

1. A comprehensive toxicity reduction plan shall be submitted to the board for approval within 120 days of notification that a discharge is determined to be actually or potentially toxic, *unless the permittee elects to conduct instream impact studies pursuant to § 4 B*.

2. The plan shall be reviewed by the board staff to determine whether it provides for a prompt and thorough examination of the causes of effluent toxicity and the alternatives for toxicity abatement. If the plan is inadequate, it shall be returned to the permittee with a written explanation of deficiencies which must be corrected within 45 days. If at the end of that time the permittee has not submitted an acceptable toxicity reduction evaluation plan, the board shall find the permittee in violation of the NPDES (VPDES) permit and may impose a toxicity reduction evaluation plan schedule either through an enforcement action or as a modification of the NPDES (VPDES) permit.

3. Upon approval of the plan by the staff (executive director), the permit may be modified to include the plan and schedule and the permittee shall conduct the evaluation.

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

5. Upon approval of the final report and the implementation schedule, the NPDES (VPDES) permit shall be modified to include any applicable water quality based limitations, a compliance schedule if needed or monitoring to assure continued compliance with these regulations as specified in § 5. The permittee shall then conduct the necessary work to bring the discharge into compliance with the requirements established for the toxicity reduction evaluation.

C. Required plan contents.

The toxicity reduction evaluation plan submitted under § 6 B 1 shall contain, at a minimum, the methods the permittee shall use to attempt to identify the sources of effluent toxicity, the tests to be used to confirm that these

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are the sources of toxicity in the effluent, a discussion of alternatives to reduce or eliminate the presence of these sources in the effluent, and an expeditious schedule for conducting the evaluation. The plan may, at the permittee's option, provide for the conduct of instream studies as outlined in § 6.D.

D. Instream impact studies.

As an initial step in the toxicity reduction evaluation, a permittee may conduct field studies to further define the actual impact of the discharge on aquatic life and human health. These studies shall be conducted at stream flows which are as close as practicable to the critical flow of the receiving stream. If instream studies are not conducted at or near critical flow conditions, the results of the studies must be predictive of the impacts of the effluent at critical flows. The predictability of the study must be demonstrated prior to its initiation. These studies may not extend the time schedule for conducting a toxicity reduction evaluation beyond two years. Protocols for these studies shall be approved by the board staff prior to their initiation.

Where the results of these studies or other information available to the staff demonstrate to the satisfaction of the staff (executive director) that there is, or would be, no impact from the discharge on all reasonable and beneficial uses of the state's waters, the permit may be modified to remove the requirement for toxicity reduction or elimination.

E. D. Exemptions to the requirement for toxicity reduction or elimination.

Exemptions to toxics management which would result in the loss of a designated use of a waterbody may be granted on a case-by-case basis upon a successful demonstration by the permittee pursuant to 40 CFR § 131.10(g) (1986), except in cases of acute toxicity.

§ 7. Effluent limitation determinations.

A. Purpose.

Water quality based effluent limitations for toxic pollutants shall be established whenever necessary to assure that effluents meet the decision criteria of § 4 or to protect all reasonable and beneficial uses of the state's waters.

B. Limitations development.

1. Water quality based effluent limitations shall be established for toxic pollutants if data developed in effluent monitoring (§ 3 B 1) for any toxic pollutant indicate violation of the standards or criteria would occur in the receiving waters after mixing and compliance with technology-based permit limitations would not prevent such violations.

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

C. Exemptions.

A permittee may conduct studies for a site-specific standards or criteria modification to demonstrate that standards or criteria adopted in VR 680-21-00 do not apply to the receiving waters in question due to local water quality peculiarities or other site-specific factors. These studies shall be conducted in accordance with guidelines set forth in the U.S. EPA Water Quality Standards Handbook (1983 or its successor).

§ 8. Public comment and hearings.

Any modifications of NPDES (VPDES) permits resulting from the toxics management program shall not be deemed "minor" modifications and shall conform to the requirements contained in the board's Regulation No. 6 (VR 680-14-01) section entitled "Public Comment and Hearings."

Appendix A

SIC 1011 - Iron ores

SIC 1021 - Copper ores

SIC 1031 - Lead and zinc ores

SIC 1041 - Gold ores

SIC 1044 - Silver ores

SIC 1061 - Ferroalloy ores, except vanadium

SIC 1094 - Uranium-radium-vanadium ores

SIC 1099 - Metal ores, not elsewhere classified

SIC 22 - Textile mill products

SIC 23 - Apparel and other finished products made from fabrics and similar materials

SIC 2411 - Logging camps and logging contractors (camps only)

SIC 2421 - Sawmills and planing mills, general

SIC 2426 - Hardwood dimension and flooring mills

SIC 2429 - Special product sawmills, not elsewhere classified

SIC 2431 - Millwork

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SIC 2434 - Wood kitchen cabinets	SIC 2741 - Miscellaneous publishing
SIC 2435 - Hardwood veneer and plywood	SIC 2752 - Commercial printing, lithographic
SIC 2436 - Softwood veneer and plywood	SIC 2754 - Commercial printing gravure
SIC 2439 - Structural wood members, not elsewhere classified	SIC 2759 - Commercial printing, not elsewhere classified
SIC 2491 - Wood preserving	SIC 2761 - Manifold business forms
SIC 2493 - Reconstituted wood products	SIC 2771 - Greeting card publishing
SIC 2499 - Wood products, not elsewhere classified	SIC 2782 - Blankbooks, looseleaf binders and devices
SIC 2611 - Pulp mills	SIC 2796 - Platemaking and related services
SIC 2621 - Paper mills	SIC 2812 - Alkalies and chlorine
SIC 2631 - Paperboard mills	SIC 2813 - Industrial gases
SIC 2652 - Set-up paperboard boxes	SIC 2816 - Inorganic pigments
SIC 2653 - Corrugated and solid fiber boxes	SIC 2819 - Industrial inorganic chemicals not elsewhere classified
SIC 2655 - Fiber cans, tubes, drums, and similar products	SIC 282 - Plastic materials and synthetic resins, synthetic and other manmade fibers, except glass
SIC 2656 - Sanitary food containers	SIC 2822 - Synthetic rubber (vulcanizable)
SIC 2657 - Folding paperboard boxes	SIC 2833 - Medicinal chemicals and botanical products
SIC 2671 - Paper coated and laminated, packaging	SIC 2834 - Pharmaceutical preparations
SIC 2672 - Paper coated and laminated, not elsewhere classified	SIC 2835 - Diagnostic substances
SIC 2673 - Bags: plastics, laminated and coated	SIC 2836 - Biological products, except diagnostic
SIC 2674 - Bags: uncoated paper and multiwall	SIC 2841 - Soap and other detergents, except specialty cleaners
SIC 2675 - Die-cut paper and paperboard and cardboard	SIC 2851 - Paints, varnishes, lacquers, enamels, and allied products
SIC 2676 - Sanitary paper products	SIC 2861 - Gum and wood chemicals
SIC 2677 - Envelopes	SIC 2865 - Cyclic (coal tar) crudes, and cyclic intermediates, dyes and organic pigments (lakes and toners)
SIC 2678 - Stationery, tablets, and related products	SIC 2869 - Industrial organic chemicals, not elsewhere classified
SIC 2679 - Converted paper and paperboard products, not elsewhere classified	SIC 2879 - Pesticides and agricultural chemicals, not elsewhere classified
SIC 2711 - Newspapers: publishing or publishing and printing	SIC 2891 - Adhesive and sealants
SIC 2721 - Periodicals: publishing or publishing and printing	SIC 2892 - Explosives
SIC 2731 - Books: publishing or publishing and printing	
SIC 2732 - Book printing	

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SIC 2893 - Printing ink	metals
SIC 2895 - Carbon black	SIC 3351 - Rolling, drawing, and extruding of copper
SIC 2899 - Chemicals and chemical preparation, not elsewhere classified	SIC 3353 - Aluminum sheet, plate, and foil
SIC 2911 - Petroleum refining (including (1) topping plant; (2) topping and cracking plants; (3) topping, cracking and petroleum plants; (4) integrated plants; and (5) integrated and petrochemical plants)	SIC 3354 - Aluminum extruded products
SIC 2951 - Paving mixtures and blocks	SIC 3355 - Aluminum rolling and drawing, not elsewhere classified
SIC 2952 - Asphalt felts and coatings	SIC 3356 - Rolling, drawing, and extruding of nonferrous metals, except copper and aluminum
SIC 3011 - Tires and inner tubes	SIC 3357 - Drawing and insulating of nonferrous wire
SIC 3021 - Rubber and plastics footwear (rubber only)	SIC 3363 - Aluminum die-castings
SIC 3052 - Rubber and plastics hose and belting (rubber only)	SIC 3364 - Nonferrous die-castings, except aluminum
SIC 3053 - Gaskets, packing, and sealing devices (rubber packing only)	SIC 3365 - Aluminum foundries
SIC 3069 - Fabricated rubber products, not elsewhere classified	SIC 3366 - Copper foundries
SIC 308 - Miscellaneous plastics products	SIC 3369 - Nonferrous foundries, except aluminum and copper
SIC 31 - Leather and leather products	SIC 3398 - Metal heat treating
SIC 3312 - Steel works, blast furnaces (including coke ovens) and rolling mills	SIC 3399 - Primary metal products, not elsewhere classified
SIC 3313 - Electrometallurgical products	SIC 3411 - Metal cans
SIC 3315 - Steel wire drawing and steel nails and spikes	SIC 3412 - Metal shipping barrels, drums, kegs and pails
SIC 3316 - Cold rolled steel sheet, strip and bars	SIC 3421 - Cutlery
SIC 3317 - Steel pipe and tubes	SIC 3423 - Hand and edge tools, except machine tools and handsaws
SIC 3321 - Gray iron foundries	SIC 3425 - Handsaws and saw blades
SIC 3322 - Malleable iron foundries	SIC 3429 - Hardware, not elsewhere classified
SIC 3324 - Steel investment foundries	SIC 3431 - Enameled iron and metal sanitary ware
SIC 3325 - Steel foundries, not elsewhere classified	SIC 3432 - Plumbing fixture fittings and trims (brass goods)
SIC 3331 - Primary smelting and refining of copper	SIC 3433 - Heating equipment, except electric and warm air furnaces
SIC 3334 - Primary production of aluminum	SIC 3441 - Fabricated structural metal
SIC 3339 - Primary smelting and refining of nonferrous metals, not elsewhere classified	SIC 3442 - Metal doors, sash, frames, molding, and trim
SIC 3341 - Secondary smelting and refining of nonferrous	SIC 3443 - Fabricated platework (boiler shops)
	SIC 3444 - Sheet metal work

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- SIC 3446 - Architectural and ornamental metal work
- SIC 3448 - Prefabricated metal buildings and components
- SIC 3449 - Miscellaneous metal work
- SIC 3451 - Screw machine products
- SIC 3452 - Bolts, nuts, screws, rivets, and washers
- SIC 3462 - Iron and steel forgings
- SIC 3463 - Nonferrous forgings
- SIC 3465 - Automotive stampings
- SIC 3466 - Crowns and closures
- SIC 3469 - Metal stampings, not elsewhere classified
- SIC 347 - Coating, engraving, and allied services
- SIC 3482 - Small arms ammunition
- SIC 3483 - Ammunition, except for small arms, not elsewhere classified
- SIC 3484 - Small arms
- SIC 3489 - Ordnance and accessories, not elsewhere classified
- SIC 3493 - Steel springs, except wire
- SIC 3494 - Valves and pipe fittings, except plumber's brass goods
- SIC 3495 - Wire springs
- SIC 3496 - Miscellaneous fabricated wire products
- SIC 3497 - Metal foil and leaf
- SIC 3498 - Fabricated pipe and pipe fittings
- SIC 3499 - Fabricated metal products, not elsewhere classified
- SIC 3511 - Steam, gas, and hydraulic turbines and turbine generator set units
- SIC 3519 - Internal combustion engines, not elsewhere classified
- SIC 3523 - Farm machinery and equipment
- SIC 3524 - Garden tractors and law and garden equipment
- SIC 3531 - Construction machinery and equipment
- SIC 3532 - Mining machinery and equipment, except oil field machinery and equipment
- SIC 3533 - Oil field machinery and equipment
- SIC 3534 - Elevators and moving stairways
- SIC 3535 - Conveyors and conveying equipment
- SIC 3536 - Hoists, industrial cranes, and monorail systems
- SIC 3537 - Industrial trucks, tractors, trailers, and stackers
- SIC 3541 - Machine tools, metal cutting types
- SIC 3542 - Machine tools, metal forming types
- SIC 3544 - Special dies and tools, die sets, jigs and fixture and industrial molds
- SIC 3545 - Maching tool accessories and measuring devices
- SIC 3546 - Power driven hand tools
- SIC 3547 - Rolling mill machinery and equipment
- SIC 3548 - Welding apparatus
- SIC 3549 - Metal working machinery, not elsewhere classified
- SIC 3552 - Textile machinery
- SIC 3553 - Woodworking machinery
- SIC 3554 - Paper industries machinery
- SIC 3555 - Printing trades machinery and equipment
- SIC 3556 - Food products machinery
- SIC 3559 - Special industry machinery, not elsewhere classified
- SIC 3561 - Pumps and pumping equipment
- SIC 3562 - Ball and roller bearings
- SIC 3563 - Air and gas compressors
- SIC 3564 - Blowers and exhaust and ventilation fans
- SIC 3565 - Packaging machinery
- SIC 3566 - Speed changers, industrial high speed drives, and gears
- SIC 3567 - Industrial process furnaces and ovens
- SIC 3568 - Mechanical power transmission equipment, not elsewhere classified

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- SIC 3569 - General industrial machinery and equipment, not elsewhere classified
- SIC 3571 - Electronic computing equipment
- SIC 3572 - Computer storage devices
- SIC 3577 - Computer peripheral equipment, not elsewhere classified
- SIC 3578 - Calculating and accounting machines, except electronic computing equipment
- SIC 3579 - Office machines, not elsewhere classified
- SIC 3581 - Automatic merchandising machines
- SIC 3582 - Commercial laundry, dry cleaning and pressing machines
- SIC 3585 - Air conditioning and warm air heating equipment and commercial and industrial refrigeration equipment
- SIC 3586 - Measuring and dispensing pumps
- SIC 3589 - Service industry machines, not elsewhere classified
- SIC 3592 - Carburetors, pistons, piston rings, and valves
- SIC 3596 - Scales and balances, except laboratory
- SIC 3599 - Industrial machinery, not elsewhere classified
- SIC 3612 - Power distribution, and specialty transformers
- SIC 3613 - Switchgear and switchboard apparatus
- SIC 3621 - Motors and generators
- SIC 3624 - Carbon and graphite products
- SIC 3625 - Industrial controls
- SIC 3629 - Electrical industrial apparatus, not elsewhere classified
- SIC 3631 - Household cooking equipment
- SIC 3632 - Household refrigerators and home and farm freezers
- SIC 3633 - Household laundry equipment
- SIC 3634 - Electric housewares and fans
- SIC 3635 - Household vacuum cleaners
- SIC 3639 - Household appliances, not elsewhere classified
- SIC 3641 - Electric lamps
- SIC 3643 - Current-carrying wiring devices
- SIC 3644 - Noncurrent-carrying wiring devices
- SIC 3645 - Residential electric lighting fixtures
- SIC 3646 - Commercial, industrial, and institutional electric lighting fixtures
- SIC 3647 - Vehicular lighting equipment
- SIC 3648 - Lighting equipment, not elsewhere classified
- SIC 3651 - Radio and television receiving sets, except communication types
- SIC 3652 - Phonograph records and prerecorded magnetic tape
- SIC 3661 - Telephone and telegraph apparatus
- SIC 3663 - Radio and television transmitting and signaling equipment and apparatus
- SIC 3671 - Electron tubes
- SIC 3674 - Semiconductors and related devices
- SIC 3675 - Electronic capacitors
- SIC 3676 - Resistors for electronic applications
- SIC 3677 - Electronic coils, transformers, and other inductors
- SIC 3678 - Connectors for electronic applications
- SIC 3679 - Electronic components, not elsewhere classified
- SIC 3691 - Storage batteries
- SIC 3692 - Primary batteries, dry and wet
- SIC 3694 - Electrical equipment for internal combustion engines
- SIC 3699 - Electrical machinery, equipment, and supplies, not elsewhere classified
- SIC 3711 - Motor vehicles and passenger car bodies
- SIC 3713 - Truck and bus bodies
- SIC 3714 - Motor vehicle parts and accessories
- SIC 3715 - Truck trailers
- SIC 3721 - Aircraft

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- SIC 3724 - Aircraft engine and engine parts
- SIC 3728 - Aircraft part and auxiliary equipment, not elsewhere classified
- SIC 3731 - Ship building and repairing
- SIC 3732 - Boat building and repairing
- SIC 3743 - Railroad equipment
- SIC 3751 - Motorcycles, bicycles, and parts
- SIC 3761 - Guided missiles and space vehicles
- SIC 3764 - Guided missile and space vehicle propulsion units and propulsion unit parts
- SIC 3769 - Guided missile and space vehicle parts and auxiliary equipment, not elsewhere classified
- SIC 3792 - Travel trailers and campers
- SIC 3795 - Tank and tank components
- SIC 3799 - Transportation equipment, not elsewhere classified
- SIC 3812 - Search, detection, navigation and guidance equipment
- SIC 3821 - Laboratory apparatus and furniture
- SIC 3822 - Automatic controls for regulating residential and commercial environments and appliances
- SIC 3823 - Industrial instruments for measurement, display, and control of process variables; and related products
- SIC 3824 - Totalizing fluid meters and counting devices
- SIC 3825 - Instruments for measuring and testing of electricity and electrical signals
- SIC 3826 - Laboratory analytical instruments
- SIC 3827 - Optical instruments and lenses
- SIC 3829 - Measuring and controlling devices, not elsewhere classified
- SIC 3841 - Surgical and medical instruments and apparatus
- SIC 3842 - Orthopedic, prosthetic, and surgical appliances and supplies
- SIC 3843 - Dental equipment and supplies
- SIC 3844 - X-ray apparatus and tubes and related irradiation apparatus
- SIC 3845 - Electromedical and electrotherapeutic apparatus
- SIC 3851 - Ophthalmic goods
- SIC 3861 - Photographic equipment and supplies
- SIC 3873 - Watches, clocks, clock-work operated devices and parts
- SIC 3911 - Jewelry, precious metal
- SIC 3914 - Silverware, plated ware, and stainless steel ware
- SIC 3915 - Jeweler's findings and materials and lapidary work
- SIC 3931 - Musical instruments
- SIC 3942 - Dolls
- SIC 3944 - Games, toys, and children's vehicles, except dolls and bicycles
- SIC 3949 - Sporting and athletic goods, not elsewhere classified
- SIC 3951 - Pens, mechanical pencils and parts
- SIC 3952 - Lead pencils, crayons, and artists' materials
- SIC 3955 - Carbon paper and inked ribbons
- SIC 3961 - Costume jewelry and costume novelties, except precious metal
- SIC 3991 - Brooms and brushes
- SIC 3993 - Signs and advertising displays
- SIC 3995 - Burial caskets
- SIC 3996 - Linoleum asphalted-felt-base and other hard surface floor coverings, not elsewhere classified
- SIC 4911 - Electric service (limited to steam electric power plants)
- SIC 4953 - Refuse systems

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD)

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution - Emission Standards for Kraft Pulp Mills (Rule 4-13).

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Effective Date: October 1, 1989

Summary:

In response to a federal mandate, the board adopted a final regulation for the control of total reduced sulfur (TRS) emissions from kraft pulp mills. The regulation (i) incorporates the EPA guidelines source specific emission limits, except for current noncomplying units which would have individual, less stringent limits prescribed by agreements; (ii) requires noncomplying units to meet the new limits on a schedule mutually agreeable to the companies and the state and approved by EPA; (iii) requires the use of continuous emission monitoring for recovery furnaces and lime kilns, based on a 24-hour averaging period; and (iv) requires an economic feasibility analysis for the use of condensate stripper systems.

The regulation amendments concern provisions covering total reduced sulfur emissions from kraft pulp mills and are summarized below:

1. Delete the current state standard and replace it with the EPA guideline limits. For those facilities incapable of meeting the EPA limits, temporary individual limits (less stringent than the EPA limits) will be established via a process whereby the board has delegated to the executive director the authority to establish temporary individual limits by agreements with the mills. The limits in the agreements would not be greater than those in the proposed regulation and the agreements would have to be approved by the effective date of the final regulation or the units would have to meet the EPA guideline limits.

2. Delete the current plantwide state standard based on production rate (pounds per ton of air dried pulp) and replace it with source specific emission limits expressed as a concentration (parts per million).

3. Add a time frame for submitting control plans and achieving compliance. By July 1, 1990 (about a year after adoption), companies will have to submit plans to bring all facilities into compliance with the new

limits as expeditiously as possible. In order to expedite processing and reduce the administrative workload, the board has delegated to the executive director the authority to approve control programs that bring units into compliance within five years for this regulation.

4. Add a requirement for the use of continuous emission monitoring (CEM). The effective date for the operation of CEM is one year after the effective date of the regulation. Monitoring is only required for recovery furnaces and lime kilns and the averaging period is 24 hours.

5. Add a requirement for the development of economic feasibility analyses for the use of condensate stripper systems. These analyses are required by affected companies as part of the plans submitted under item 3 above.

6. Add a provision to exempt TRS emissions at kraft pulp mills from the emission standard for odor (Rule 4-2).

VR 120-01. Regulations for the Control and Abatement of Air Pollution - Emission Standards for Kraft Pulp Mills (Rule 4-13).

§ 120-04-1301. Applicability and designation of affected facility.

A. The affected facilities in kraft pulp mills to which the provisions of this rule apply are: each recovery furnace, each smelt dissolving tank, each lime kiln, each slaker tank, and each kraft wood pulping operation. For the purpose of this rule, a kraft wood pulping operation is comprised only of any combination of the following units: recovery furnaces, lime kilns, digesters and digester systems, multiple-effect ~~evaporators~~ evaporator systems, condensate stripper systems and smelt dissolving tanks.

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. The provisions of this rule do not apply to affected facilities subject to Rule 5-5, except to the extent such pollutants are emitted which are not subject to standards of performance in Rule 5-5.

§ 120-04-1302. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

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B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

["Agreement" means any legally enforceable instrument executed by the owner and the executive director to bring the owner into compliance with a regulatory requirement or other requirements necessary to meet the provisions of this rule. Such agreements shall not be considered an enforcement action but shall be enforceable as an order of the board under the Virginia Air Pollution Control Law.]

"Black liquor solids" means the dry weight of the solids which enter the recovery furnace in the black liquor.

"Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, total reduced sulfur compounds from condensate streams from various processes within a kraft pulp mill.

"Cross recovery furnace" means a furnace used to recover chemicals consisting primarily of sodium and sulfur compounds by burning black liquor which on a quarterly basis contains more than 7.0% by weight of the total pulp solids from the neutral sulfite semichemical process and has a green liquor sulfidity of more than 28%.

"Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), below tank(s), chip steamer(s), and condenser(s).

"Green liquor sulfidity" means the sulfidity of the liquor which leaves the smelt dissolving tank.

"Kraft pulp mill" means any facility which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

"Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

"Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).

"Old design recovery furnace" means a straight kraft recovery furnace that does not have membrane wall or welded wall construction or emission control designed air systems.

"New design recovery furnace" means a straight kraft recovery furnace that has both membrane wall or welded

wall construction and emission control designed air systems.

"Recovery furnace" means either a straight kraft recovery furnace or a cross recovery furnace, and includes the direct-contact evaporator for a direct-contact furnace.

"Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the recovery furnace.

"Straight kraft recovery furnace" means a furnace used to recover chemicals consisting primarily of sodium and sulfur compounds by burning black liquor which on a quarterly basis contains 7.0 weight percent % by weight or less of the total pulp solids from the neutral sulfite semichemicals process or has green liquor sulfidity of 28% or less.

"Total reduced sulfur" means the sum of the following sulfur compounds (hydrogen sulfide, methyl mercaptan, dimethyl sulfide and dimethyl disulfide, reported as hydrogen sulfide) that are released during any kraft wood pulping operation.

["Twenty-four hour average" means the average of data over a 24-hour period beginning at midnight.]

§ 120-04-1303. Standard for particulate matter.

No owner or other person shall cause or permit to be discharged into the atmosphere from any group of similar affected facilities specified below any particulate emissions in excess of the following limits:

Affected Facility	Maximum Allowable Emission of Particulate in Lb/Equivalent Ton of Air Dried Pulp
All Recovery Furnace Units	3.00
All Smelt Dissolving Tank Units	0.75
All Lime Kiln Units	1.00
All Slaker Tank Units	0.30

§ 120-04-1304. Standard for total reduced sulfur.

No owner or other person shall cause or permit to be discharged into the atmosphere from any Kraft wood pulping operation any total reduced sulfur emissions in excess of the following limits: the daily average value per quarter for reduced sulfur emissions from all Kraft wood pulping operations shall not exceed 1.2 pounds of total reduced sulfur as H₂S per ton of equivalent air dry pulp.

A. Except as provided in subsection B of this section, no owner or other person shall cause or permit to be discharged into the atmosphere from any kraft wood pulping operation unit specified below any total reduced sulfur emissions in excess of the following limits:

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1. Recovery furnaces.

a. Old design furnaces - 20 ppm by volume on a dry basis, corrected to 8.0% oxygen.

b. New design furnaces - 5 ppm by volume on a dry basis, corrected to 8.0% oxygen.

c. Cross recovery furnaces - 25 ppm by volume on a dry basis, corrected to 8.0% oxygen.

2. Digester systems - 5 ppm by volume on a dry basis, corrected to 10% oxygen.

3. Multiple-effect evaporator systems - 5 ppm by volume on a dry basis, corrected to 10% oxygen.

4. Lime kilns - 20 ppm by volume on a dry basis, corrected to 10% oxygen.

5. Condensate stripper systems - 5 ppm by volume on a dry basis, corrected to 10% oxygen.

6. Smelt dissolving tanks - 0.033 pounds per ton black liquor solids as H₂S.

B. Notwithstanding the provisions of subsection A of this section, no owner or other person shall cause or permit to be discharged into the atmosphere from any kraft wood pulping operation unit [specified below] any total reduced sulfur emissions in excess of the [following] limits [: prescribed in any agreement approved by the executive director.]

[1. Chesapeake Corporation, West Point, Virginia.

a. Recovery furnace No. 3 - 60 ppm by volume on a dry basis, corrected to 8.0% oxygen.

b. Recovery furnace No. 4 - 20 ppm by volume on a dry basis, corrected to 8.0% oxygen.

c. Lime kiln No. 1 - 55 ppm by volume on a dry basis, corrected to 10% oxygen.

2. Stone Container Corporation, Hopewell, Virginia.

Lime kiln - 110 ppm by volume on a dry basis, corrected to 10% oxygen.

3. Union Camp Corporation, Franklin, Virginia.

a. Recovery furnace No. 4 - 30 ppm by volume on a dry basis, corrected to 8.0% oxygen.

b. Recovery furnace No. 5 - 30 ppm by volume on a dry basis, corrected to 8.0% oxygen.

c. Recovery furnace No. 6 - 10 ppm by volume on a dry basis, corrected to 8.0% oxygen.

d. Lime kiln No. 2 - 115 ppm by volume on a dry basis, corrected to 10% oxygen.

e. Lime kiln No. 3 - 205 ppm by volume on a dry basis, corrected to 10% oxygen.

f. Lime kiln No. 4 - 170 ppm by volume on a dry basis, corrected to 10% oxygen.

g. Smelt dissolving tank No. 4 - 0.13 pounds per ton black liquor solids as H₂S.

h. Smelt dissolving tank No. 5 - 0.13 pounds per ton black liquor solids as H₂S.

4. Westvaco Corporation, Covington, Virginia.

a. Recovery furnace - 45 ppm by volume on a dry basis, corrected to 8.0% oxygen.

b. Lime kiln - 100 ppm by volume on a dry basis, corrected to 10% oxygen.

c. Digester system - 200,000 ppm by volume on a dry basis, corrected to 10% oxygen.

d. Multiple-effect evaporator system - 10,000 ppm by volume on a dry basis, corrected to 10% oxygen.

e. Smelt dissolving tanks - 0.25 pounds per ton black liquor solids as H₂S.]

C. Achievement of the emission standards in this section by use of methods in § 120-04-1305 will be acceptable to the board.

D. [The emission standards in subsection B of this section shall be repealed as of (five years after effective date) and after that date the emission standards in subsection A of this section shall apply to all affected facilities. Any kraft wood pulping operation unit for which an agreement has not been approved pursuant to subsection B of this section by October 1, 1989, shall be subject to subsection A of this section. Any agreement established pursuant to subsection B of this section may be terminated once the affected facility is in compliance with subsection A of this section.]

§ 120-04-1305. Control technology guidelines.

The control method should consist of one of the following:

1. Combustion of gases in a lime kiln or recovery furnace subject to the provisions of this rule.

2. Combustion of gases in equipment or a device which is not subject to the provisions of this rule and which is subjected to a minimum temperature of 1200°F for at least 0.5 seconds.

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3. Any control method of equal or greater efficiency to the method in subsection B of this section, provided such method is approved by the board.

§ 120-04-1305. § 120-04-1306. Standard for visible emissions.

A. The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply except with regard to recovery furnaces; for such facilities the provisions in subsection B of this section apply instead of § 120-04-0103 A of Rule 4-1.

B. No owner or other person shall cause or permit to be discharged into the atmosphere from any recovery furnace any visible emissions which exhibit greater than 35% opacity. Failure to meet the requirements of this section because of the presence of water vapor shall not be a violation of this section.

§ 120-04-1306. § 120-04-1307. Standard for fugitive dust/emissions.

The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply.

§ 120-04-1307. § 120-04-1308. Standard for odor.

The provisions of Rule 4-2 (Emission Standards for Odor) apply [, except for total reduced sulfur emissions].

§ 120-04-1308. § 120-04-1309. Standard for noncriteria pollutants.

The provisions of Rule 4-3 (Emission Standards for Non-Criteria Pollutants) apply.

§ 120-04-1309. § 120-04-1310. Compliance.

A. The provisions of § 120-04-02 (Compliance) apply.

B. Each owner of a facility for which an emission standard is prescribed in § 120-04-1304 B shall submit to the board by [(six months after the effective date) July 1, 1990,] a control program to achieve compliance with the emission standards in § 120-04-1304 A as expeditiously as possible [; but in no case later than (five years after effective date)].

C. For any kraft pulp mill that does not have a condensate stripper system on [(effective date) October 1, 1989], the control program required by subsection B of this section shall contain a commitment to install, maintain, and operate such a system if determined to be reasonably available control technology.

D. [For any emissions unit with emissions equal to or greater than 0.01 pounds per ton of air dried pulp (actual emissions at plant capacity) that are not subject to the emission standards in § 120-04-1304, the control program required by subsection B of this section shall contain a commitment to determine and implement reasonably

available control technology. Authority to approve any control program submitted pursuant to subsection B of this section that contains a commitment to bring a particular kraft wood pulping operation unit into compliance with the emissions standards in § 120-04-1304 A by October 1, 1994, is delegated to the executive director.]

§ 120-04-1310. § 120-04-1311. Test methods and procedures.

The provisions of § 120-04-03 (Emission testing) apply.

§ 120-04-1311. § 120-04-1312. Monitoring.

A. The provisions of § 120-04-04 (monitoring) apply [, with any addition or modification deemed appropriate to meet the needs of subsection B of this section].

B. The owner shall by [(one year after the effective date) October 1, 1990] :

1. Install, [certify,] maintain and operate continuous monitoring equipment to monitor and record the concentration of TRS emissions on a dry basis and the percentage of oxygen by volume on a dry basis in the gases discharged into the atmosphere from any lime kiln [; or] recovery furnace [; digester system, multiple-effect evaporator system, or condensate stripper system, except where these gases are subjected to a minimum temperature of 1200°F for at least 0.5 seconds in an incinerator or other device approved by the board which does not generate TRS] . The location of each monitoring system must be approved by the board.

2. Install, calibrate, maintain, and operate a monitoring device which measures the combustion temperature at the point of incineration of effluent gases which are emitted from any lime kiln, recovery furnace, digester system, multiple-effect evaporator system, or condensate stripper system [unless TRS monitors are required as in subsection B 1 of this section] . The monitoring device is to be certified by the manufacturer to be accurate within 1.0% of the temperature being measured.

[C. The minimum data capture and validity requirements shall be as follows:

1. Valid TRS and oxygen data shall be obtained for no less than 75% of the operating hours of each quarter. Section 4 of Procedure 1 of Appendix F of 40 CFR Part 60 shall be used to determine valid data.

2. For TRS or oxygen concentrations, a valid data hour shall have at least 50% valid readings.

3. A 24-hour average TRS or oxygen concentration shall be considered valid if at least 50% of the operating hours in the 24-hour period are valid data hours.

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4. Valid temperature data shall be obtained for no less than 90% of the operating time of each quarter.]

§ ~~120-04-1312~~. § 120-04-1313. Notification, records and reporting.

A. The provisions of § 120-04-05 (Notification, records and reporting) apply.

B. Any owner subject to the provisions of § 120-04-1312 B shall:

1. Calculate and record on a daily basis [~~12-hour~~ the 24-hour] average TRS [~~concentrations~~ concentration] for [the two consecutive periods of] each operating day [for each recovery furnace and lime kiln]. Each [~~12-hour~~ 24-hour] average shall be determined as the arithmetic mean of the appropriate [~~12~~ 24] contiguous 1-hour average TRS concentrations provided by each continuous monitoring system installed under § 120-04-1312 B 1.

2. Calculate and record on a daily basis [~~12-hour~~ the 24-hour] average oxygen [~~concentrations~~ concentration] for [the two consecutive periods of] each operating day for [the each] recovery furnace and lime kiln. These [~~12-hour~~ 24-hour] averages shall correspond to the [~~12-hour~~ 24-hour] average TRS [~~concentrations~~ concentration] under subsection B 1 of this section and shall be determined as an arithmetic mean of the appropriate [~~12~~ 24] contiguous 1-hour average oxygen concentrations provided by each continuous monitoring system installed under § 120-04-1312 B 1.

3. Correct all [~~12-hour~~ 24-hour] average TRS concentrations to 10 volume percent oxygen, except that all [~~12-hour~~ 24-hour] average TRS concentrations from a recovery furnace shall be corrected to 8 volume percent using the following equation:

$$C_{\text{corr}} = C_{\text{uncorr}} \times (21 - X / 21 - Y)$$

where:

- C_{corr} = the concentration corrected for oxygen.
C_{uncorr} = the concentration uncorrected for oxygen.
X = the volumetric oxygen concentration in percentage to be corrected to (8.0% for recovery furnaces and 10% for lime kilns, incinerators, or other devices).
Y = the measured [~~12-hour~~ 24-hour] average volumetric oxygen concentration.

[4. Record continuously on a daily basis the temperature of any applicable point of incineration.]

[5. Record on a daily basis the periods of operation for each operating day for each recovery furnace and lime kiln.]

C. [Each owner required to install a continuous

monitoring system shall submit a written report of excess emissions to the board for every calendar quarter. All quarterly reports shall be postmarked by the 30th day following the end of each calendar quarter and shall include the following information For the purpose of reports required under § 120-04-05 C, the following information shall be reported]:

1. For emissions from any recovery furnace, [periods of excess emissions are] all [~~12-hour~~ 24-hour] average TRS concentrations above the applicable emission standard in § 120-04-1304.

2. For emissions from any lime kiln, [periods of excess emissions are] all [~~12-hour~~ 24-hour] average TRS concentrations above the applicable emission standard in § 120-04-1304.

3. For emissions from any digester system, multiple-effect evaporator system, or condensate stripper system [periods of excess emissions are:

a. All ~~12-hour~~ average TRS concentrations above the applicable emission standard in § 120-04-1304 unless exempted under the provisions of § 120-04-1312 B 1; or

b. ,] all periods in excess of five minutes and their duration during which the combustion temperature is less than 1200°F if the gases are combusted in an incinerator or other device approved by the board which does not generate TRS.

[4. For each recovery furnace or lime kiln, the periods of operation.]

[D. The board will consider periods of excess emissions reported under subsection E of this section to be indicative of a violation if:

1. The number of excess emissions from recovery furnaces exceeds 1.0% of the total number of possible contiguous periods of excess emissions in a quarter (excluding periods of startup, shutdown, or malfunction and periods when the recovery furnace is not operating);

2. The number of excess emissions from lime kilns exceeds 2.0% of the total number of possible contiguous periods of excess emissions in a quarter (excluding periods of startup, shutdown, or malfunction and periods when the lime kiln is not operating);

3. The number of excess emissions from incinerators exceeds 2.0% of the total number of possible contiguous periods of excess emissions in a quarter (excluding periods of startup, shutdown, or malfunction and periods when the incinerator is not operating);

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4. The board determines that the affected equipment, including air pollution control equipment, is not maintained and operated in a manner which is consistent with good air pollution control practice for minimizing emissions during periods of excess emissions.]

[D. Each owner subject to the provisions of § 120-04-1312 B 1 shall develop and implement a quality assurance plan. At a minimum the plan shall provide for daily calibration drift checks, periodic preventive maintenance, and annual audits. Section 3 of Procedure 1 of Appendix F of 40 CFR Part 60 may be used as a guide by which to pattern the plan.]

§ 120-04-1313. § 120-04-1314. Registration.

The provisions of § 120-02-31 (Registration) apply.

§ 120-04-1314. § 120-04-1315. Facility and control equipment maintenance or malfunction.

The provisions of § 120-02-34 (Facility and control equipment maintenance or malfunction) apply.

§ 120-04-1315. § 120-04-1316. Permits.

A permit may be required prior to beginning any of the activities specified below and the provisions of Part V (New and Modified Sources) and Part VIII (Permits for New and Modified Sources) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.

- A. 1. Construction of a facility.
- B. 2. Reconstruction (replacement of more than half) of a facility.
- C. 3. Modification (any physical change to equipment) of a facility.
- D. 4. Relocation of a facility.
- E. 5. Reactivation (restart-up) of a facility.

DEPARTMENT OF CORRECTIONS (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 3 of the Code of Virginia, which excludes from Article 2 regulations which consist only of changes in style or form or corrections of technical errors. The Department of Corrections will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 230-01-001. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 53.1-5 of the Code of Virginia.

Effective Date: October 1, 1989

Summary:

The regulation defines agency procedures for soliciting public participation in the formulation and development of regulations. It discusses procedures for notifying and soliciting interested parties and, after development, submitting the regulation for public comment.

This regulation is the culmination of the two-year review process as required by Governor's Executive Order No. 5 (85). No substantial changes were made to the regulation as a result of the review process. The major change is deletion of the severability clause, which was made unnecessary by the addition of § 9-6.14:5.1 to the Code of Virginia.

VR 230-01-001. Public Participation Guidelines.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Agency" means any authority, instrumentality, officers of the Virginia Department of Corrections, and members of the Virginia Board of Corrections, or other unit of the state government empowered by the basic laws to make regulations or decide cases.

"Agency regulatory coordinator" means the individual appointed by the director to provide technical assistance to the operating units and to coordinate regulations.

"Basic law" or "Basic laws" means provisions of the Constitution and statutes of the Commonwealth of Virginia authorizing an agency to make regulations or decide cases or containing procedural requirements thereof.

"Board" means the Virginia Board of Corrections.

"Department" means the Virginia Department of Corrections.

"Director" means the State Corrections Director Director of the Virginia Department of Corrections.

"Operating unit" means the offices of the director, deputy directors, administrators or other offices within the department that will develop ; or draft and promulgate a regulation. Only the board may promulgate a regulation.

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"Rule or regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws. Exemptions to this requirement are those listed in § 9-6.14:4.1 of the Code of Virginia or as determined by the Attorney General's office.

§ 1.2. Authority.

Chapter 1.1:1 of Title 9 of the Code of Virginia, deals with the promulgation of rules and regulations. Specifically, § 9-6.14:7.1 directs agencies of the Commonwealth to develop public participation guidelines for soliciting the input of interested parties in the formation and development of regulations. Section 53.1-5 of the Code of Virginia empowers the Board of Corrections to make, adopt and promulgate rules and regulations.

§ 1.3. Purpose.

These guidelines are designed to provide consistent, written procedures that will ensure input from interested parties during the development, review and final stages of the regulatory process.

§ 1.4. Administration.

A. The State board of Corrections has the responsibility for promulgating regulations pertaining to public input in the regulatory process.

B. The State Corrections director is the chief executive officer of the Department of Corrections and is responsible for implementing the standards and goals of the board.

§ 1.5. Application of regulations.

These regulations have general application throughout the Commonwealth.

§ 1.6. Effective Date. ~~January 8, 1986~~ October 1, 1989 .

§ 1.7. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings and appeals. All hearings on such regulations shall be conducted in accordance with § 9-6.14:7.1.

§ 1.8. Severability.

If any provision of these regulations or the application of them to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations which can be given effect without the invalid provisions of the application, and to this end, the provisions of these

regulations and the various applications of them are declared to be severable.

PART II. PUBLIC PARTICIPATION.

§ 2.1. Identification of interested parties.

Each operating unit within the department which is responsible for rule making ~~will~~ shall develop and maintain a current list of those persons, organizations, and agencies that have demonstrated an interest in specific program regulations in the past through written comments or attendance at public hearings.

§ 2.2. Notification of interested parties.

A. Individual mailings.

When an operating unit of the department determines that specific regulations need to be developed or substantially modified, the operating unit ~~will~~ shall so notify by mail the individuals, organizations, and agencies identified as interested parties in § 2.1 of these regulations. This notice ~~will~~ shall invite those interested in providing input to notify the agency of their interest. The notice ~~will~~ shall include the title of the regulation to be developed or modified; the operating unit contact person, mailing address, and telephone number; and the date by which a notice of a desire to comment must be received. In addition, known parties having interest and expertise will be advised through a special mailing of the agency's desire to develop a regulation and will be invited to assist the operating unit in developing the regulation or in providing input.

B. Notice of intent.

When an operating unit of the department determines that specific regulations that are covered by the Administrative Process Act need to be developed or substantially modified, the operating unit ~~will~~ shall publish a notice of intent in The Virginia Register of Regulations. This notice will invite those interested in providing input to notify the operating unit of their interest. The notice will include the title of the regulation to be developed or modified; the operating unit contact person, mailing address, and telephone number; and the date by which a notice of a desire to comment must be received. All notices ~~will~~ shall be coordinated through the agency regulatory coordinator before being forwarded who will forward them for publication.

§ 2.3. Solicitation of input from interested parties.

A. Advisory panels.

Whenever an operating unit proposes to develop or substantially modify a regulation, it may create an advisory panel to assist in this development or modification. Advisory panels ~~will~~ shall be established on

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an ad hoc basis.

1. Members of advisory panels ~~will~~ *shall* consist of a balanced representation of individuals and representatives of organization and agencies identified as interested in § 2.1 of these regulations *as interested* and who have expressed a desire to comment on new or modified regulations in the developmental process. Each panel ~~will~~ *shall* consist of no less than three members.

2. Individual panels ~~will~~ *shall* establish their own operating procedure, but in no case will a panel meet less than twice. All comments on proposed regulations ~~will~~ *shall* be documented by the operating unit and a response ~~will~~ be developed for each comment.

B. Other comments.

All persons, organizations, and agencies ~~who~~ *that* respond to the individual mailings and the notice of intent shall be provided an opportunity to examine regulations in their developmental stage and to provide written comments on these regulations to the operating unit. The operating unit ~~will~~ *shall* document the receipt of these comments and ~~will~~ respond to each commentor. The operating unit shall consider all input received as a result of responses to notifications mailed to interested parties as listed in § 2.2 of these regulations in formulating and drafting proposed regulations.

§ 2.4. Administrative Process Act procedures.

After regulations have been developed according to these guidelines, they ~~will~~ *shall* be submitted for public comment under ~~§ 9-6.14 § 9-6.14.7.1~~ of the Code of Virginia, and promulgated finally under this section of the Code .

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Title of Regulation: VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Effective Date: September 27, 1989

Summary:

These regulations will be used to screen hearing-impaired and speech-impaired applicants for the Telecommunications Assistance Program (TAP) and to determine the applicant's contribution (payment) toward the purchase of telephone equipment.

Under TAP, approved applicants will receive coupons,

varying in amount, which are redeemable in the purchase of telephone equipment from approved vendors. The equipment available through TAP includes: regular and large-print telecommunication devices for the deaf (TDDs); braille TDDs (for use by deafblind individuals); audible and visual ring signalers; and amplified receivers (for the hearing impaired) and amplified transmitters (for the speech impaired).

The following substantial changes were adopted in the final regulation:

1. Deletion of the section requiring the applicant to produce evidence of telephone service in his home. The general public may use public (pay) telephones to access the system. This requirement discriminates against low-income applicants who cannot afford a telephone.

2. Deletion of the requirement limiting one piece of the same kind of equipment per household. With no current statewide emergency system for TDD-users in place, recipients traveling with portable TDDs (distributed through the program) would not be able to contact other hearing-impaired relatives at home without a TDD at each end of the line.

3. Maximum cost of equipment to client established at \$75. The general public can purchase a telephone to access the system for approximately \$75.

4. Separate income guidelines for Arlington, Fairfax, Loudoun, and Prince William counties and the incorporated cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park designated at 9.0% above the Statewide Economic Needs Guidelines, following the Commonwealth of Virginia Compensation Plan guidelines.

5. Deleted "Part II. General Information." Content reiterates information disclosed in the Administrative Process Act.

VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Amplified handset" means a mechanical device that amplifies either incoming sounds for hearing-impaired persons or outgoing sounds for speech-impaired persons.

"Applicant" means a person who applies for

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telecommunications equipment.

"Application" means the TAP Application (VDDHH-TDD-1).

"Audiologist" means [a person who has a Master's or Doctoral degree in audiology and a Certificate of Clinical Competence from the American Speech/Language/Hearing Association 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] .

"Braille TDD" means an electrical device for use with a telephone that utilizes a keyboard, an acoustic coupler, a visual display and a braille display to transmit and receive messages.

"Completion date" means the date all supporting documentation for the application is received by the department.

"Coordinator" means the Coordinator for Statewide Telecommunications Programs for the Deaf of the Virginia Department for the Deaf and Hard-of-Hearing.

"Coupon" means a voucher which may be used by the recipient as credit toward the purchase of approved telecommunications equipment from a contracted vendor.

"Deaf" means [the presence of] a hearing [loss impairment] that requires use of a telecommunications device for the deaf to communicate effectively on the telephone.

"Deaf-blind" means [the presence of] a hearing [loss impairment] and a visual impairment that requires use of a braille [or large-print] TDD to communicate effectively on the telephone.

"Department" means the Virginia Department for the Deaf and Hard-of-Hearing.

"Director" means the Director of the Virginia Department for the Deaf and Hard-of-Hearing.

"Family" means the applicant, [~~their~~ his] dependents and any person legally required to support the applicant, including spouses.

"Gross income" means the income, total cash receipts before taxes from all sources of the applicant, [~~their~~ his] dependents and any person legally required to support the applicant including spouses.

[*"Household"* means a unit whose members share a common living arrangement or a telephone line, or both.]

"Minor" means a person less than 18 years of age whose parents are legally responsible for his support.

"Outreach specialist" means a person hired by the department to provide outreach services and to assist the department in carrying out activities related to the Telecommunications Assistance Program on either a regional or local level.

"Physician" means a person who has a medical degree and a license to practice medicine in any one of the United States.

"Program" or *"TAP Program"* means Telecommunications Assistance Program for distributing telecommunications equipment to deaf, severely hearing-impaired, deaf-blind and speech-impaired persons who meet eligibility requirements through an application process.

"Public assistance" means and includes aid to dependent children; auxiliary grants to the aged, blind and disabled; medical assistance; food stamps; general relief; fuel assistance; and social services.

"Recipient" means a person who receives telecommunications equipment or a coupon valid toward the purchase of the equipment.

"Ring signal device" means a mechanical device that alerts a deaf, severely hearing-impaired or deaf-blind person of an incoming call.

"Severely hearing-impaired" means a hearing loss that requires use of either a Telecommunications Device for the Deaf or an amplified telephone handset to communicate effectively on the telephone.

"Speech-impaired" means a loss of verbal communication ability which prohibits normal usage of a standard telephone handset.

"Speech [-language] pathologist" means [a person who has a Master's degree or otherwise meets the qualifications in Speech/Language Pathology and a Certificate of Clinical Competence issued by the American Speech/Language/Hearing Association any person who accepts compensation for examining, testing, evaluating, treating or counseling persons having or suspected of having disorders or conditions affecting speech, voice or language and is not authorized by another regulatory or health regulatory board to perform any such services] .

"Telecommunications devices for the deaf" (hereinafter called TDD) means an electrical device for use with a telephone that utilizes a keyboard, acoustic coupler and display screen to transmit and receive messages.

"Telecommunications equipment" means any mechanical adaptation for a telephone needed by a deaf, a hearing-impaired or a speech-impaired person in order to

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use the telephone, including amplified handsets, ring signaling devices, [and] braille [FDDs, and , large-print or regular-print] TDDs.

[PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

Section 62-1-85.4 of the Code of Virginia establishes the powers and duties of the department. Subdivision 8 authorizes the department to "operate a program of telecommunications assistance and services to persons with hearing and speech impairments, including the distribution of telecommunications devices for the deaf and support of message relay services, through grants, contracts and other means, including a sliding fee scale where appropriate." Subdivision 9 permits the department to "make, adopt and promulgate such regulations, consistent with this chapter, as may be necessary to carry out the purpose and intent of this chapter and other laws of the Commonwealth administered by the Director of the Department. Such regulations shall be binding on all officers, agents, and employees engaged in implementing the provisions of this chapter."

§ 2.2. Purpose for regulations.

The department has promulgated these regulations to establish eligibility requirements for participation in the TAP program.

§ 2.3. Administration of regulations.

These regulations are administered by the Director of the Virginia Department for the Deaf and Hard-of-Hearing.

§ 2.4. Recipients of service.

These regulations shall apply to all persons seeking telecommunications equipment provided by the department.

§ 2.5. Effective date of regulations.

These regulations will be effective 30 days from the date that the final regulations are published in The Virginia Register of Regulations.

§ 2.6. Powers and procedures of regulations not exclusive.

The department reserves the right to authorize any procedure necessary for the enforcement of the provisions set forth herein under the provisions of § 62-1-85.4 of the Code of Virginia.]

PART [III. II.] PARTICIPATION OF APPLICANT.

[§ 3-1. § 2.1.] Eligibility requirements.

Upon request for telecommunications equipment by an [individual applicant] , the department will require information as to the family size, financial status, and other related data as described on the application. 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 telecommunications equipment. Applicants eligible to participate in the program shall meet the following requirements:

1. The applicant must be certified as deaf, severely hearing-impaired, deaf-blind, or speech-impaired by a licensed physician, audiologist, speech-language pathologist, vocational rehabilitation counselor employed by the Department of Rehabilitative Services or the Department for the Visually Handicapped, a Virginia School for the Deaf and Blind representative, or other appropriate agency or government representative.

2. The applicant shall reside in the Commonwealth of Virginia.

[3. The applicant must produce evidence that telephone service is in his home.

4. An applicant shall reside in a household in which no member has been a program recipient of the same kind of telecommunication equipment in the last four years.]

[5. 3.] An applicant shall submit a complete application.

[§ 3-2. § 2.2.] Charges for equipment.

Eligible applicants shall be granted program participation based on a first-come, first-served basis and the availability of program funds. The participation of applicants shall be by coupon. (See Part [V IV] .) [The approved applicant may use his coupon in addition to his contribution (as defined in §§ 2.2 A 1-2 of these regulations) to purchase the approved equipment at the state contract rate.]

A. Cost of the program to applicant.

If the [applicant's individual or family] monthly gross income is such that a [partial or full] charge for telecommunications equipment is [determined to be] required, an explanation of the charges shall be provided to the recipient.

[1. Applicants whose individual or family gross income is obtained solely from any one or combination of public assistance (as defined in Part I of these regulations), earnings of minor children or gifts, shall not be required to participate in the cost

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of any telecommunications equipment distributed to the applicant.

2. Applicants whose monthly gross income is less than or equal to the Economic Needs Guidelines found in § 2.2 A 3 of these regulations shall not be required to participate in the cost of any telecommunications equipment distributed to the applicant.

3. All other applicants are required to participate in the cost of any telecommunications equipment distributed to the applicant. The portion paid by the applicant, to the vendor, is equal to the amount their family's monthly gross income exceeds the following Economic Needs Guidelines, but not to exceed the approved equipment's total price.]

[1. An applicant shall not be required to participate in the cost of telecommunications equipment if his individual or family monthly gross income is:

a. Obtained solely from (any one or combination of) public assistance (as defined in Part I of these regulations), earnings of minor children or gifts (or any combination thereof); or

b. Less than or equal to the Economic Needs Guidelines found in § 2.2 A 3 of these regulations.

2. Any other applicant shall be required to participate in the cost of any telecommunications equipment distributed to the applicant. The portion paid by the applicant to the vendor shall be equal to the amount which his individual or family monthly gross income exceeds the following Economic Needs Guidelines. However, this amount shall not exceed the approved equipment total price or \$75, whichever is lower.

3. Statewide Economic Needs Guidelines]

	<u>Monthly Gross Income</u>	<u>Annual Gross Income</u>
Family of 1	\$1,210	\$14,520
Family of 2	1,583	18,996
Family of 3	1,995	23,940
Family of 4	2,327	27,924
Family of 5	2,699	32,388
Family of 6	3,072	36,864

[a. Applicants whose monthly gross income exceeds the guidelines by more than the equipment's total purchase price (where the applicant's portion is the total purchase price) will be issued a coupon with a valid amount of \$0. The approved applicant may use this coupon to purchase the approved equipment at the state-contract price.]

[a. Northern Virginia Economic Needs Guidelines. To be used for applicants residing in Arlington, Fairfax, Loudoun, and Prince William counties and the incorporated cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

	<u>Monthly Gross Income</u>	<u>Annual Gross Income</u>
Family of 1	\$1,319	\$15,828
Family of 2	1,726	20,712
Family of 3	2,175	26,100
Family of 4	2,537	30,444
Family of 5	2,942	35,304
Family of 6	3,349	40,188]

b. If an applicant is paying monthly installments toward a debt(s), then the amount of one monthly installment will be subtracted from the applicant's expected contribution before the valid amount of the coupon is determined, [only when under the following conditions] :

1. The debt(s) is [rendered owed] for nonpreventative medical or dental services; and

2. The debt(s) is [rendered to owed by] or for the applicant or individuals whom the applicant is legally responsible to support or is legally supported by.

[§ 2.2, § 2.3.] Type of equipment.

[Depending upon the type of sensory loss,] The applicant must choose the type(s) of equipment requested [based upon the applicant's sensory loss]. The equipment available through the program includes: TDDs, braille TDDs, amplified handsets and ring signal devices.

PART [IV, III.] APPLICATION PROCEDURES.

[§ 4.1, § 3.1.] The application may be obtained from the department or the department's outreach specialists or other authorized distribution centers. Completed applications shall be forwarded to:

Virginia Department for the Deaf and Hard-of-Hearing
ATTN: TAP Program
101 N. 14th St., 7th Floor
Richmond, VA 23219-3678

[§ 4.2, § 3.2.] Processing applications.

[A. Approval of applications.

If an applicant satisfies all eligibility requirements as defined in § 3.1 of these regulations, the coordinator shall approve the application, except as follows.]

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[A. The coordinator shall approve all applications for which eligibility requirements defined in § 2.1 are satisfied, except as provided in subsections B and C of this regulation.]

[~~A~~. B.] Original application [~~is~~ shall not be approved:]

[~~a~~. 1.] When the applicant has already been issued a coupon which is still valid towards the purchase of telecommunications equipment under this program.

[~~b~~. 2.] When the applicant has received a device from the TAP Program within the preceding four years.

[~~2~~. C. Application for] replacement [~~request~~ equipment shall be approved when:]

[~~a~~. 1.] A device previously issued by the department has been subjected to abuse, misuse or unauthorized repair by the recipient.

[~~b~~. 2.] The recipient fails to provide a police report of a stolen device [or refuses to cooperate with the police investigation or in the prosecution of the suspect, including the refusal to testify in court when requested to do so].

[~~c~~. 3.] The recipient is found negligent in the police report, such as doors to the house or car left unlocked or unattended.

[~~d~~. 4.] The recipient has lost the device.

[~~e~~. 5.] The recipient has sold the device.

[~~f~~. The recipient refuses to cooperate with the police investigation or in the prosecution of the suspect, including the refusal to testify in court against said persons.]

[§ 4.2. § 3.3.] Notice of action on approved or denied applications.

The recipient [~~will~~ shall] be notified of a decision regarding an original application within 30 days of the completion date.

PART [~~V~~. IV.] COUPON SYSTEM.

[§ 5.1. Original issuance of § 4.1. A] coupon for purchase of telecommunications equipment [based on an original application] will be processed as follows:

1. The TAP Program Coordinator shall issue coupons varying in amount, but not exceeding the equipment's contracted price, for the purchase of approved equipment to persons determined to be eligible for the program. The coordinator will attach a list of contracted vendors who sell the approved

telecommunications equipment.

2. The coupon [~~entitles~~ shall entitle] the recipient to [purchase] the approved equipment at the state-contract rate.

3. The recipient [~~will~~ shall] present or send the coupon to the vendor to make a purchase of approved equipment within 30 days of the coupon's issuance date. [~~This date is found on the line "Recipient must redeem by."~~]

4. The coupon [~~will~~ shall] have the signature and signature date of the recipient. The signature date indicates the order date for approved equipment by the recipient.

5. The vendor [~~will~~ shall] complete) [~~their~~ its] section [of the coupon], including signature and date, documenting the corresponding serial numbers for all approved equipment. The serial number for all equipment [~~is~~ shall be] required for reimbursement.

6. Within 30 days of the order date, the vendor [~~will~~ shall] forward the coupon to the Virginia Department for the Deaf and Hard-of-Hearing (VDDHH). An invoice for payment [~~must~~ shall] accompany the coupon for reimbursement. When submitting the coupon and invoice for payment, the vendor [~~is~~ required to shall] provide proof of delivery to the [~~recipient~~ recipient's home address]. This proof [~~must~~ shall] include [~~the~~ recipient's a] signature indicating receipt of the approved equipment.

7. Payment reimbursed from VDDHH to the vendor shall not exceed the valid amount, found in the upper right-hand corner, of the coupon.

8. The difference between the equipment's state-contracted price under the program and the value of the coupon will be collected by the vendor from the recipient.

9. Upon receipt of the authorized coupon, accompanying invoice, and confirmation of satisfactory delivery of the equipment, VDDHH will process an accounting voucher for the valid amount. The agency accounting voucher will be processed with an appropriate due date in accordance with the terms and conditions set forth in the Commonwealth's Prompt Payment Act.

[§ 5.2. § 4.2.] Ownership.

All telecommunications devices [distributed through the program] are the property of the recipient.

[§ 5.3. § 4.3.] Liability.

Recipients [~~are~~ shall be] responsible for any repairs to or loss of a device issued in the program.

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FOR OFFICE USE ONLY

Date Received	Date Complete	Region	City/County	CI	Application #
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TELECOMMUNICATIONS ASSISTANCE PROGRAM (TAP)

Eligibility application for telecommunications equipment for hearing-impaired and speech-impaired people.

PLEASE PRINT OR TYPE

1. APPLICATION: ORIGINAL RENEWAL

2. NAME OF PERSON WHO WILL USE THIS EQUIPMENT:

Last First MI

3. BIRTHDATE: _____

4. APPLICANT IS:

MARRIED SINGLE DIVORCED WIDOWED

5. SPOUSE NAME:

Last First MI

6. HOME ADDRESS:

Number Street Name Apt. #

City State Zip

7. MAILING ADDRESS (If Different):

Number Street Name Apt. #

City State Zip

8. WHEN DID YOU MOVE TO VIRGINIA? _____
month year

9. CITY OR COUNTY YOU LIVE IN? _____
(Circle One)

10. DO YOU NOW HAVE A TELEPHONE IN YOUR HOME?
 YES NO

13. FAMILY MONTHLY INCOME \$ _____

11. TELEPHONE NUMBER:

(Area Code) _____

14. FAMILY SOURCE OF INCOME _____
(Use Instruction Codes on the back of this application)

15. FAMILY SIZE (Include yourself): _____

12. NAME OF PERSON LISTED IN TELEPHONE DIRECTORY: _____
Last First MI

16. THE EQUIPMENT BOX — CHECK (✓) IN THE CORRECT GROUP

DEAF (Only Check One Box)	SEVERELY HEARING-IMPAIRED (Check One Box In Each Group)	SPEECH-IMPAIRED (Only Check One Box)	HEARING-IMPAIRED/VISUALLY-IMPAIRED (Check One or Both Boxes)
<input type="checkbox"/> TDD & Visual Ring <input type="checkbox"/> TDD Only <input type="checkbox"/> Visual Ring Signaler Only	<input type="checkbox"/> TDD <input type="checkbox"/> Volume Control Telephone for the hearing-impaired <input type="checkbox"/> Visual Ring Signaler <input type="checkbox"/> Audible Ring Signaler	<input type="checkbox"/> TDD Only <input type="checkbox"/> Volume Control Telephone	<input type="checkbox"/> Large-Print TDD <input type="checkbox"/> Tactile Ring Signaler

17. DO YOU NEED TRAINING TO USE THESE MACHINES? YES NO

18. APPLICANT CERTIFICATION:

I CERTIFY:

- The information on this application is true.
- I live in Virginia.
- I am hearing-impaired and/or speech-impaired.
- There is telephone service in my home now or I will get telephone service as soon as your office lets me know that I will get the machine that I ask for.
- The FAMILY MONTHLY INCOME (Question #13) is the total gross monthly income my family earns in one month.

I UNDERSTAND:

- If any information on this application is not true I will have to give all equipment back to VDDHH.
- I accept responsibility for the machines.
- I accept responsibility for all repair and maintenance costs.
- I accept responsibility for all of my telephone bills.

APPLICANT SIGNATURE _____ Soc. Sec. # _____ / _____ / _____ Date: _____ / _____ / _____

PARENT OR GUARDIAN: _____ Soc. Sec. # _____ / _____ / _____ Date: _____ / _____ / _____

This section to be completed by appropriate professional only.

19. PROFESSIONAL CERTIFICATION (mark the appropriate category):

- | | |
|--|---|
| <input type="checkbox"/> Doctor (licensed physician) | <input type="checkbox"/> Va. School for the Deaf Rep. |
| <input type="checkbox"/> Audiologist | <input type="checkbox"/> DRS or DVH Rep. |
| <input type="checkbox"/> Speech Pathologist | <input type="checkbox"/> Other appropriate agency Rep. (check with VDDHH) |

ABOVE CLIENT IS (please check one):

- Deaf
 Severely Hearing-Impaired
 Speech-Impaired

I Certify: That this applicant meets the definition of "Deaf," "Severely Hearing-Impaired," or "Speech-Impaired" given on the reverse side of this application. (Please see back of this form for a definition of each impairment and a description of each device)

Name of Certifying Person: _____ Title: _____

Name of Agency: _____ State Lic. # (if applicable): _____

Address: _____ Day Phone Number: () _____

Signature: _____ Date: _____ / _____ / _____

Applicants for this program shall be afforded equal opportunity without regard to race, color, religion, national origin, political affiliation, handicap, sex or age. Mail Completed Application to: VDDHH/101 N. 14th Street, 7th Floor/Richmond, VA 23219-3678 VDDHH Office: 1-800-552-7917 (V/TDD)

(VDDHH-TDD-1, Revised 7/87)

TAP APPLICATION INSTRUCTIONS

Important! Follow these directions carefully.

If any answers are incorrect, inconsistent or left blank, the application process will be delayed and you may have to fill out additional forms.

You must write an answer to every question on the TAP Application! (Do not write in the shaded areas.)

1. **Application**
Check (✓) "Original" if you have not received equipment through this program before.
2. **Name of person who will use this equipment**
Print your full legal name; last name, first name and middle initial.
3. **Birthdate**
Use numbers. For example: August 11, 1956 = 8/11/56
4. **Applicant is: Married Single Divorced Widowed**
Check the box that relates to the person who will use this equipment, not the parent.
5. **Spouse Name**
Write the last name, first name and middle initial of the spouse of the person who will use this equipment, not the parent. If none, write "none" in the space.
6. **Home Address**
Print your complete home (street) address. A P.O. Box is not acceptable.
7. **Mailing Address**
Write "same" if mailing address = home address. If the address is different, print your complete mailing address (including P.O. Box, R.D. #, etc.).
8. **When did you move to Virginia?**
Use numbers to show what month and what year you moved to Virginia. For example: July 1989 = 7/89. If you were born in Virginia and lived here your whole life, use the same numbers as your birthdate.
9. **City or County you live in**
Circle "City" or "County," then write in the correct name. Some examples: You may live in Roanoke City or Roanoke County. If you live in Chatham you should write Pittsylvania County.
10. **Do you have a telephone in your home?**
Check (✓) "yes" or "no."
11. **Telephone Number**
Write your telephone number. If you don't have a telephone number, then write in "none."
12. **Name of Person Listed in Telephone Directory**
Write last name, first name and middle initial of the name as it appears in the phone book.
13. **Family Monthly Income**
Write only one number—the total money your family earns in one month. Do not breakdown income into individual or separate jobs—add all together. Write in the gross monthly income before deductions (federal and state taxes, social security, insurance, etc.).
14. **Family Source of Income**
Write in where the money in "Family Monthly Income" comes from using codes (letters) below. (Example: If your money comes from salary/wages, you would write an "A" in the space.) Use as many letters as you need to show where all your money comes from.

Codes

A Salary/Wages	I (Continued)
B Self-Employed (money after business deductions)	Social Services (SSI and SSDI or SSA) —not regular Social Security retirement; Auxiliary
C Unemployment Compensation	Grants to the aged, blind or disabled; Medical Assistance (Medicaid); Food Stamps
D Worker's Compensation (if you were injured on the job)	General Relief; and Fuel Assistance.
E Veteran's Benefits	J Earnings of minor children
F Private Pension (Retirement)	K Gifts
G Government Employee Pension	L Regular Social Security (Retirement); Medicare
H Alimony	M Other (Specify on application)
I Public Assistance Includes: Aid to Dependent Children (ADC or AFDC);	

15. Family Size (Include yourself)

This is the size of your family. Use the number of dependents (including yourself—the person who will use this equipment) claimed on your family's most recent tax return. If you didn't fill out a tax return, count the number of your relatives that live with you.

16. Equipment Box

Pick the one group which relates to you: Deaf, Severely Hearing-Impaired or Speech-Impaired.

Deaf

A hearing impairment which requires use of a TDD to communicate effectively on the telephone.

Severely Hearing-Impaired

A hearing impairment which requires use of either a TDD or an amplified receiver to communicate effectively on the telephone.

Speech-Impaired

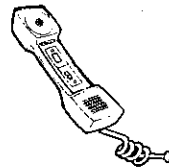
A verbal impairment which prohibits normal usage of a telephone.

Below the group you picked, choose the equipment you would like to receive.



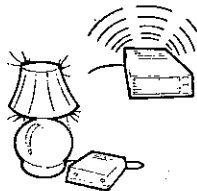
TDD Telecommunications Device for the Deaf: A TDD is a machine that looks like a small typewriter. To use it you put your telephone handset on the TDD (see picture). The person you are talking to must also have a TDD.

There is also a large-print TDD available for the hearing-impaired/visually-impaired.



Volume Control Telephone

A Volume Control Telephone lets you change how loud your voice sounds if you are speech-impaired or how loud the person you are talking to sounds if you are hearing-impaired.



Ring Signaler

A Ring Signaler is a machine that helps you know when someone is calling you on the telephone. There are 3 kinds of Ring Signalers: Visual (light) for deaf; Audible (loud) for hearing-impaired; and Tactile (vibrating) for Deaf/Blind.

17. Do you need training to use these machines?

Check "yes" if you want to learn how to use the equipment.

18. Applicant Certification

Read all statements in this section. If all is clearly explained to you and you agree and all of your information is true, then sign your name, social security number and today's date (use numbers).

A signature is needed from all applicants who are 5 years old or older.

If the applicant is under 18 years old, then the mother, father or legal guardian must also sign the application, and put their social security number and today's date on the second line provided.

19. Professional Certification

Take this application to any one of the kinds of professionals listed in this section. They must fill out the section, certify your impairment and give the application back to you.

VDDHH must approve a person not listed in this section.

CHECK YOUR APPLICATION BEFORE MAILING IT!!

Did you sign your name?

Write your social security number?

Fill in today's date?

Check the equipment you want?

Have a doctor or other professional sign your application?

Mail This Application To:

Virginia Department for the Deaf and Hard of Hearing
Attn: TAP
101 North 14th Street, 7th Floor
Richmond, Virginia 23219-3678

If you do not get a telephone call or letter from VDDHH within six weeks, call: 1-800-552-7917

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DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 270-01-0014. Management of the Student's Scholastic Record.

Statutory Authority: § 22.1-16 of the Code of Virginia.

Effective Date: October 1, 1989

Summary:

These amendments consolidate information from other regulations which address the issue of records. Major sections of the regulation were reorganized. The following definitions were expanded to comport with federal and state law and also to add clarity: days, parent, public notice, and scholastic records. In addition, the procedures for collection, maintenance and disposition of date were amended.

Substantial changes adopted include (i) amending the time frame to receive requested scholastic records under the Freedom of Information Act to comport with the new law which became effective July 1, 1989, and (ii) amending the definition of scholastic records to include the federal definition.

VR 270-01-0014. Management of the Student's Scholastic Record.

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:

"Access to records" – See definition of "Disclosure."

"Days", except when referring specifically to [unless specified as] "calendar days", means administrative working days, exclusive of Saturdays, Sundays, and officially designated holidays of the local school division. [are specified as either "calendar days" or "administrative working days." "Administrative working days" mean days exclusive of Saturdays, Sundays, and officially designated holidays of the local school division.] "Calendar Days" means consecutive days, inclusive of Saturdays, Sundays, and officially designated holidays at the local school division level. Whenever any period of time fixed by this procedure shall expire on a Saturday, Sunday or school holiday, the period of time of taking such action under this procedure shall be extended to the next day, not a Saturday, Sunday or school holiday.

"Destruction" means physical destruction or the removal of personal identifiers from information so that information is no longer personally identifiable.

"Disclosure" means permitting access or the release, transfer, or other communication of education (scholastic) records of the student or the personally identifiable information contained therein, orally or in writing, or by electric means, or by any other means to any party.

a. (i) Disclosure, through access, means the right to inspect, review and copy.

b. (ii) Disclosure, through release, means the surrender of specific information, orally or in writing, or electronically, upon receipt of a proper request.

e. (iii) Disclosures, through transfer, means the surrender of the entire record when transfer occurs within a local school division. It may also mean the surrender of a transcript of the record when transfer occurs between local school divisions or between a local school division and a postsecondary institution or another educational agency or institution.

"Educational records"– See definition of "Scholastic Records."

"Eligible student" means a student who has attained 18 years of age or is attending an institution of postsecondary education ; . the The permission or consent required of and the rights accorded to parents relative to scholastic records shall be accorded to said students only .

"Financial aid" means payment of funds provided to an individual { or a payment in kind of tangible or intangible property to the individual } which is conditioned on the individual's attendance at an educational agency or institution.

"Local Education Agency (LEA)" means the local school division or other public agencies responsible for providing educational services to students.

"Parent" includes [means] a parent, a guardian, or an individual acting as a parent [of a student] in the absence of a [parent or parental] guardian. [The term parent means either parent, unless the school LEA has been provided with evidence that there is a legally binding instrument or a State An educational agency or institution may presume the parent has the authority to exercise the rights inherent in the Act unless the agency or institution has been provided with evidence that there is a state] law or court order governing such matters as divorce, separation ; or custody [, or a legally binding instrument which provides to the contrary.] [provides that mother or father, the adoptive mother or father, or the legally appointed guardian or committee has custody of the child.] The term "parent may include the natural mother or father, the adoptive mother or father, or the legally appointed guardian or committee who has custody of the child. [The term "parent" also includes means a surrogate parent appointed pursuant to provisions set forth in] Regulations and Administrative Requirements for the Operation of Special Education Programs in Virginia. [

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Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia. A child 10 years of older may assert any rights under these regulations in his own name.]

"Participating agency" means any agency or institution which collects, maintains, or uses personally identifiable information or from which information is obtained.

"Party" means an individual, agency, institution or organization.

"Personally identifiable data" includes means (a) (i) name of student; the student's parent(s), or other family member; (b) (ii) the address of the student; (c) (iii) personal identifier, such as the student's social security number or student number; (d) (iv) a list of personal characteristics which would make it possible to identify the student with reasonable certainty; or (e) (v) other information which would permit reasonably certain identification of the student.

"Public notice" means notification via mass media: the process by which certain information is made available to the general public. Public notice procedures may include, but not be limited to, newspaper advertisements, radio announcements, television features and announcements, handbills, brochures and other methods which are likely to succeed in providing information to the public.

"Release of data from records" - See definition of "Disclosure."

"Scholastic records," identified in federal legislation as "education records," are identified as means [records, files, documents, and other materials which contain information directly related to a student and are maintained by an educational agency or institution or by a party acting for such agency or institution: those records that are:

1. Directly related to another student; and
2. Maintained by an educational agency or institution or by a party acting for the agency or institution.

The term does not include records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.] Such information or data may be recorded in any medium including, but not limited to, handwriting, print, tapes, film, microfilm, and microfiche. Such records are classified in two categories :

"Category I (Cumulative)" means continuous and current records of significant factual information pertinent to the regarding the personal and educational progress and growth and development of

individual students as they go progress through school.

"Category II (Confidential)" means reports written by pupil personnel services workers professional staff of the local school division for the express use of other professionals within the local school division; appropriate confidential information from the records of such cooperating individuals or agencies as psychiatrists, child welfare agencies, hospitals, or juvenile courts; and other confidential information.

"Student" means any individual with respect to whom the school for whom the LEA maintains scholastic records. [The term does not include an individual who has not been in attendance at an LEA.]

"Substitutes" means an individual who performs on a temporary basis the duties of the individual who made the record.

"Third party" means any person other than the first party (subject of the record) or the second party (custodian of the record).

"Transfer of record data" - See definition of "Disclosure."

"Written notice" means direct communication to the student's home in the form of written statements in English and in the primary language of the home.

PART II. RESPONSIBILITIES OF LOCAL EDUCATIONAL AGENCY.

§ 2.1. Each local educational agency shall adopt a written policy and establish procedures for management of scholastic records consistent with minimum state and federal requirements.

BASIC PRINCIPLES FOR RECORD MANAGEMENT POLICY AND REGULATIONS FOR RECORD MANAGEMENT

PART III. MANAGEMENT OF SCHOLASTIC RECORD.

§ 3.1. The management procedures adopted by each local educational agency (LEA) shall relate specifically to the collection, maintenance, security, use, disclosure and content of the individual student's scholastic record.

3. Policy and Regulations for Record Management.

3.1. Policy Accurate and complete individual, permanent, and cumulative records shall be maintained for each student, Grades K-12, enrolled in the public schools of Virginia. (For maintenance of records on pre-school handicapped children, see page 6, Section 3.2.2, Paragraph 2.) All data (cumulative and confidential) maintained on an individual student shall

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be considered the student's official school records; such records will hereinafter be called *scholastic record(s)* or *record(s)*.

3.2. Federal and State laws/regulations require the maintenance of confidentiality with reference to certain items in scholastic records. In compliance, Virginia has elected to identify confidential information and file it separately from cumulative data as follows: A Category I (cumulative) file shall be developed for every student. A Category II (confidential) file shall be developed for certain students; i.e., those requiring differentiated programs and/or special services, such as gifted, handicapped, etc.

3.2.2.1. Shall be maintained in a confidential file separate and apart from the cumulative file; a notation shall be made in the cumulative file to indicate the location of the confidential file.

3.2.2.2. Shall include *required* reports of evaluations of exceptional children, i.e., gifted, handicapped, etc. when such reports are necessary for placement/special services for such students. This shall also include reports for handicapped children who have not yet become students; i.e., preschool or unserved.

11. Safeguards

(1) Each LEA shall protect the confidentiality of personally identifiable information during collection, storage, disclosure, and destruction. Notations in cumulative files indicating the location of a confidential file shall not contain personally identifiable information (such as "File Located in Office of Special Education Administrator").

A. Scholastic record.

1. The LEA shall require that all records (cumulative and confidential) maintained on an individual student be considered the student's official school record. Such record shall hereinafter be called *scholastic record(s)* or *educational record(s)*.

a. The LEA shall require that an accurate and complete individual, permanent, and cumulative record be maintained for each student enrolled in the LEA. Such record shall be called the Category I (cumulative) file.

b. The LEA shall require that a separate confidential record be developed and maintained apart from the cumulative record for certain students (i.e., those requiring differentiated programs and/or special services, such as gifted, handicapped, and *students with special needs*). Such records shall be called the Category II (confidential) file.

2. The LEA shall ensure the protection of confidentiality of personally identifiable information of *the scholastic records* during collection, storage, disclosure and destruction.

3. The LEA shall require that a notation be made in the Category I (cumulative) file to indicate the location of the Category II (confidential) file. Notations in *the Category I* (cumulative) file indicating the location of *the Category II* (confidential) file shall not contain personally identifiable information (such as "File located in Office of Special Education Administrator" *is not permissible*).

[4. *The LEA shall require that in reporting grades on the individual student transcript, the course code number assigned by the Virginia Department of Education be used. Also, special education courses shall not be identified by symbols in addition to the course code number.*

5 4. The LEA shall maintain a Category II (confidential) file for those handicapped children who have not yet become students, i.e., preschool or unserved.

4. Responsibility for Scholastic Records - Category I and Category II Data.

4.1. Maintenance. - All scholastic records should be filed in a central location accessible to professional personnel within the school and/or local school division who have legitimate educational interests in the student. The superintendent, and/or his/her designee(s), or the principal, and/or his/her designee(s), shall be responsible for the collection of data, record maintenance and security, and disclosure of information from the records. He/she shall provide for the periodic evaluation of records by professional personnel and the removal of data no longer educationally useful. The superintendent or the principal, with the assistance of appropriate staff members, shall establish and use necessary procedures for implementing local school board policy relative to scholastic records.

6 5. *The LEA should maintain* all scholastic records in a central location accessible to professional personnel within the school and or LEA , or both, who have legitimate educational interests in the student(s).

7 6. The LEA shall require that the superintendent or designee be responsible for the collection, maintenance, security, *use*, disclosure and content of the scholastic record.

B. Management procedures.

1. *The LEA management procedure for scholastic*

records shall:

2.1.1. a. shall Specify the types of student data to be collected and recorded;

2.1.2. b. shall Establish responsibilities for collection, of data and maintenance and security of scholastic records;

2.1.3. c. shall Identify the parties to whom scholastic record data may be disclosed by law, the types of data to be disclosed, and the circumstances for disclosure;

2.1.4. d. shall Specify the criteria for determining which of the above parties are "school officials" and what is considered to be "legitimate educational interest";

2.1.5. e. shall Specify the criteria to be used in selecting a means of notifying parents and eligible students of rights and policy; methods to challenge, amend, correct and expunge information found in scholastic record(s);

f. shall Provide for the periodic evaluation of scholastic records by professional personnel and the removal of data no longer educationally useful;

4.2.3. g. *Record Interpretation/Explanation.* - The superintendent, and or his/her designee(s), or principal, and/or his/her designee(s), shall be present for the purpose of explanation of record interpretation.

1. when all parties have access to Category I (cumulative) data, with the exception of professional personnel within the school and local school division (see Section 4.2.2, Paragraph 12) and adult clerical personnel charged with record maintenance responsibilities (see Section 4.2.2, Paragraph 2).

2. when all parties have access to Category II (confidential) data except adult clerical personnel charged with record maintenance responsibilities [shall] Require the superintendent or designee to be present for scholastic record interpretation and explanation as follows:

1. When all parties have access to Category I (cumulative) file, with the exception of professional (see § 8.6 13 and adult clerical (see § 8.6 2) personnel of the LEA.

2. When all parties have access to Category II (confidential) file with the exception of adult clerical personnel (see § 8.6 2) of the LEA.

4.2.6. h. *Fee for Disclosure of Record Data.* A fee for copying scholastic record data may be charged, provided the charger does not exceed the cost of

the reproduction. Such fee shall not effectively prevent the parent from exercising his/her right to inspect and review said records. No fee may be charged for search and retrieval. [shall] Specify a schedule of fees for disclosure of scholastic records as follows:

(1) The LEA may charge a fee for copies of the scholastic record(s) at reasonable cost, not to exceed the cost of reproduction.

(2) Such fee shall not effectively prevent the parents, or their designee, from exercising their right to inspect and review said records. However, no fee may be charged for a copy of the Individualized Education Program (IEP).

(3) The LEA may not charge a fee for search and retrieval.

2.1.6. i. [shall] Apply to each public and private agency providing educational [and/] or related services [, or both,] to handicapped children and to any other participating agency which collects, maintains, or uses personally identifiable information or from which such information is obtained.

2.2. j. All school personnel [shall] be informed of the Require all LEA personnel to be informed of such policy and procedures.

2.3. k. All persons collecting or using personally identifiable information contained in student records must [shall] Ensure that all persons collecting or using personally identifiable information in scholastic records receive training or instruction regarding state's policies and procedures for record management .

2.4. l. All parents and students shall be informed Require notification to all parents and students of their rights relative to the student's scholastic record. Parents and eligible students shall have an opportunity for a hearing to challenge the content of their child's records to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the students and to provide an opportunity for the correction or deletion of inaccurate, misleading, or inappropriate information therein and for the insertion of a written explanation of the parents respecting the content of the records. Conditions and procedures for amending the content of the student's scholastic record are outlined in Section 2.3. [Parents and eligible students shall have an opportunity for a hearing to challenge the content of their child's records to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student and to provide in opportunity for the correction or deletion of inaccurate, misleading, or inappropriate information therein and for the insertion of a written explanation

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of the parents respecting the content of the records. Conditions and procedures for amending the content of the student's scholastic record are outlined in the Amendment Procedure (see Part VI).]

2.5. m. The school [shall] effectively notify *Require notification* at least annually, to the parents of students in attendance (including those parents identified as having primary or home language other than English) and eligible students in attendance by such means as are reasonably likely to inform them of the following their rights as follows:

2.5.1. (1) The types and location of scholastic records and information maintained therein;

2.5.2. (2) The title and address of the official responsible for the maintenance of these *scholastic* records, the parties to whom data may be disclosed, and the purpose for disclosure;

2.5.3. (3) The policies for reviewing and expunging these *scholastic* records;

2.5.4. (4) the policy and procedures for disclosure of data from these *scholastic* records;

2.5.5. (5) The right of parents and eligible students to challenge the content of these *scholastic* records and to file with HEW the Family Educational Rights and Privacy Act Office a complaint concerning an alleged failure by the school board LEA to comply with 20 U.S.C. 1232g;

2.5.6. (6) The cost fee, if any, to the parent or eligible student for reproducing copies of these *scholastic* records;

2.5.7. (7) The categories of information data designated as directory information; and

2.5.8. (8) The right of parents and eligible students to obtain, upon request, a copy of the school board's LEA written policy and procedure on the management of the student *scholastic* records and the location of same.

2.6. n. Local agencies cooperating with the school in the student's educational development shall be informed *Inform local agencies cooperating with the LEA in the student's educational development of the such* policy and procedures also .

2.7. o. All participating agencies [shall] Maintain for the public inspection a current listing of names and positions of employees within the agency LEA who have access to personally identifiable data in student *scholastic* records.

CONTENT OF THE INDIVIDUAL STUDENT'S SCHOLASTIC RECORD.

PART IV. CONTENT OF THE SCHOLASTIC RECORD.

3.2. § 4.1. The content of the scholastic record shall be limited to data needed by the school LEA to assist the student in his personal, social, educational, and vocational career development and his educational and vocational placement.

3.2. § 4.2. ~~Information Not to Be Included in the Student's Scholastic Record~~ *The content of the scholastic record shall not include* records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.

3.2.1. Category I Data – Cumulative

1. shall be maintained in the students cumulative file.

2. shall include the following information for all students as required by the Board of Education.

3.2. The following charts specify types of data to be included in Category I and Category II files and requirements for the maintenance/disposition of each item listed.

§ 4.3. *The specific types of data to be included in the Category I (cumulative) and the requirements for collection, maintenance and disposition are charted as follows:*

A. *Required.*

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DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION
1. Record Data Disclosure Form	All Students (2-1-2-8)	Retain permanently (2-1-2-8)
2-1 2. Name and address of student	All students	Retain permanently
2-2 3. Birth Date	All students	Retain permanently
2-3 4. Name and address of parent	All students	Retain permanently
5. Program of studies plan	All students	Retain permanently
2-5 6. Scholastic work completed	All students	Retain permanently
2-6 7. Level of achievement	All students	Retain permanently
2-6-1 a. Grades	All students	Retain permanently
2-6-2 b. Grade point average	Secondary students, as appropriate	Retain permanently
2-7 8. Type of diploma	Secondary students, as appropriate	Retain permanently
2-8 9. Attendance	All students	Retain permanently
2-9 10. Test data	All students, as required by the State and/or local school division	Retain State required test scores permanently; destroy test profiles and results of inventories five (5) years after student graduates from a secondary school, completed a program approved by the Board of Education, or leaves school (2-9)
2-9-1 a. Results of Narrative Tests, such as achievement batteries and inventories.		

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DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION
2-9-2 b. Results of Literacy Testing Program, prescribed and provided by the Board of Education.	Required students as appropriate	Retain permanently
2-10 11. Health—Physical Fitness Exam Cumulative Health record, including pre-school physical examination report, certificate of immunization, and school entrance examination report	All students (2-10)	Retain permanently (2-10) Destroy when no longer educationally useful or five (5) years after student graduates or leaves school.
12. Certificate of Immunization	All students	Retain permanently
2-11 12-13. Record of employment counseling (2-11) and placement	All secondary students	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school completed a program adopted by the Board of Education, or leaves school (2-11)
14. Social Security Number (unless waiver is granted)	All students	Retain permanently.
E. Recommended:		
2-11 Tentative high school program of studies plan, including educational and vocational preferences, when appropriate	All secondary students	Destroy five (5) years after student graduates or leaves school

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DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION
3-2 1. Results of other standardized group tests and inventories	Students tested or inventoried	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
3-2 2. School, community activities; work experience	Students who engage in such activities	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
3-4 3. Employment evaluations	All students in cooperative vocational programs	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
3-5 4. Record of counseling interviews (date, reason, etc., not content)	All students interviewed	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
3-6 5. Social Security number (if available)	All students	Retain permanently

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DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION
3-7 5. Citizenship status if other than United States	Student with such status	Retain permanently

3-2-2 CATEGORICAL DATA - CONFIDENTIAL

1- Shall be maintained in a confidential file separate and apart from the cumulative file; a notation shall be made in the cumulative file to indicate the location of the confidential data.

2- Shall include required reports of evaluations of exceptional students, i.e., gifted, handicapped, etc., when such reports reports for handicapped children who have not yet become students, i.e. pre school or unserved. Specific items required are listed below:

4.4 The specific types of data to be included in the Category II (Confidential) file and the requirements for collection, maintenance, and disposition are charted as follows:

A. Required (all [exceptional] students as appropriate)

DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION
2-1 2. Reports of assessment - both initial and periodic - as follows:	All [exceptional] students as appropriate	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school.

* See Attachment

Attachment C

1. Records of referral

All students, as appropriate

Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.

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<u>DATA Form</u>	<u>COLLECTION Collected For</u>	<u>MAINTENANCE/ DISPOSITION</u>
		<p>completes a program adopted by the Board of Education or leaves school. (2.1.1--2.1.4) Prior to destruction of data, a reasonable effort shall be made to notify parents or eligible students that they have a right to be provided with a copy of data. (2.1.1-2.1.4)</p>
2.1.1 a. Educational assessment	<p>All special education students (2.1.1-2.1.4) <u>All [exceptional] students, as appropriate</u></p>	<p>Review annually (2.1.1-2.1.4) Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2.1.1-2.1.4)</p>
2.1.1 b. Physiological assessment, to include medical examination and assessment of speech, hearing, and vision	<u>All [exceptional] students, as appropriate</u>	<p>Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2.1.1-2.1.4)</p>
2.1.1 c. Psychological assessment (including results of individual tests)	<u>All [exceptional] students, as appropriate</u>	<p>Prior to destruction of data, a reasonable effort shall be made to notify parents or eligible students that they have a right to be</p>

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DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION
		provided with a copy of data. (2-1-1—2-1-4) Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-1-1—2-1-4)
2-1-4 d. Sociological assessment, including the adaptive behavior checklist	All [exceptional] students, as appropriate	Prior to destruction of data, a reasonable effort shall be made to notify parents or eligible students that they have a right to be provided with a copy of data. (2-1-1—2-1-4) Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-1-1—2-1-4)
e. Other assessments, as appropriate.	All [exceptional] students, as appropriate	Prior to destruction of data, a reasonable effort shall be made to notify parents or eligible students that they have a right to be provided with a copy of data. (2-1-1—2-1-4) Destroy when no longer educationally useful or five (5) years after student graduates from

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DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION
		a secondary school, completes a program adopted by the Board of Education or leaves school. (2-1-1—2-1-4)
2-2 2. Other pertinent reports as follows:		
2-2-1 a. Permission for initial testing	All [exceptional] students, as appropriate	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2-2-3)
2-2-2 b. Permission for initial placement	All [exceptional] students, as appropriate	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2—2-3)
2-2-3 c. Record of parent conference to discuss special education placement (if relevant of LEA)	All [exceptional] students, as appropriate	Review annually (2-2—2-3) Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2—2-3)

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DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION
2-2-4 d. Summary statement of minutes of eligibility committee recommendation findings for special education students	All special education students (2-2-2.3) All [exceptional] students, as appropriate	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2-2.3)
2-2-5 e. Permission for release of information, if appropriate	All [exceptional] students, as appropriate	Prior to destruction of data, a reasonable effort shall be made to notify parents or eligible students that they have a right to be provided with a copy of data. (2-2-2.3) Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2-2.3)
2-2-6 f. Report of annual review of placement (if policy of LEA)	All [exceptional] students, as appropriate	Prior to destruction of data, a reasonable effort shall be made to notify parents or eligible students that they have a right to be provided with a copy of data. (2-2-2.3) Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program

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DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION
2-2-7 g. Reports of appeals, if appropriate	All [exceptional] students, as appropriate	adopted by the Board of Education or leaves school. (2-2-2.3) Prior to destruction of data, a reasonable effort shall be made to notify parents or eligible students that they have a right to be provided with a copy of data. (2-2-2.3) Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2-2.3)
2-3 3. Individualized Education Program -- (IEP)	All [exceptional] students, as appropriate	Review Annually Expired IEPs must be retained for five (5) years after student graduate from a secondary school, complete a program the Board of Education or leaves school.
B. Recommended (students requiring differentiated programs or special needs students)		
3-4 1. Social histories	Students with such reports	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves

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DATA Item	COLLECTION Collected For	MAINTENANCE/ DISPOSITION	
3-2 2. Legal, psychological and medical reports	Students with such reports	<p>school. (3-1--3-7)</p> <p>Prior to destruction of data, a reasonable effort shall be made to notify parents or eligible students that they have a right to be provided with a copy of data. (3-1--3-7)</p> <p>Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2--2-3)</p>	<p>Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.</p>
3-3 3. Record of sensitive physical problems	Students with such problems	<p>* Review annually (3-1--3-7)</p>	* See Attachment
3-4 4. Verified reports of serious or recurrent atypical behavior patterns	Students with such problems	<p>Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2--2-3)</p>	
3-5 5. Reports from institutions and agencies such as juvenile court, social welfare, etc.	Students with such reports	<p>Prior to destruction of data, a reasonable effort shall be made to notify parents or eligible students that they have a right to be provided with a copy of</p>	

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<u>DATA Item</u>	<u>COLLECTION Collected For</u>	<u>MAINTENANCE/ DISPOSITION</u>
		data. (3-1—3-7) Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2—2-3)
3-6 6. Counselor or teacher case studies	Students with such studies	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2—2-3)
3-7 7. Confidential in- terviews and/or recommendations	Students with such reports	(See Section 4.2-2, paragraphs 3 and 10 for disclosure limitations on 3-7) Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school. (2-2—2-3)
8. Vocational asses- sment data	Students with such reports	Destroy when no longer educationally useful or five (5) years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.

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PART V. DIRECTORY INFORMATION.

~~3-2-3~~ § 5.1. *Directory Information* The following items of personally identifiable information in a student's scholastic record may be classified as directory information. Data which may be directory information is as follows:

1. Name of student in attendance or no longer in attendance;
2. Address;
3. Date and place of birth;
4. Telephone listing;
5. Dates of attendance;
6. Participation in officially recognized activities and sports;
7. Height and weight, if member of athletic team;
8. major field of study;
9. Awards and honors received; and
10. Other similar information.

§ 5.2. Should the local school board LEA elect to designate and make public directory information, it shall give annual written and public notice indicating those categories of data designated as directory information for its students and the right of refusal for the disclosure of such data.

§ 5.3. After such notice has been given, a reasonable time—not more than 15 days—shall be allowed for a parent or eligible student to notify the school LEA in writing that any part of or all such information about his/her child the student shall not be disclosed without prior consent.

§ 5.4. In the absence of parent/eligible parent or eligible student request for nondisclosure, the school LEA may disclose directory information in accordance with the local school board LEA policy.

§ 5.5. The school LEA is not required to maintain a record of the disclosure of directory information.

3-3 CONDITIONS AND PROCEDURES FOR AMENDING CONTENT OF STUDENT'S SCHOLASTIC RECORD

PART VI. AMENDMENT PROCEDURE.

~~3-3-1~~ § 6.1. The parent or eligible student who believes that information contained in the scholastic record of the student is inaccurate or misleading or violates the privacy

or other rights of the student may request that the school LEA which maintains the record amend it regardless of when the information was entered in the record.

~~3-3-2~~ § 6.2. The school LEA may shall decide whether to amend the scholastic record in accordance with the request within a reasonable period of time—no more than 15 days after the receipt of the request. The If the LEA agrees to amend, then the amendment shall be made in writing, inserted in the student's scholastic record, and maintained in accordance with maintenance and disposition procedures as outlined in Section ~~3-2-1~~ and ~~3-2-2~~.

~~3-3-3~~ § 6.3. The education agency or institution LEA may utilize informal attempts to reconcile differences but ; however , the parent or eligible student may exercise the right to a hearing without benefit of the decision from any informal proceeding.

~~3-3-4~~ § 6.4. If the school LEA decides to refuse to amend the scholastic record of the student in accordance with the request, it shall, within 15 days inform the parent or eligible student of the refusal and advise of the right to a hearing.

~~3-3-5~~ § 6.5. The local school division LEA shall on written request provide an opportunity for a hearing to enable the parent or eligible student to challenge data information in the scholastic record to ensure that it is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student. The hearing shall be conducted in accordance with procedures in Regulations and Administrative for the Operation of Special Education Programs in Virginia, Chapter V, Section C, Item 9.

~~3-3-6~~ § 6.6. If, as a result of the hearing, the local school division LEA decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall amend the scholastic record of the student accordingly and so inform the parent or eligible student in writing.

~~3-3-7~~ § 6.7. If, as a result of the hearing, the local school division LEA decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place in the scholastic record of the student a statement commenting upon on the information in the scholastic record and/or or setting forth any reasons for disagreeing with the decision of the local school division LEA .

~~3-3-8~~ § 6.8. Any such explanation placed in the scholastic record of the student shall:

1. Be maintained by the school LEA as part of the scholastic record of the student as long as the record or contested portion thereof is maintained; and
2. Be disclosed by the school LEA when the scholastic

record of the student or the contested portion thereof is disclosed to any party.

PUPILS' RIGHTS AND HEARING PROCEDURES GOVERNING PUPILS' RECORDS

Hearing to challenge information in pupil records:

1. Requests for hearings shall be sent to principals of the school district or office administrators as appropriate.

2. Principals or administrators shall set a time and place for the hearing and shall notify the person making the request, in writing, of the time and place. The hearing shall be set within 45 days of receipt of the request.

3. At the hearing, the principals or administrators shall have present the person(s) who have entered the information in question. The parent, legal guardian, or student who requested the hearing shall have the right to question that person(s) and shall be able to show evidence that would correct inaccurate, misleading or otherwise inappropriate information. Such evidence shall become a permanent part of the students' records.

§ 6.9. Hearing procedures A hearing held under Item f § 6.5 shall be conducted according to the procedures under Section 90.22 of Public Law 93-380, as amended, as follows:

a. 1. The hearing shall be held within a reasonable period of time 45 calendar days after the LEA has received the written request ; and the . The parent or the eligible student shall be given reasonable advance notice written notice by the LEA of the date, place, and time of the hearing;

b. 2. The hearing may be conducted by any party, including an official of the LEA who does not have a direct interest in the outcome of the hearing;

c. 3. The parent or the eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues and to question the person(s) who have entered the information;

4. The parent or eligible student may be assisted or represented by individuals of his choice at his expense, including an attorney;

d. 5. The LEA shall make its decision in writing within a reasonable period of time after the conclusion of the hearing; [and]

e. 6. The decision of the LEA shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision : [; and]

7. The evidence shall become a permanent part of the student's scholastic record.

B. CONFIDENTIALITY OF INFORMATION

PART VII. ACCESS.

a. § 7.1. Each The LEA shall permit parents or eligible student to inspect and review any education scholastic records relating to the children the student which are collected, maintained or used by the LEA under this part. The agency LEA shall comply with a request without unnecessary delay and in no case more than 14 calendar days after the request has been made.

§ 7.2. The LEA shall comply with a request to inspect and review scholastic records before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or educational placement of the child student or provision of a free appropriate public education.

b. § 7.3. The right to inspect and review education scholastic records under this section includes:

(1) 1. The right to a response from the LEA to reasonable requests for explanations and interpretations of the scholastic records;

(2) 2. The right to request that the LEA provide copies of the scholastic records containing the information, if failure to provide the copies would effectively prevent the parent from exercising the right to inspect and review the scholastic records; and

(3) 3. The right to have a representative of the parent inspect and review the scholastic records.

e. § 7.4. An LEA may presume that both parents have the authority to inspect and review records relating to his or her child the student unless the LEA has been advised that both parents do not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

2. § 7.5. Record of access Each LEA shall keep a record of parties obtaining access to education scholastic records collected, maintained, or used under this part . The record shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records (except access by parents and authorized employees for the LEA). (See § 8.3 and Record Data Disclosure Form)

3. § 7.6. Records on more than one child If any education scholastic record includes information on more than one child student , the parents of those children students shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

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~~4. § 7.7. List of types and locations of information~~ When requested, each LEA shall provide parents or eligible student with a list of the types and locations of ~~education~~ *scholastic* records collected, maintained, or used by the LEA.

DISCLOSURE OF RECORD DATA

PART VIII. DISCLOSURE.

~~4.2.1 § 8.1.~~ When a request for disclosure of *scholastic* record data is made, such a request shall be granted immediately, if practicable, but in no case more than *five administrative working days* after the date of the request. [*If the LEA determines that it is practically impossible to provide the requested records or to determine whether they are available within the five administrative working days, the LEA shall inform the requesting party and shall have an additional seven administrative working days to provide the requested records.*]

~~b. § 8.2.~~ An LEA may ~~release disclose, upon student transfer,~~ information from ~~education~~ *scholastic* records to ~~other LEAs another LEA~~ without parental consent, unless prohibited by other applicable law.

~~4.2.4 § 8.3. Record Disclosure Form.~~ The superintendent, and/or his/her designee(s), or the principal, and/or his/her designee(s), *The LEA shall keep permanently with the student's cumulative and confidential files a Record Data Disclosure Form* showing:

1. The parties who have requested [~~and/~~] or obtained *scholastic* record data disclosure, with the exception of adult clerical and professional personnel within the school and local school division (see Section 4.2.2, Paragraphs 2 and 12) *LEA*; the parent or eligible student; and the parties receiving directory information (See Section 3.2.3);
2. The agency or institution represented, if appropriate;
3. The date of the disclosure;
4. The specific legitimate interest of such disclosure and the purpose for which the data will be used; and
5. The signature of the superintendent or principal or his/her respective designee.

~~§ 8.4. This~~ *The record data disclosure form shall be available to the parent or eligible student, to school officials responsible for the record maintenance system, and to parties authorized in Section 4.2.2, Paragraph 6, as a means of auditing the operation of the system.*

~~4.2.5 § 8.5. Conditions for Disclosure of Record Data to a Third Party.~~ Personally identifiable information from student *scholastic* records, with the exception of directory

information as defined in Section 3.2.3, shall be disclosed to a third party only on the condition that ~~said such~~ party will not redisclose such information without the written consent of the parent or eligible student. Such disclosure shall be accompanied by a written statement explaining the above stated condition.

(Nothing would preclude the school board policy from requiring a written assurance of compliance from the third party before disclosing such information.)

If the third party is an institution, agency, or organization, the disclosed personal information may be used by its officers, employees and agents, but only for purposes for which the disclosure was made.

~~4.2.2 § 8.6.~~ Parties to whom *scholastic* record data shall be disclosed, upon request, and the conditions of such disclosures are *charted* as follows: (x indicates disclosure is permitted)

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organization, the disclosed personal information may be used by its officers, employees and agents, but only for purposes for which the disclosure was made.

4-2-2 48.6 Parties to whom scholastic record data shall be disclosed, upon request, and the conditions of such disclosures are charted as follows: (x indicates disclosure is permitted)

Party	Category I Beta (Cumulative) file	Category II Beta (Confidential) file
1. <u>Accrediting Organization</u> Without prior written consent of the parent or eligible student, data shall be disclosed to accrediting organizations in order to carry out their accrediting functions.	x	x
2. <u>Adult Clerical Personnel</u> Without prior written consent of the parent or eligible student, adult clerical personnel charged with record maintenance responsibility shall have access to scholastic records for maintenance purposes only.	x	x
3. <u>Eligible Student Who is Subject of Record</u> Without prior written consent of the parent, data shall be disclosed to the eligible student, subject	x	x

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(Cumulative)
file

Category II Beta
(Confidential)
file

to the following limitations:

a. Following eligible student notification of the right to disclosure of data from his record, if a waiver of this right to disclosure of confidential letters and statements of recommendation has been obtained, the eligible student shall not have access to confidential letters and statements of recommendation relative to admission to an educational agency or institution, applications for employment, and the receipt of an honor or honorary recognition.

b. Where the waiver is applied, the eligible student shall, upon request, be notified of the names of all persons making confidential recommendations and such recommendations shall be used solely for the purpose for which they were specifically intended. Said waiver may be revoked at any time with the understanding that confidential letters and statements of recommendation submitted in reliance upon the waiver shall remain confidential.

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file

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file

g. If any record includes data on more than one student, the eligible student shall have the right to inspect and review only that data relating to himself, or to be informed of that specific data.

4. Emergency — Appropriate Persons in Connection With: Without prior written consent of the parent or eligible student, data shall be disclosed to appropriate persons, in connection with emergency and subject to regulations of the Secretary of Health, Education and Welfare U.S. Secretary of Education, if the knowledge of such information is necessary to protect the health or safety of the student or other persons. The factors to be taken into account in determining whether record data may be disclosed the following:

4-1 a. the seriousness of the threat to the health or safety of the student or other persons;

4-2 b. the need for such records to meet the emergency;

4-3 c. whether the persons to whom such records are released are in a position to deal with the emergency; and

x

x

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4-4 d. the extent to which time is of the essence in dealing with the emergency.

5. Financial Aid — Appropriate Persons Concerned with Student's Application Without prior written consent of the parent or eligible student, personally identifiable information from the student's record shall be disclosed to appropriate persons concerned with the student's application for financial aid only for such purposes as may be necessary for the following:

x

5-1 a. to determine the student's eligibility for financial aid, the amount of such aid, and the conditions to be imposed regarding the aid; and

5-2 b. to enforce the terms or conditions of financial aid.

6. Governmental and Educational Auditors, Evaluators and Researchers

x

x

Without prior written consent of the parent or eligible student, disclosure of record data shall be made to authorized representatives of the Comptroller General of the United States; the Secretary of Health, Education, and Welfare United States Secretary of Education; the

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 file

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 file

United States Commissioner of Education, or the Assistant Secretary for Education; the local-school-division LEA superintendent; and State Educational authorities needing information for the audit and evaluation of State and Federally supported education programs or the enforcement of Federal legal requirements related to such programs. Data collected shall exclude identifiable information on students or parents unless such information is authorized by Federal law or is needed by the Board of Education for such projects as student follow-up studies. Personally identifiable data collected shall be destroyed when no longer needed for the purposes stated above.

- 7. Officer, United States
 Without prior written consent of the parent or eligible student, record data about a student who is a veteran of military service with the United States, or an orphan or dependent of such veteran, or an alien shall be disclosed to an officer or employee of the United States seeking such information in the course of his duties. The school may furnish the following information about such student: name and address, daily attendance

x

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record, grades received in school subjects, parent's name, date and place of birth, names and addresses of other school attended.

- 8. Officials, Authorities -- State and Local
 8-1 a. Without prior written consent of the parent or eligible student, record data shall be disclosed to State and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974.
- 8-2 b. Data shall be disclosed to the State Board Department of Corrections.
- 8-3 c. With ~~Without~~ prior written consent of the parent or eligible student, record data shall be disclosed to a State or local law enforcement officer, including a probation officer, parole officer or administrator, or a member of a parole board seeking information in the course of his duties. (The local law enforcement agency and the local-school-division LEA should designate specific law enforcement personnel to whom such information will be disclosed.)

x

x

x

x

x

x

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Party	Category I Beta (Cumulative) file	Category II Beta (Confidential) file
8-4 (d) c. An employee or official of the State or local health department shall have access to the pre-school physical examination report, (certificates of School Health Examination, Form VCH 212, reviews, the immunization record and the school entrance health examination form.	x	
8-5 (e) d. Without prior written consent of the parent or eligible student, record data shall be disclosed to an officer or employee of a city or county agency responsible for protective services to children, as to a pupil student referred to that agency as a minor requiring investigation or supervision by that agency. (The city or county agency and the local school division LEA should designate specific agency personnel to whom such information will be disclosed.)	x	x
(f) e. Without prior written consent of the parent or eligible student, the record of a student's family attendance shall be open for inspection to an employee of a local department of welfare or social services who needs the record to determine the eligibility of the student's family for public assistance.	x	

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Party	Category I Beta (Cumulative) file	Category II Beta (Confidential) file
9. Organizations, Agencies Conducting Studies	x	x
9-1 a. Without prior written consent of the parent or eligible student, data shall be disclosed to organizations conducting studies for, or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it was collected. The term "organization" includes, but is not limited to Federal, State, state, and local agencies and independent organizations.		
9-2 b. At the discretion of the local division LEA superintendent, record data shall be released to the staff of a university, or educational research and development organization or laboratory without prior written consent of the parent or eligible student under the following conditions:	x	x

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9-2-1 (1) if such information is necessary to a research project or study conducted, sponsored or approved by the college, university, or educational development organization or laboratory, and		
9-2-2 (2) if no student will be identified by name in the information submitted for research.		
10. Parent (See Appendix for definition of parent) Data shall be disclosed to the parent or guardian of the student including a non-custodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access until the student is eighteen (18) 19 years of age or is enrolled in an institution of post-secondary education subject to the following limitations:	x	x
10-1 a. Following parental notification of right to disclosure of data from his/her child's student's record, if a waiver of this right to access to confidential letters and statements of recommendation has been obtained, the parent shall not have access to confidential letters and statements of recommendation relative to admission to an educational		

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Party	Category I Beta (Cumulative) file	Category II Beta (Confidential) file
agency or institution, applications for employment, and the receipt of an honor or honorary recognition.		
b. Where the waiver is applied, the parent shall, upon request, be notified of the names of all persons making confidential recommendations and such recommendations shall be used solely for the purpose for which they were specifically intended.		
c. Said This waiver may be revoked at any time with the understanding that confidential letters and statements of recommendation submitted in reliance upon the waiver shall remain confidential.		
10-2 d. If any record includes data on more than one student, the parent shall have the right to inspect and review only that data relating to his child, or to be informed of that specific data.		
11. Parents of Dependent Student As Defined Under Section 152 of the Internal Revenue Code. Data shall be disclosed. No prior written consent is required.	x	x
12. Principal/Designee of School Student Plans to Attend and/or Appropriate Official of	x	x

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Post-Secondary Institution
Student Plans to Attend

a. Transfer of Record Data Within a School Division - when a student moves from grade to grade or school to school within a school division the LEA, his entire record shall follow him to indicate educational/developmental patterns. Prior written consent of parent or eligible student is not required for this transfer.

b. Other Transfer - When a student transfers to another school division LEA, or post-secondary education, a transcript of his record - to include academic achievement, standardized test data, cumulative health-physical fitness record, medical records, other pertinent information, etc., where appropriate - shall be sent promptly, upon request, to the appropriate official of the LEA or school in which he seeks or intends to enroll. The school LEA transferring the data shall make a reasonable effort to notify the parent or eligible student of such a transfer and shall provide him with a copy of the record, if desired, and an opportunity for a hearing to challenge the content of the record. The division superintendent or his designee shall notify the local police or sheriff's department for investigation

x

x

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as a possible missing child of any enrolled pupil whose cumulative record he is unable to obtain within 60 days or sooner, if the division superintendent or his designee has reason to suspect that the pupil is a missing child.

13. Professional Personnel Within School or School Division
Without prior written consent of the parent of eligible student, data shall be disclosed to those professionals determined by the local school board LEA to have legitimate educational interests in the student. (Professional personnel who copy data shall protect the confidentiality of such data.)

x

x

14. Public, Private School, College, University, Military
Without prior consent of the parent or eligible student, names and addresses of present and former students may be disclosed to the following for the purpose of informing students and former students of available educational and career opportunities.

x

14-1 a. any officer or employee of a public or private school, college or university;

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14-2 b. an official of a private business or professional school or college; and

14-3 c. any official recruiting representative of the military forces of the Commonwealth and the United States.

All school divisions electing to disclose the aforementioned information to parties named in 14-2 14.a. and 14-2

14.b. shall provide disclosure on the same basis to the parties named in 14-2 14.

14-15. State Superintendent of Public Instruction or Member or his Staff
See Governmental and Educational Auditors, Evaluators, and Researchers in Paragraph 6.

15-16. Student (under eighteen) who is Subject of Record
Record data shall be disclosed to the student (under eighteen) who is the subject of the record with these limitations:

15-17 a. Written consent of the parent may be required by the local school board LEA for access of the students under eighteen (18) years of age except in instances where the student is an emancipated

x

x

x

x

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minor or is enrolled in an institution of higher education.

15-2 b. Students, including those enrolled in institutions of postsecondary education, shall not have access to financial records of the parents.

15-3 c. Following student notification of right of access to his record, the student may waive his right to inspect and review confidential letters and confidential statements for: admission to an educational agency or institution; application for employment; and/or the receipt of an honor.

d. An educational agency or institution may request, but may not require that a parent or a student waive his rights.

e. To be valid, a waiver must be in writing and signed by the parent or student, as appropriate.

15-4. ~~Student (under eighteen)~~
When and where is applied the student shall, upon request, be notified of the names of all persons making confidential recommendations and such recommendations shall be used solely for the pur-

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file

pose for which they were specifically intended. Should such recommendations be used for a different purpose, the waiver becomes void and the student has the right to inspect and review the recommendation.

(2) The waiver may be revoked at any time with the understanding that confidential letters and statements of recommendation submitted in reliance upon the waiver shall remain confidential.

16-17. Other Parties

16-1 a. With prior written consent of the parent or eligible student, disclosure shall be made to a party or class of parties other than those listed in the foregoing paragraphs 1 - 15 16 subject to the following conditions:

x

x

16-1-1 (1) The written consent must specify records to be disclosed, the reasons for such disclosure, and the party or class of parties to which information shall be disclosed; and shall be signed and dated by the parent or eligible student.

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16-1-a (2) A copy of the records shall be made available, upon request, to the parent or eligible student, and to the student who is not an eligible student if so requested by the student's parents.

16-2 b. Following Reasonable Effort to Notify, In Advance, The Parent or Eligible Student, disclosure shall be made in compliance with judicial order or pursuant to any lawfully issued subpoena.

x

x

16-3 c. Unless the parent or eligible student has submitted a written request for non-disclosure, directory information (see Section 3-2-3 for listing) may be disclosed to others upon request at the option of the local school board LEA.

x

PART IV

12- Destruction of Information DESTRUCTION

9.1 The LEA shall inform parents or eligible student when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child student;

PART IX. DESTRUCTION.

12. Destruction of Information

§ 9.1. The LEA shall inform parents or eligible student when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child student ;

§ 9.2. Personally identifiable information on a handicapped child student may be retained permanently unless the parents or eligible student request that it be destroyed ; . [9.3]The information must be destroyed at the request of the parents or eligible student ; however, a permanent record of a student's name, address, telephone number, his grades, attendance record, classes attended, grade-level completed, and year completed may be maintained without time limitation.

Destruction of scholastic records is the best protection against improper and unauthorized disclosure; however, the scholastic records may be needed for other purposes. When informing parents or eligible student about their rights under this section, the LEA should remind them that the scholastic records may be needed by the child student or the parents for social security benefits or other purposes. If the parents or eligible student request that the information be destroyed, then the LEA shall retain only that information required under state law and regulations .

§ 9.4. § 9.3. Prior to destruction of data, a reasonable effort shall be made by the LEA to notify parents or eligible student that they have a right to be provided with a copy of data.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 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 Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Due to the length, only the amended pages of the regulations and a summary are being published. The full text of the regulations may be viewed at the office of the Registrar of Regulations or the Department of Medical Assistance Services.

Title of Regulation: State Plan for Medical Assistance Relating to Qualified Medicare Beneficiaries.
VR 460-02-2.2100. Groups Covered and Agencies Responsible for Eligibility Determination.

VR 460-02-2.6100. Eligibility Conditions and Requirements.
VR 460-03-2.6101. Income Eligibility Levels.

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

Effective Dates: September 27, 1989

Summary:

Section 301 of the Medicare Catastrophic Act of 1988 (Public Law 100-360) amended section 1902(a)(1)(E) of the Social Security Act to make coverage of certain Medicare beneficiaries mandatory rather than optional. Under § 301 the state must provide medical coverage to individuals who are qualified Medicare beneficiaries (QMBs) for the purpose of paying Medicare cost sharing expenses on their behalf.

A QMB is an individual:

- *who is entitled to Medicare hospital insurance benefits under Part A of Medicare;*
- *whose income does not exceed 100% of the official federal poverty income guideline;*
- *whose resources do not exceed twice the SSI resource limit.*

Under § 301, the state has the option of using a phase-in schedule for implementation of the income standard. For the calendar year 1989, the standard income level to be used in Virginia is 85% of the federal poverty guideline. This standard increases by 5.0% increments up to 100% of the federal poverty line by 1992.

Previously, Medicaid had a Buy-In provision which paid the Part B Medicare premiums for eligible Medicaid recipients. These recipients had to be financially and categorically eligible for Medicaid at the established Medicaid income and resource levels. The new group of eligibles created by P.L. 100-360 will be allowed to have higher income and resource levels. For an individual eligible only as a QMB, Medicaid will pay the premiums, copayments, and deductibles for all Medicare covered services. These individuals will also be allowed to spend-down to the Medically Needy income level which will then permit them eligibility for all Medicaid covered services as well as QMB eligibility status.

Only Aged or Disabled Medicare Part A beneficiaries can be eligible for Medicaid in this category. The aged or disabled individual must be eligible for and enrolled in Medicare Part A in order to become a QMB Medicaid recipient. QMB recipients must also meet current Medicaid transfer of property rules.

VR 460-02-2.2100. Groups Covered and Agencies Responsible for Eligibility Determination.

Revision: HCFA-PM-87-4 (BERC) ATTACHMENT 2.2-A
 MARCH 1987 Page 19
 OMB NO.: 0938-0193

- 2017.2
 VA 9/07/87

Citation(s)	Condition or Requirement
435.326	10. Individuals who would be ineligible if they were not enrolled in an HMO. Categorically needy individuals are covered under 42 CFR 435.212 and the same rules apply to medically needy individuals.
435.340	11. Blind and disabled individuals who: <ul style="list-style-type: none"> a. Meet all current requirements for Medicaid eligibility except the blindness or disability criteria, and b. Were eligible as medically needy in December 1973 as blind or disabled, and c. For each consecutive month after December 1973 continue to meet the December 1973 eligibility criteria.
1902(a)(47) and 1920 of the Act, P. L. 99-509 (Section 9407)	12. Pregnant women who meet the applicable medically needy income levels specified in this plan under ATTACHMENT 2.6-A who are determined eligible by a qualified provider during a presumptive eligibility period in accordance with Section 1920 of the Act.
1902(a)(10)(E), of the Act, P.L. 100-360 Section 301	D. <u>Mandatory Coverage - Qualified Medicare Beneficiary</u> X In addition to pregnant women and infants or children covered under section 1902(a)(10)(A)(ii)(IX) of the Act, individuals-- <ul style="list-style-type: none"> 1. Who are entitled to hospital insurance benefit under Medicare Part A; 2. Who, except for coverage under section 1902(a)(10)(E) of the Act, are not eligible for medical assistance under the plan;

Agency that determines eligibility for coverage.

TN No. _____
 Supersedes _____ Approval Date _____ Effective Date _____
 TN No. _____

Revision: HCFA-PM-87-4 (BERC) Attachment 2.2-A
 March 1987 Page 20
 OMB No.: 0938-0193

Agency* - Citation(s)	Groups Covered
	3. Whose income does not exceed the income level (established at an amount up to 100 percent of the Federal nonfarm income poverty line) specified in Supplement 1 to ATTACHMENT 2.6-A for a family of the same size; and
	4. Whose resources do not exceed twice the maximum amount allowed under SSI.
1905(p)(3) of the Act P.L. 99-509 [Sec. 9403(o)]	Medical assistance for this group is limited to cost sharing as defined in section 1905(p)(3) of the Act.

*Agency that determine eligibility for coverage.

TN No. _____
 Supersedes _____ Approval Date _____ Effective Date _____
 TN No. _____

VR 460-02-2.6100. Eligibility Conditions and Requirements.

Revision: HCFA-PM-87-4
MARCH 1987

(BERG)

ATTACHMENT 2.6-A
Page 9
OMB NO.: 0938-0193

Citation(s)	Condition or Requirement
<p>1905(p)(1)(c) and (m)(5)(B) of the Act, P.L. 99-509 (Secs. 9403(b) and (f))</p>	<p>f. In determining countable income for qualified Medicare beneficiaries covered under Section 1902(a)(10)(E) of the Act, the following disregards are applied:</p> <ul style="list-style-type: none"> ___ The disregards of the SSI program. ___ The disregards of the State supplementary payment program, as follows: <ul style="list-style-type: none"> <u>XX</u> The disregards of the SSI program except for the following restrictions, applied under the provisions of Section 1902(f) of the Act. <p>Supplement 1 to ATTACHMENT 2.6-A specifies for non-1902(f) and 1902(f) states the income levels for optional categorically needy groups of individuals with incomes up to the Federal nonfarm income poverty line—pregnant women and infants or children covered under Section 1902(a)(10)(A)(ii)(IX) of the Act and aged and disabled individuals covered under Section 1902(a)(10)(A)(ii)(X) of the Act—and for groups of qualified Medicare beneficiaries covered under Section 1902(a)(10)(E) of the Act.</p> <p>Supplement 7 to ATTACHMENT 2.6-A specifies for 1902(f) states the income levels for categorically needy aged, blind and disabled persons who are covered under requirements more restrictive than SSI.</p> <p>Supplement 5 to ATTACHMENT 2.6-A contains more restrictive budget methodologies which shall be applied to qualified Medicare beneficiaries.</p>

*Agency that determine eligibility for coverage.

TN No. _____
Supersedes _____ Approval Date _____ Effective Date _____
TN No. _____

Final Regulations

VR 460-03-2.6101. Income Eligibility Levels.

Revision: HCFA-PM-87-4 (BERC) Supplement 1 to Attachment 2.6 A
MARCH 1987 Page 4
OMB No.: 0938-0193

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: VIRGINIA

C. INCOME ELIGIBILITY LEVELS--OPTIONAL GROUP OF QUALIFIED MEDICARE BENEFICIARIES WITH INCOMES UP TO FEDERAL POVERTY LINE

The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of section 1905 (p)(2)(A) of the Act are as follows:

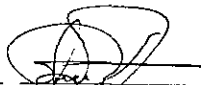
Based on 85 percent of the official Federal nonfarm income poverty line:

<u>Size of Family Unit</u>	<u>Poverty Guideline</u>
1	\$4,905
2	6,571

CERTIFIED:

Date

07/18/89



Bruce J. Szulowski, Director
Department of Medical Assistance Services

VR 460-03-
2.6101

TN No. _____
Supersedes _____ Approval Date _____ Effective Date _____
TN No. _____

Final Regulations

BOARD OF PROFESSIONAL COUNSELORS

GENERAL PROVISIONS.

Title of Regulation: VR 560-01-02. Regulations Governing the Practice of Professional Counseling.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Effective Date: September 27, 1989

Summary:

The Board of Professional Counselors proposed that its emergency regulations governing the supervisors of counselor trainees and documentation of supervision become permanent regulations. The emergency regulations became effective July 12, 1988. Under these regulations, nonlicensed supervisors who were previously approved to provide supervision to trainees under the board's former set of regulations could continue their supervision of specific trainees to its completion. The board's existing regulations, effective July 6, 1988, stipulate that only licensed mental health practitioners may provide supervision to counselor trainees. No new supervisory arrangements with nonlicensed supervisors will be approved under the existing regulations.

In addition, under § 2.2 B 4, the board proposed to permanently allow nonregistered supervision obtained prior to July 31, 1988, to be considered acceptable towards licensure if such supervision met the board's requirements at the time it was rendered. Under the board's existing regulations, all supervised experience in a nonexempt setting must be registered at the onset of the experience. No allowance is made for the retroactive approval of supervision. Through this regulation, the board is permitted to consider a trainee's supervised experience that was not registered with the board prior to July 31, 1988. Supervision obtained after that time must meet the board's current requirements which requires preregistration and approval of the supervisory agreement with the board.

Section 54-933.1 of the Code of Virginia which granted the Board of Professional Counselors the statutory authority to issue and renew provisional licenses was repealed by the 1988 General Assembly effective January 1, 1989. The board no longer has the statutory authority to grant applications with a doctorate degree in counseling a provisional license while they complete either specific course work or supervised experience required for licensure. In addition, the board no longer has the statutory authority to renew provisional licenses granted to applicants.

The board, therefore, repealed the existing regulations which addressed provisional licensure.

PART I.

§ 1.1. Definitions.

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

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as a professional counselor.

"Appraisal activities" has the same meaning as defined in § ~~54-932.2~~ § 54.1-3500 of the Code of Virginia, "selecting, administering, scoring and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements and interests, and shall not include the use of projective techniques in the assessment of personality."

"Board" means the Virginia Board of Professional Counselors.

"Candidate for licensure" means a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for its examinations.

"Competency area" means an area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

"Counseling" means assisting an individual, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan action reflecting his interests, abilities, aptitudes and needs as they relate to educational progress, occupations and careers, and personal or social concerns.

"Group supervision" means the process of clinical supervision of no more than six persons in a group setting provided by a qualified supervisor.

"Internship" means supervised, planned, practical, advanced experience obtained in the clinical setting observing and applying the principles, methods and techniques learned in training or educational settings. The internship involves a longer period of time than the practicum.

"Practicum" means supervised, planned, practical experience occurring in a clinical setting, for an early introduction to subject matter. It is generally time-bound and for a shorter period of time than an internship, but it allows for demonstration and testing of information, knowledge, and skills acquired.

"Professional counselor" means a person trained in counseling and guidance services with an emphasis on individual and group guidance and counseling designed to assist individuals in achieving more effective personal,

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social, educational and career development and adjustment.

“Regional accrediting agency” means one of the regional accreditation agencies recognized by the United States Secretary of Education responsible for accrediting senior postsecondary institutions.

“Supervision” means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented face-to-face consultation, guidance and instruction with respect to the clinical skills and competencies of the person supervised.

§ 1.2. Fees required by the board.

A. The board has established the following fees applicable to licensure as a professional counselor:

Registration of supervision	\$ 75.
Application processing	100.
Examination	150.
Reexamination	
Written	75.
Oral	75.
Provisional license	30.
Renewal of provisional license	30.
License renewal	75.
Duplicate license	15.
Endorsement to another jurisdiction	10.
Late renewal	10.
Replacement of or additional wall certificate	15.
Name change	10.
Returned check	15.

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board.

§ 1.3. Substance abuse counseling.

VR 560-02-01 Regulations Governing the Certification of Substance Abuse Counselors are incorporated by reference in these regulations.

PART II. REQUIREMENTS FOR LICENSURE.

§ 2.1. Requirements, general.

No person shall practice as a professional counselor in the Commonwealth of Virginia except as provided in these regulations and when licensed by this board.

A. Licensure by the board shall be by examination.

B. Every applicant for licensure examination by the board shall:

1. Meet the education and experience requirements prescribed in § 2.2 of these regulations;

2. Have the institution(s) where the applicant completed the required graduate work sent directly to the executive director of the board, at least 60 days prior to the date of the written examination, official transcripts documenting the applicant's completion of the education requirements prescribed in § 2.2 A; and

3. Submit to the executive director of the board, not less than 60 days prior to the date of the written examination:

a. A completed application, on forms provided by the board;

b. Documented evidence of having fulfilled the experience requirements of § 2.2 B;

c. Endorsement letters from three responsible persons attesting to the applicant's character and professional integrity; and

d. The licensure application fee prescribed in § 1.2 of these regulations.

§ 2.2. Education and experience requirements for licensure examinations.

Every applicant for examination for licensure shall meet the requirements of subsections A and B of this section.

A. Education.

The applicant shall have completed 60 semester hours or 90 quarter hours of graduate study that are primarily counseling in nature, including a graduate degree in counseling or a related discipline, from a college or university accredited by a regional accrediting agency.

1. The graduate course work shall have included study in the nine core areas of:

a. Professional identity, function and ethics;

b. Theories of counseling and psychotherapy;

- c. Counseling and psychotherapy techniques;
- d. Group dynamics, theories, and techniques;
- e. Theories of human behavior, learning, and personality;
- f. Career development;
- g. Evaluation and appraisal procedures;
- h. Abnormal behavior; and
- i. Supervised practicum or internship.

2. One course may satisfy study in more than one of the nine study areas required in ~~paragraph~~ *subdivision* 1 of this subsection.

B. Supervised experience.

1. The applicant.

The applicant for licensure shall have completed 4,000 hours of post-graduate degree experience in counseling practice under supervision satisfactory to the board.

a. The experience shall include 200 hours of individual supervision during the 4,000 hours, with a minimum of one hour per week of face-to-face consultation between supervisor and applicant.

b. Group supervision will be acceptable for not more than 100 hours of the required 200 hours of individual supervision on the basis of two hours of group supervision being equivalent to one hour of individual supervision.

c. A post-graduate degree practicum or internship may count for up to 2,000 hours of the required 4,000 hours of experience.

d. For applicants enrolled in an integrated course of study in an accredited institution leading to a graduate degree beyond the Master's level, supervised experience may begin after the completion of 30 graduate semester hours or 45 graduate quarter hours, including a practicum.

2. The supervisor.

a. A person who provides supervision for a prospective applicant for licensure as a professional counselor shall be licensed as a professional counselor, psychologist, school psychologist, clinical psychologist, clinical social worker, or psychiatrist.

a. (1) Supervision by relatives of a prospective applicant will not be approved.

b. (2) The supervisor of a prospective applicant shall

assume full responsibility for the clinical activities of that prospective applicant specified within the supervisory contract for the duration of the supervised experience.

b. *Persons who do not meet the requirements of § 2.2 B 2 a but were approved by the board prior to July 31, 1988, to provide supervision to prospective applicants for licensure may continue to provide supervision to that individual, provided that the supervisory arrangement was registered with the board prior to July 31, 1988.*

3. Registration of supervision.

a. Applicants who render counseling services in a nonexempt agency shall:

(1) With their supervisor, register with the board their supervisory contract on the appropriate forms for board approval before starting to practice under supervision;

(2) Have submitted directly to the board an official transcript of their relevant coursework in counseling; and

(3) Pay the registration fee prescribed by the board in § 1.2 of these regulations.

b. Applicants who render counseling services in an exempt agency, as defined in § 54-044 § 54.1-3500 of the Code of Virginia, may register their supervision with the board, as outlined above. Board approval and successful completion of a planned supervision arrangement in an exempt setting will assure its acceptability at the time of application.

4. Documentation of supervision.

Applicants shall document successful completion of their supervised experience on appropriate forms at the time of application. *Supervised experience obtained prior to July 31, 1988, that was not registered with the board may be accepted towards licensure if this supervision met the requirements of the board which were in effect at the time the supervision was rendered.*

§ 2.3. Requirements for provisional license.

Every applicant for a provisional license shall:

1. Hold a doctorate in counseling or in a counseling-related field from a college or university accredited by a regional accrediting agency;

2. Have the institution that awarded the doctorate send directly to the executive director of the board official documentation of the award of the degree required in § 2.3 1; and

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3. Have completed either:

a. The graduate course work in nine specified core areas prescribed in § 2.2 A; or

b. The supervised experience prescribed in § 2.2 B; and

4. Provide documentation of the fulfillment of § 2.3 3 a or § 2.3.3.b immediately preceding, whichever is applicable, as follows:

a. If alternative § 2.3 3 a (core area studies) is applicable, have the institution(s) where the applicant completed the graduate work in the required core areas send directly to the executive director of the board the official transcripts documenting the applicant's completion of the required core area studies; or

b. If alternative § 2.3 3 b (supervised experience) is applicable, include documentation of the completion of the required supervised experience as part of the applicant's own application package as prescribed in § 2.3.6; and

5. Submit to the executive director of the board:

a. A completed application, on forms provided by the board;

b. Documentation of having fulfilled the supervised experience requirements of § 2.2 B, if applicable;

c. Endorsement letters from three responsible persons attesting to the applicant's character and professional integrity; and

d. The provisional license fee prescribed in § 1.2 of these regulations; and

6. Submit for board approval the board's form for registering a supervisory contract with a licensed professional counselor, psychologist, school psychologist, clinical psychologist, clinical social worker, or psychiatrist, under whose supervision the provisional licensee will practice for the duration of the provisional license.

PART III. EXAMINATIONS.

§ 3.1. General examination requirements.

A. Every applicant for initial licensure by the board as a professional counselor shall take a written examination and an oral examination as prescribed by the board.

B. The board may waive examination requirements if the applicant for licensure has been certified or licensed in another jurisdiction by standards and procedures

equivalent to the board's.

C. Examination schedules.

A written and an oral examination will be given at least twice each year. The board may schedule such additional examinations as it deems necessary.

1. The executive director of the board shall notify all candidates in writing of the time and place of the examinations for which they have been approved to sit.

2. The candidate shall submit the applicable fees and a case study as prescribed in § 3.3 C.

3. If the candidate fails to appear for the examination without providing written notice at least one week before the examinations, the examination fee shall be forfeited.

4. The executive director will notify all candidates in writing of their success or failure on any examinations.

D. Deferrals by candidate; time limit.

A candidate approved by the board to sit for an examination shall take that examination within two years from the date of such initial board approval. If the candidate has not taken the examination by the end of the two-year period here prescribed:

1. The initial board approval to sit for such examination shall then become invalid; and

2. In order to be considered for such examination later, the applicant shall file a complete new application with the board.

§ 3.2. Written examination.

A. The written examination will be a competency-based validated examination and will cover the core areas of counseling.

B. The board will establish passing scores on the written examination.

§ 3.3. Oral examination.

A. Successful completion of the written examination requirement shall be a prerequisite to taking the oral examination.

B. Candidates who pass the written examination will be notified by the board of the time and place of the oral examination and will be instructed to submit a case study.

C. The case study shall be a report of a case performed in the candidate's counseling practice during the last six

months and shall be prepared as follows:

1. The report shall be not less than six or more than eight double-spaced typewritten pages in length. The names of persons in the study shall be disguised to protect clients' identities. The name and address of the candidate shall appear on a cover page.

2. The report shall be a brief summary of biographical data, personal social history, and any relevant medical history of a client, presenting the problem, diagnosis, treatment plan and prognosis. The report should focus on the candidate's role in facilitating the change process, including theoretical position, dialogue and tools and techniques used in the treatment plan.

D. The oral examination shall consist of an interview between the board or its designees and the candidate for the purpose of:

1. Reviewing the candidate's education, training and experience;

2. Evaluating the candidate's professional, emotional, and social maturity; the extent and nature of professional identity; and application of Standards of Practice as defined in § 6.1 of these regulations;

3. Assessing the candidate's case study; and

4. Evaluating the candidate's knowledge of and competency to engage in the practice of counseling.

E. Following the oral examination, the examination committee will make a recommendation to the board. A majority decision of the board will determine whether the candidate has passed the oral examination.

§ 3.4. Reexamination.

A. Reexamination will be required only on the examination failed.

B. After paying the reexamination fee, a candidate may be reexamined within an 18-month period without filing a new application and without presenting evidence of additional education and experience.

C. To be reexamined, a candidate shall notify the board and pay the appropriate fee no less than 60 days before a scheduled examination.

D. A candidate who fails any examination two times shall reapply and submit documentation of additional education and experience as required by the board.

PART IV. LICENSURE RENEWAL; REINSTATEMENT; NAME CHANGE.

§ 4.1. Annual renewal of licensure.

All licensees shall renew licenses on or before June 30 of each year.

A. Every license holder who intends to continue to practice shall submit to the executive director on or before June 30 of each year:

1. A completed application for renewal of the license; and

2. The renewal fee prescribed in § 1.2.

B. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

§ 4.2. Late renewal; reinstatement.

A. A person whose license has expired may renew it within four years after its expiration date by paying the penalty fee prescribed in § 1.2 as well as the license fee prescribed for each year the license was not renewed.

B. A person who fails to renew a license for four years or more and wishes to resume practice shall:

1. Pay the oral examination fee prescribed in § 1.2;

2. Take an oral examination; and

3. Upon approval for reinstatement, pay the penalty fee prescribed in § 1.2 and the license fee prescribed for each year the license was not renewed.

§ 4.3. Duration of provisional license and renewal.

A. A provisional license shall expire six months from the date it is issued.

B. A provisional licensee may request in writing a maximum of two renewals of a provisional license. The renewal fee prescribed in § 1.2 shall be paid if the request for renewal is granted.

§ 4.4. § 4.3. Legal name change.

A. An individual practicing under a license issued by the board shall ensure that the current license bears the current legal name of that individual.

B. A licensee whose name is changed by marriage or court order shall promptly:

1. Notify the board of such change and provide a copy of the legal paper documenting the change.

2. Pay the "name change" fee prescribed in § 1.2.

3. Request and obtain from the board a new license

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bearing the individual's new legal name.

PART V. ADVISORY COMMITTEES.

§ 5.1. Advisory committees.

A. The board may establish examining and advisory committees to assist it in evaluating candidates for licensure.

B. The board may establish an advisory committee to evaluate the mental and emotional competence of any licensee or candidate for licensure when such competence is in issue before the board.

PART VI. STANDARDS OF PRACTICE. UNPROFESSIONAL CONDUCT; DISCIPLINARY ACTIONS; REINSTATEMENT.

§ 6.1. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Persons licensed by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.
2. Be able to justify all service rendered to clients as necessary for diagnostic or therapeutic purposes.
3. Practice only within the competency areas for which they are qualified by training or experience.
4. Report to the board known or suspected violations of the laws and regulations governing the practice of professional counselors.
5. Use only those educational credentials in association with their licensure and practice as a professional counselor that have been earned at a college or university accredited by a regional accrediting agency and that are counseling in nature. Those credentials include the title "Doctor" as well as academic designations following one's name such as M.Ed. and Ph.D.
6. Use only indicators of current counseling-related credentials awarded by independent credentialing agencies (such as American Association of Marriage and Family Therapists, Certified Rehabilitation Counselors, Certified Clinical Mental Health Counselors) in association with their licensure and practice as professional counselors.

7. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.

8. Ensure that clients are aware of fees and billing arrangements before rendering services.

9. Keep confidential their counseling relationships with clients, with the following exceptions: (i) when the client is in danger to self or others; and (ii) when the professional counselor is under court order to disclose information.

10. Disclose counseling records to others only with the expressed consent of the client.

11. Ensure that the welfare of clients is in no way compromised in any experimentation or research involving those clients.

12. Not engage in dual relationships with clients that might compromise the client's well-being or impair the counselor's objectivity and professional judgment (to include such activities as counseling close friends or relatives, engaging in sexual intimacies with a client).

13. When advertising their services to the public, ensure that such advertising is neither fraudulent nor misleading.

§ 6.2. Grounds for revocation, suspension, or denial of renewal of license.

A. In accordance with ~~§ 54-929(g)~~ subdivision 7 of § 54.1-2400 of the Code of Virginia, the board may, after a hearing, revoke, suspend or decline to renew a board license for just cause.

B. Action by the board to revoke, suspend or decline to renew a license shall be taken in accord with the following:

1. Conviction of a felony or misdemeanor involving moral turpitude.
2. Procuring of license by fraud or misrepresentation.
3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice counseling with reasonable skill and safety to clients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition.
4. Negligence in professional conduct or nonconformance with the Standards of Practice (§ 6.1 B of these regulations).
5. Performance of functions outside the demonstrable areas of competency.

7. Violation of or aid to another in violating any provision of Chapter 28 35 of Title 54 54.1 of the Code of Virginia, any other statute applicable to the practice of professional counseling, or any provision of these regulations.

C. Petition for rehearing.

A petition may be made to the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached in subsection B of this section.

§ 6.3. Reinstatement following disciplinary action.

A. Any person whose license has been revoked or denied renewal by the board under the provisions of § 6.2 may, two years subsequent to such board action, submit a new application to the board for licensure.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fees applicable at the time of reinstatement.

treatment works and that those POTWs which meet certain criteria develop and implement an approved pretreatment program to control nondomestic dischargers to the treatment works.

On October 17, 1988, the U.S. Environmental Protection Agency amended its General Pretreatment Regulations. The purpose of the amendments is to bring the state pretreatment program regulations into conformance with federal regulations.

The amendments concern equivalent concentrations or mass limitations, industrial user compliance reports, reporting requirements applicable to noncategorical industrial dischargers, reporting by POTWs on pretreatment program implementation, and POTW authority to assess or seek civil or criminal penalties.

REGISTRAR'S NOTICE: Due to its length, the final Upper James River Basin Water Quality Management Plan filed by the State Water Control Board is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the State Water Control Board.

STATE WATER CONTROL BOARD

NOTICE: Due to its length, the Permit Regulation, filed by the State Water Control Board, is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary, in lieu of full text, explaining the adopted amendments is being published. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the State Water Control Board.

Title of Regulation: VR 680-16-03. Upper James River Basin Water Quality Management Plan (Jackson River Subarea).

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

Effective Date: September 27, 1989

Summary:

Water quality management plans provide a management tool to assist the Commonwealth, units of local government, industrial firms and agricultural interests in achieving and maintaining applicable water quality goals. This action amends the Upper James River Basin Water Quality Management Plan by updating the Jackson River Subarea. The updated subarea plan reflects current National Pollutant Discharge Elimination System (NPDES) final permit limits and wasteload allocations as defined by federal regulations. Water quality problems in the Jackson River Subarea are identified and remedial actions to alleviate these problems are outlined so that desired water quality objectives can be met. The Plan includes chapters entitled: Introduction, Water Quality Evaluation, Point Sources, Nonpoint Sources, Coordination with Other Planning, Ground Water Strategy, and Management and Implementation of the Plan. Following these chapters is a presentation of specific actions to be taken by the State Water Control Board in implementing the Plan.

Title of Regulation: VR 680-14-01. Permit Regulation. (Formerly published as: Virginia Pollutant Discharge Elimination System and Virginia Pollution Abatement Permit Program).

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

Effective Date: September 27, 1989

Summary:

Part VII of the Permit Regulation is designed to protect publicly owned treatment works (POTW) and the environment from nondomestic waste discharged to a POTW that could cause interference with treatment processes, pass through the treatment facilities improperly treated, or result in sludge contamination. Further, the regulations require that all POTWs control nondomestic dischargers to the

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BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Title of Regulation: VR 675-01-01. Public Participation Guidelines.

Statutory Authority: §§ 54.1-103 and 54.1-201 of the Code of Virginia.

Effective Date: November 6, 1989

Summary:

The adopted Public Participation Guidelines establish the procedure whereby persons and organizations may be placed on a mailing list to receive regulatory information concerning the Board for Waterworks and Wastewater Works Operators. These guidelines also establish the steps necessary to promulgate regulations in accordance with the Administrative Process Act.

VR 675-01-01. Public Participation Guidelines.

I. § 1. Mailing list.

The Board for the Certification of Water Waterworks and Wastewater Works Operators (the agency) will maintain a list of persons and organizations who will shall be mailed the following documents as they become available:

1. "Notice of ~~intent~~ intended regulatory action" to promulgate or repeal regulations.
2. "Notice of comment period" and public hearing or informational proceeding," the subject of which is proposed or existing regulations.
3. Final Notice that final regulation has been adopted.

Failure of these persons and organizations to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act.

II. § 2. Being placed on list; deletion.

Any person wishing to be placed on the mailing list may do so by writing the agency board. In addition, the agency board may, in its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation of promulgation of regulations. Persons on the list will be provided all information stated in Part I § 1. Individuals and organizations will may be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals and organizations will be deleted from the list.

III. § 3. Notice of intent intended regulatory action.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14.1, "notice of comment period" and the filing of proposed regulations as required by § 9-6.14.7.1 of the Code of Virginia, the agency board will publish a "notice of intent intended regulatory action." This notice will contain a brief and concise statement of the possible regulations or the problem the regulations would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in the Virginia Register.

IV. Informational Proceedings or Public Hearings for Existing Rules.

At least once each biennium, the agency will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulation. The purpose of the proceeding will be to solicit public comment on all existing regulation as to its effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceeding may be held separately or in conjunction with other informational proceedings.

V. § 4. Petition for rulemaking.

Any person may petition the agency board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the agency board. The agency board shall have sole authority to dispose of the petition.

§ 5. "Notice of comment period" and of public hearing.

The board shall file a "notice of comment period" and its proposed regulations with the Registrar as required by § 9-6.14.7.1. Such notice shall establish the date of the public hearing (informational proceeding) and shall afford interested persons the opportunity to submit written data, views and arguments regarding the proposed regulations by a specified date. Interested persons may make their public submissions in writing, orally at the public hearing, or both.

VI. Notice of Formulation and Adoption.

At any meeting of the Board or any sub-committee or advisory committee where it is anticipated the formulation or adoption of the regulation will occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

VII. § 6. Advisory committees.

The agency board may appoint advisory committees as it deems necessary to provide for adequate citizen participation in the formulation, promulgation, adoption,

and review of regulations.

VIII. § 7. Applicability.

Sections 1 through III and Sections 5 through 7 6 shall apply to all regulations promulgated except emergency regulations adopted in accordance with § 9-6.14:6 § 9-6.14:9 of the Code of Virginia.

* * * * *

Title of Regulation: VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.

Statutory Authority: §§ 54.1-103 and 54.1-201 of the Code of Virginia.

Effective Date: November 6, 1989

Summary:

This regulation describes the rights and responsibilities of applicants, licensees, and the board during and following the licensing process. The following issues are addressed in the regulation:

Definitions, the license and licensing process, license renewal, schedule of fees, classification of operators and treatment plants, entry, educational and experience requirements, and standards of practice.

Several changes for clarity were made to the regulation. Changes were also made to the regulation in response to public comment.

VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.

Section One General.

PART I.

DEFINITIONS [, LICENSING AND CLASSIFICATION REQUIREMENTS] .

§ 1.1. Definitions.

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

"Board" means the Board for Waterworks and Wastewater Works Operators.

1.1.1. "Category" means the two divisions of treatment facilities waterworks and wastewater works and operators' licenses, one being drinking water waterworks and the second being wastewater works .

1.1.2. "Classification" means the four divisions of each category of treatment facilities waterworks and

wastewater works and operators' licenses, Classification "I" representing the highest and Classification "IV" representing the lowest.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation which is unlawful to practice without a license.

"Operator" means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks or wastewater works operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

"Operator-in-training" means an individual employed by an owner to work under the direct supervision and direction of an operator holding a valid license in the proper category and classification for the purpose of gaining experience and knowledge in the duties and responsibilities of an operator of a waterworks or wastewater works. An operator-in-training is not an operator.

"Owner" means the Commonwealth of Virginia, or any political subdivision thereof, any public or private institution, corporation, association, firm or company organized or existing under the laws of this Commonwealth or of any other state or nation, or any person or group of persons acting individually or as a group, who own, manage, or maintain waterworks or wastewater works.

"Person" means any individual, group of individuals, a corporation, a partnership, a business trust, an association or other similar legal entity engaged in operating waterworks or wastewater works.

"Responsible charge" means designation by the owner of any individual to have duty and authority to operate or modify the operation of waterworks or wastewater works processes.

"Wastewater works" means each system of (i) sewerage systems or sewage treatment works serving more than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia; (ii) sewerage systems or sewage treatment works serving fewer than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia, if so certified by the State Water Control Board; and (iii) facilities for discharge to state waters of industrial wastes or other wastes, if certified by the State Water Control Board.

"Waterworks" means each system of structures and

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appliances used in connection with the collection, storage, purification, and treatment of water for drinking or domestic use and the distribution thereof to the public, except distribution piping. Systems serving fewer than 400 persons shall not be considered to be a waterworks unless certified by the Department of Health to be such.

[§ 1-2. Licensure steps.

A. Prior to completing application forms, persons seeking licensure should have a thorough knowledge of the Board for Waterworks and Wastewater Works Operators Regulations and Chapters 1, 2, 3, and 23 of Title 54-1 of the Code of Virginia.

B. A fully completed application, provided by the board, must be submitted by an applicant seeking consideration for licensure with appropriate fee(s) attached. Incomplete applications will be returned to the applicant. Applications must be received in the Department of Commerce 60 days prior to a scheduled examination in order to be eligible to sit for that examination.

C. Examination:

1. A board-approved examination shall be administered at least twice a year.

2. Applicants will be notified of authorization to sit for the examination and verification of the location, date and time at least 10 days prior to the examination.

3. Should the applicant be unable to take the scheduled examination, notice must be provided to the board prior to the date of the examination. Failure to notify the board may require reapplication.

4. Upon submission of an application for reexamination form provided by the board and payment of the reexamination fee, an applicant who is unsuccessful in passing an examination will be allowed to retake any examination(s) given within two years of the date of notification of initial unsuccessful examination results. After the two-year period has elapsed, an applicant will be required to submit a new application with fee in accordance with these regulations in order to take an examination. Applications for reexamination must be RECEIVED in the Department of Commerce at least 60 days prior to a scheduled examination in order to be eligible to sit for that examination.

D. All correspondence should be directed to:

Assistant Director
Board for Waterworks and Wastewater Works Operators
3600 West Broad Street
Richmond, Virginia 23230-4917
(804) 367-8554 or 1 (800) 552-3016

A CHECK OR MONEY ORDER TO COVER FEE(S) SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA. DO NOT SEND CASH. FEES ARE NONREFUNDABLE.]

[§ 1-3. License and classification requirements.]

[§ 1.2.] License required.

To serve as an operator of a waterworks or wastewater works, it shall be necessary to hold a valid license issued by the board of a classification equal to or greater than the classification of the waterworks or wastewater works and in the appropriate category.

§ 1-2. [§ 1-4. § 1.3.] License renewal required.

§ 1-2-1. A. Licenses for waterworks operators shall expire on the last day of February of each odd-numbered year. Licenses for wastewater works operators shall expire on the last day of February 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.

§ 1-2-2. B. Each licensee applying for renewal shall return the renewal notice and fee of \$30.00 established in [§ 1-5 § 1.4] of these regulations 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 expired license may be submitted with the required fee.

§ 1-2-3. C. If the operator fails to renew the license within 30 days after the expiration date on the license, a penalty fee of \$30.00 as established in [§ 1-5 § 1.4] of these regulations shall be required, in addition to the renewal fee.

§ 1-2-4. D. Any operator failing to renew within [six months one year] of the expiration date on the license must apply to have the license reinstated by submitting a reinstatement form and a renewal fee - \$30.00 plus the \$30.00 penalty fee. If the person has not been actively employed as an operator for a minimum of six months during the past three years, reexamination will be required. [shall must] apply for a new license by examination in accordance with Part II of these regulations. [Such an individual shall be deemed to be eligible to sit for the same category and class of license as the expired license.]

E. Limited waterworks operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and Wastewater Works (effective March 1, 1977), expiring on February 28, 1993, will not be renewed. Limited wastewater works operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and Wastewater Works (effective March 1, 1977), expiring on

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February 28, 1994, will not be renewed. A holder of a limited license shall be deemed to have met the experience and education requirements of these regulations and shall be eligible to sit for an examination upon application in the same category and in the same or lower classification as the limited license currently held.

§ 1.3 [§ 1.6, § 1.4.] Fees.

A. All Fees are nonrefundable and shall not be prorated.

1.3.1. The application fee shall be \$50.00.

1.3.2. The reexam fee shall be \$25.00.

1. The following fees shall apply:

a. Application for licensure by examination or by reciprocity\$55.

b. Application for reexamination\$35.

c. Renewal of license\$35.

d. Penalty for failure to renew license within 30 days of expiration\$35.

§ 1.4. Waterworks.

1.4.1. Class I - Shall mean any works as follows:

1.4.1.1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of 50,000 persons or more or having a rated capacity of 5.0 mgd or more. (§ 54-1.28)

1.4.2. Class II - Shall mean any works as follows:

1.4.2.1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of at least 5,000 persons, but less than 50,000 persons, or having a rated capacity of at least 0.5 mgd, but less than 5.0 mgd; or (§ 54-1.28)

1.4.2.2. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, and disinfection, employing the high rate filtration process, and having a filter rate greater than 2.0 gpm/sq. ft. serving a population less than 50,000 persons, or having a rated capacity less than 5.0 mgd, and including all waterworks classified as Public Water Supplies not covered by a higher classification. (§ 54-1.28)

1.4.3. Class III - Shall mean any works as follows:

1.4.3.1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of less than 5,000 or having a rated capacity of less than 0.5 mgd, and including all waterworks classified as Public Water Supplies not covered by a higher classification; or (§ 54-1.28)

1.4.3.2. Waterworks employing processes including disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment serving 5,000 persons or more; or (§ 54-1.28)

1.4.3.3. Waterworks employing fluoridation which are not under a higher classification and classified as Public Water Supplies. (§ 54-1.28)

1.4.4. Class IV - Shall mean any works as follows:

1.4.4.1. Waterworks, employing disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment, or any combination thereof, except fluoridation, serving less than 5,000 persons and classified as Public Water Supplies. (§ 54-1.28)

[§ 1.6, § 1.5.] Waterworks.

A. Class IV shall mean any waterworks as follows:

1. Waterworks employing disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment, or any combination thereof, except fluoridation, serving less than 5,000 persons and classified by the Department of Health as public water supplies; or

2. Waterworks classified by the Department of Health as Class IV facilities.

B. Class III shall mean any waterworks as follows:

1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of less than 5,000, or having a rated capacity of less than 0.5 mgd; or

2. Waterworks employing processes including disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment serving 5,000 persons or more; or

3. Waterworks employing fluoridation which are not under a higher classification and which are classified by the Department of Health as public water supplies;

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or

4. Waterworks classified by the Department of Health as Class III facilities.

C. Class II shall mean any waterworks as follows:

1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of at least 5,000 persons, but less than 50,000 persons, or having a rated capacity of at least 0.5 mgd, but less than 5.0 mgd; or

2. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, and disinfection, employing the high rate filtration process, and having a filter rate greater than 2.0 gpm/sq. ft., serving a population less than 50,000 persons, or having a rated capacity less than 5.0 mgd; or

3. Waterworks classified by the Department of Health as Class II facilities.

D. Class I shall mean any waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of 50,000 persons or more or having a rated capacity of 5.0 mgd or more.

§ 1.5. Wastewater works.

1.5.1. Class I - Shall mean any works as follows:

1.5.1.1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 5.0 mgd; or (§ 54-1.28)

1.5.1.2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 5.0 mgd; or (§54-1.28)

1.5.1.3. Wastewater works using combinations of biological and physical/chemical treatment methods, with a design hydraulic capacity greater than 2.5 mgd. (§ 54-1.28)

1.5.2. Class II - Shall mean any works as follows:

1.5.2.1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or (§ 54-1.28)

1.5.2.2. Wastewater works using physical/chemical methods with a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or (§

54-1.28)

1.5.2.3. Wastewater works using combinations of biological and physical/chemical treatment methods, with a design hydraulic capacity greater than 0.1 mgd, but equal to or less than 2.5 mgd; or (§ 54-1.28)

1.5.2.4. Wastewater works using no biological or physical/chemical treatment methods, with a design hydraulic capacity greater than 1.0 mgd. (§ 54-1.28)

1.5.3. Class III - Shall mean any works as follows:

1.5.3.1. Wastewater works using biological treatment methods with a design hydraulic capacity greater than 0.4 mgd, but equal to or less than 0.5 mgd; or (§ 54-1.28)

1.5.3.2. Wastewater works using physical/chemical treatment methods with a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or (§ 54-1.28)

1.5.3.3. Wastewater works using combinations of biological and physical/chemical treatment methods with a design hydraulic capacity greater than 0.02 mgd, but equal to or less than 0.1 mgd; or (§ 54-1.28)

1.5.3.4. Wastewater works using no biological or physical/chemical treatment methods, with a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 1.0 mgd; or (§ 54-1.28)

1.5.3.5. Raw sewage stabilization ponds, with a design hydraulic capacity greater than 0.04 mgd. (§ 54-1.28)

1.5.4. Class IV - Shall mean any works as follows:

1.5.4.1. Wastewater works using biological treatment methods with a design hydraulic capacity equal to or less than 0.04 mgd, when designated by the State Water Control Board as requiring a licensed operator; or (§ 54-1.28)

1.5.4.2. Wastewater works using physical/chemical treatment methods with design hydraulic capacity equal to or less than 0.04 mgd and designated by the State Water Control Board requiring a licensed operator; or (§ 54-1.28)

1.5.4.3. Wastewater works using combinations of biological and physical/chemical treatment methods with a design hydraulic capacity equal to or less than 0.02 mgd and designated by the State Water Control Board as requiring a licensed operator; or (§ 54-1.28)

1.5.4.4. Wastewater works using no biological or physical/chemical treatment methods, with a design hydraulic capacity equal to or less than 0.04 mgd, and designated by the State Water Control Board as requiring a licensed operator; or (§ 54-1.28)

1.5.4.5. Raw sewage stabilization ponds with a design hydraulic capacity of 0.04 or less and designated by the State Water Control Board as requiring a licensed operator. (§ 54-1.28)

[§ 1.6.] Wastewater works.

A. Class IV shall mean any wastewater works as follows:

1. Raw sewage stabilization ponds with a design hydraulic capacity greater than 0.04 mgd but equal to or less than 1.0 mgd; or

2. Wastewater works classified by the State Water Control Board as Class IV wastewater works.

B. Class III shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or

2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or

3. Wastewater works using combinations of biological and physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.1 mgd; or

4. Raw sewage stabilization ponds, with a design hydraulic capacity greater than 1.0 mgd; or

5. Wastewater works that do not use biological or physical/chemical treatment methods but are classified by the State Water Control Board as Class III wastewater works.

C. Class II shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or

2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or

3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 0.1 mgd, but equal to or less than 2.5 mgd.

D. Class I shall mean any wastewater works as follows:

1. Wastewater works using biological treatment

methods having a design hydraulic capacity greater than 5.0 mgd; or

2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 5.0 mgd; or

3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 2.5 mgd.

E. Biological treatment methods as used in this section shall mean a fixed film or suspended growth biological treatment process, such as:

1. Activated sludge.

2. Trickling filter.

3. Aerated lagoon.

4. Rotating biological contactor.

5. Land application.

6. Biological nutrient removal process.

F. Physical/chemical treatment methods as used in this section shall mean a treatment process such as:

1. Chemical coagulation, flocculation and precipitation.

2. Filtration.

3. Carbon adsorption.

4. Breakpoint chlorination.

5. Demineralization (including but not limited to ion exchange, reverse osmosis, electro dialysis).

Section Two

PART II. ENTRY REQUIREMENTS .

§ 2.1. License Licensure [required] .

To serve as an operator of a water or wastewater works, it shall be necessary to hold a valid license. The board shall issue a Class IV, III, II, or I license only after an individual has met all education, experience and examination requirements as set forth in these regulations. Each license shall be in the appropriate category and classification and shall indicate the highest classification of works the holder is qualified to operate. (§ 54-1.28)

2.1.1. § 2.2. License Licensure by endorsement reciprocity .

The board may endorse issue a license to any person holding a license or certificate in any state, territory, or

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possession of the United States, or in any foreign country, or a certificate issued by the Association of [*Board Boards*] of Certification, provided the requirements and standards under which the license or certificate was issued are equivalent to those established by these rules and regulations. (§ 54-1-28)

2.1.2. License by Education, Experience and Examination.

2.1.2.1. Specific Requirements for a Class I license

Applicants for licensing as a Class I operator in either category shall meet the following requirements and pass a Board approved examination: (§ 54-1-28)

2.1.2.1.1. A bachelor's degree in physical, biological or chemical science or engineering with five quarter hours in water and/or wastewater treatment engineering technology and two years of experience as an operator of treatment plants of Class II or higher; or (§ 54-1-28)

2.1.2.1.2. Graduation from high school (or GED), hold a class II license and at least four years of experience as an operator of treatment plants of Class II or higher; or (§ 54-1-28)

2.1.2.1.3. No education required; hold a Class II license and at least five years of experience as an operator of treatment plants of Class II or higher. (§ 54-1-28)

2.1.2.2. Specific Requirements for Class II license.

Applicants for licensing as a Class II operator in either category shall meet the following requirements and pass a Board-approved examination: (§ 54-1-28)

2.1.2.2.1. A bachelor's degree in physical, biological or chemical science or engineering with five quarter hours in water and/or wastewater treatment engineering technology and one year of experience as an operator of a treatment plant of Class III or higher; or (§ 54-1-28)

2.1.2.2.2. Graduation from high school (or GED), hold a Class III license and at least three years of experience as an operator of a treatment plant of Class III or higher; or (§ 54-1-28)

2.1.2.2.3. No education required; hold a Class III license and at least four years of experience as an operator of treatment plants of Class III or higher. (§ 54-1-28)

2.1.2.3. Specific Requirements for a Class III license.

Applicants for licensing as a Class III operator in either category shall meet the following requirements and pass a Board approved examination: (§ 54-1-28)

2.1.2.3.1. A bachelor's degree in physical, biological or

chemical science or engineering with five quarter hours in water and/or wastewater treatment engineering technology and six months of experience as an operator of treatment plants of Class IV or higher; or (§ 54-1-28)

2.1.2.3.2. Graduation from high school (or GED) and one year of experience as an operator of treatment plants of Class IV or higher; or (§ 54-1-28)

2.1.2.3.3. No education required; hold a Class IV license and a total of three years of experience as an operator of treatment plants of Class IV or higher. (§ 54-1-28)

2.1.2.4. Specific Requirements for a Class IV license.

Applicants for licensing as a Class IV operator in either category shall meet the following requirements and pass a Board approved examination:

2.1.2.4.1. A high school graduate (or GED) with six months of experience as an operator of Class IV treatment plants or higher; or (§ 54-1-28)

2.1.2.4.2. No education required; and at least one year of experience as an operator of Class IV treatment plants or higher. (§ 54-1-28)

§ 2.3. Licensure by education, experience, and examination.

[The education and experience requirements are summarized in Table 1.]

A. Specific requirements for a Class IV license.

Applicants for licensure as a Class IV waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher; or

2. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher.

B. Specific requirements for a Class III license.

Applicants for licensure as a Class III waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in

physical, biological or chemical science or engineering with three semester hours in [either] water or wastewater treatment technology, or both, and (ii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher; or

2. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, (ii) a Class IV license, and (iii) at least six months of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I; or

3. Have (i) a high school diploma or GED and (ii) at least two years of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher; or

4. Have (i) a high school diploma or GED, (ii) a Class IV license, and (iii) at least 1-1/2 years of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I; or

5. Have (i) no high school diploma, (ii) a Class IV license, and (iii) at least three years of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I.

C. Specific requirements for Class II license.

Applicants for licensure as a Class II waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, and (ii) at least 1-1/2 years of experience as an operator-in-training of waterworks or wastewater works of Class III or higher; or

2. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, (ii) a Class III license, and (iii) at least six months of experience as an operator or operator-in-training of waterworks or wastewater works of Class III or as an

operator-in-training of waterworks or wastewater works of Class II or Class I; or

3. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, (ii) a Class IV license, and (iii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class III, Class II or Class I; or

4. Have (i) a high school diploma or GED, (ii) a Class III license, and (iii) at least two years of experience as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I; or

5. Have (i) no high school diploma, (ii) a Class III license, and (iii) at least three years of experience as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I.

D. Specific requirements for a Class I license.

Applicants for licensure as a Class I waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, (ii) a Class II license, and (iii) at least one year of experience as an operator or operator-in-training of waterworks or wastewater works of Class II or as an operator-in-training of waterworks or wastewater works of Class I; or

2. Have (i) a high school diploma or GED, (ii) a Class II license and (iii) at least two years of experience as an operator or operator-in-training of waterworks or wastewater works of Class II or as an operator-in-training of waterworks or wastewater works of Class I; or

3. Have (i) no high school diploma, (ii) a Class II license, and (iii) at least three years of experience as an operator or operator-in-training of waterworks or wastewater works of Class II or higher as an operator-in-training of waterworks or wastewater works of Class I.

~~2.1.2.5.~~ § 2.4. Education.

An individual may be issued a license without holding

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the next lower class license only if the individual has obtained the required education. Education may be substituted for experience as follows:

2.1.2.5.1. A. Education or specialized training may not reduce the actual operating experience *required for licensure* to less than two [*and one-half*] years for Class I, to less than one [*year and one-half years*] for Class II, [*to less than one year for Class III,*] or to less than six months for Class [~~III or~~] IV.

2.1.2.5.2. B. Education substituted for experience may not be used to meet the education requirement.

2.1.2.5.3. C. Specialized training.

Waterworks or wastewater works operator training courses, seminars, workshops, technical conferences, or similar specialized training, specifically approved by the board may be substituted for the required experience.

2.1.2.5.3.1. 1. Time calculations shall be based on the continuing education unit (CEU).

2.1.2.5.3.2. 2. Ten classroom hours shall equal one CEU (10 hours = 1.0 CEU).

2.1.2.5.3.3. 3. 10 CEUs may be substituted for six months of *One CEU may be substituted for one month of operating experience.*

2.1.2.5.3.4. Not more than 20 CEUs may be substituted for experience.

2.1.2.5.4. D. Formal education.

Formal [~~education courses~~] at a post-secondary level in physical, biological and or chemical science, engineering, engineering technology, or public health may be substituted for a part of the required experience.

2.1.2.5.4.1. 1. Calculations shall be based on ~~quarter semester~~ hours (one quarter hour = 2/3 of a semester hour).

2.1.2.5.4.2. 2. 10 ~~quarter hours~~ *One semester hour* may be substituted for six months *one month* of operating experience.

2.1.2.5.4.3. Not more than 36 quarter hours may be substituted for experience.

E. *Specialized training and formal [~~education courses~~] used in qualifying for a lower class license shall not be used again to meet the additional requirements for a higher class license.*

2.1.2.6. § 2.5. Experience.

Required work experience is based on full-time work. Full-time work is defined as not less than 1760 hours per

year. *Experience gained as an operator-in-training shall be certified on the application form by an operator holding a valid license of the proper category and and classification.*

2.1.2.6.1. A. Partial credit will be given for actual hours of work experience if less than full-time.

2.1.2.6.2. B. Partial credit (not to exceed 50% of the total required experience) will be given for related experience. Water experience may not substitute for wastewater experience and wastewater experience may not substitute for water experience if experience has been used previously to obtain a license. *At least 50% of the experience required for a license shall be obtained in the category of the license, with not less than six months of full-time employment (880 man-hours) in the category of the license. Partial credit may be given for related experience in the other category at a rate of up to 50% of the actual experience gained in the other category.*

C. *Experience used in qualifying for a lower class license shall not be used again to meet the additional requirements for a higher class license.*

D. *Experience limited to distribution and collection system operation and maintenance, laboratory work, plant maintenance, and other nonoperating duties shall not be counted as experience as an operator.*

2.1.2.7. § 2.6. Examination.

A board-approved examination shall be administered at least twice a year.

2.1.2.7.1. A. An individual may take the examination prior to fulfilling the education and experience requirements - , *provided all requirements will be met within three months after the date the applicant will take the examination. The results of the examination and the A license shall not be issued until all applicable requirements have been met and satisfactorily verified.*

2.1.2.7.2. An individual who fails the examination may retake the next examination by notifying the Board. *If the examination is failed twice, the individual must obtain not less than 2.0 CEUs of additional education credits before Board approval will be given to take a future examination.*

B. *An individual who is unable to take an examination at the time scheduled shall notify the board prior to the date of the examination; such an individual shall be rescheduled for the next examination. Failure to notify the board may require the submittal of a new application and payment of fees, in accordance with §§ [1-5 1.4] and 2.7 A.*

C. *Upon submission of an application for reexamination form provided by the board and payment of the reexamination fee, an applicant who is unsuccessful in passing an examination will be allowed to retake any*

examination(s) given within two years of the date of notification of initial unsuccessful examination results. After the two-year period has elapsed, an applicant will be required to submit a new application with fee in accordance with these regulations in order to take an examination. Applications for reexamination must be received in the Department of Commerce at least 60 days prior to a scheduled examination in order to [~~the~~ be] eligible to sit for that examination.

§ 2.7. Application.

A. Any person seeking licensure by reciprocity or by education, experience, and examination shall submit a fully-completed application with the appropriate fee(s) attached. Incomplete applications will be returned to the applicant. Application for licensure by examination must be received in the Department of Commerce 60 days prior to a scheduled examination in order to be eligible to sit for that examination.

B. All applications of candidates will be reviewed by the Department of Commerce staff to determine eligibility for licensure and examination within 50 days of receipt at the offices of the Department of Commerce. Any applicant may appeal the initial review, in writing, to the board within 60 days of the staff's determination. No applicant will be approved for licensure unless he meets all of the requirements of [Part II of] these regulations.

C. Applicants who have been found ineligible to sit for an examination may request further consideration by submitting a letter to the board with the necessary evidence of additional qualifications, training, or experience. No additional fee will be required, provided all requirements for licensing are met within two years from the date of original application.

COMMONWEALTH OF VIRGINIA
BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Applicant for Examination

Applicant for Reciprocity

(SEAL)

Applying for: (Circle One)

WATERWORKS OPERATOR
I II III IV

WASTEWATER WORKS OPERATOR
I II III IV

DEPARTMENT OF COMMERCE
P.O. BOX 11066
RICHMOND, VA 23230-1066
TELEPHONE: (804) 367-8554
TOLL FREE: 1 (800) 552-3016
MAKE ALL CHECKS OR MONEY ORDERS
PAYABLE TO THE TREASURER OF VIRGINIA

FEE \$55.00

FEE \$55.00

APPLICATION FOR LICENSURE AS A WATERWORKS OR WASTEWATER WORKS OPERATOR

NOTE: Read regulations before filling out this application
SECTION A

- DATE _____ 19 ____
1. Name in full _____ S.S. No. _____
First Middle Last
2. Residence address _____
No. Street City State Zip Telephone Number
3. Business name and address _____
Name of Business Telephone Number
[] Home [] Work
No. Street City State Zip Check mailing address
4. Birth Date _____ Birth Place _____
5. Do you presently hold a certificate or license issued by this Board or by any other state? [] Yes [] No If yes, complete the following:
Grade or Class: _____ State: _____ Cert. or license number(s): _____

SECTION B - EDUCATION

List all education for which you are seeking credit. Attach transcripts or certificates for all education courses shown.

School	Name & Location	Attended From To	Approx. Sem. Hours Credit	Major Subject	Graduation/Degree Date
(High School)			N/A	N/A	
(Business/Vocational)					
(College/Technical)					
(Graduate/Professional)					
(Other-Armed Forces, etc.)					

SECTION C - EXPERIENCE

List actual/related on-the-job training to be a waterworks or wastewater works operator, beginning with the most recent job for which you are seeking credit. Attach additional pages, if necessary. All work as an operator-in-training must be certified by a licensed operator.

DATES Month/Year	Title of your position, name and address of employer, description of treatment plant, degree of your responsibility	Signature, title and operator license number (if applicable) of person certifying exp.
FROM: _____ TO: _____ No. of hours worked each week _____	(1) Plant Classification: _____	
FROM: _____ TO: _____ No. of hours worked each week _____	2) Plant Classification: _____	
FROM: _____ TO: _____ No. of hours worked each week _____	(3) Plant Classification: _____	
FROM: _____ TO: _____ No. of hours worked each week _____	(4) Plant Classification: _____	

SECTION D - AFFIDAVIT

STATE OF _____

CITY/COUNTY OF _____

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

SIGNATURE OF APPLICANT: _____

SIGNATURE OF NOTARY PUBLIC: _____

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

My commission expires: _____

Final Regulations

Section Three

PART III. STANDARDS OF PRACTICE.

§ 3.1. Discipline.

A. The Board may deny renewal, suspend, or revoke a license if it finds that the licensed operator has not demonstrated reasonable care, judgment, or application of his knowledge and ability in the performance of his operating duties. (§ 54-1.28). The Board, in its discretion, may fine any licensee [,] or [may] suspend or revoke a license, either or both, if it finds that:

1. The license was obtained or renewed through fraud or misrepresentation; or

2. The licensed operator has been found guilty by the board, or by a court [of record,] of any material misrepresentation in the course of performing his operating duties; or

3. The licensed operator has not demonstrated reasonable care, judgment or application of his knowledge and ability in the performance of his operating duties; or

4. The licensed operator violates or induces another person to violate any provisions of Chapters 1, 2, 3, and 23 of Title 54.1 of the Code of Virginia, or any provisions of these regulations.

All previous rules of the Board for Certification of Water and Wastewater Works Operators are repealed.

B. The board, in its discretion, may refuse to grant or renew a license of any person for any of the reasons specified in subsection A of this section.

COMMONWEALTH OF VIRGINIA
BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

(SEAL)

Applying for: (CIRCLE ONE)

W-I W-II W-III W-IV
S-I S-II S-III S-IV

DEPARTMENT OF COMMERCE
P. O. Box 11066, Richmond, Virginia 23230-1066
Telephone: (804) 367-8554
Toll Free: 1 (800) 552-3016

FEE: \$35.00

FEE: \$35.00

MAKE ALL CHECKS OR MONEY ORDERS
PAYABLE TO THE TREASURER OF VIRGINIA

APPLICATION FOR RE-EXAMINATION

NOTE: Read regulations before filling out this application

DATE _____ 19__

1. Name in full _____ S.S. No. _____
First Middle Last

2. Residence address: _____
Street Address

City State Zip Code Area Code/Telephone #

3. Business name and address: _____
Name of Business

Address City State Zip Area Code/Telephone #

4. Check Address for mailing: [] Home [] Work

5. Birth Date _____ Birth Place _____

6. Signature of applicant: _____

EMERGENCY REGULATIONS

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: Food Stamp Program Administrative Disqualification Hearings.

Statutory Authority: § 63.1-124.2 of the Code of Virginia.

Effective Dates: August 9, 1989 through June 30, 1990

Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled "Food Stamp Program - Administrative Disqualification Hearings," pursuant to House Bill 1352 passed by the 1989 session of the General Assembly and incorporated into § 63.1-124.2 of the Code of Virginia .

2. **PURPOSE OF THE REQUEST:** The purpose of this request is to take emergency adoption action to implement § 63.1-124.2 of the Code of Virginia which allows the State Board of Social Services to establish regulations governing the conduct of administrative hearings and denial of benefits to individuals who have intentionally made a false or misleading statement or misrepresented, concealed or withheld facts; or who committed any act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity, for the purpose of establishing or maintaining eligibility for such benefits. This proposed regulation:

- Establishes rules for the conduct of administrative disqualification hearings by State hearing officers to determine whether an alleged intentional program violation has occurred.

- Establishes rules for the implementation of hearing decisions to disqualify individuals found to have committed an intentional program violation.

3. **PERSONS AFFECTED BY THIS REGULATION:**

- The 124 local departments of welfare/social services which are responsible for the determination of eligibility for food stamp benefits, the investigation of alleged intentional program violations, and the implementation of hearings decisions which will be rendered as a result of the administrative disqualification hearings established by this regulation.

- The hearing officers of the State Department of Social Services who will conduct the hearings established by this regulation and render decisions based on the facts presented at such hearings.

- Applicants for and recipients of food stamp benefits whom it is alleged have committed acts of intentional program violation and whose cases are submitted for resolution by an administrative disqualification hearing established by this

regulation.

4. **BACKGROUND:** Federal regulations in Volume 7 of the Code of Federal Regulations, part 273.16, promulgated by the U. S. Department of Agriculture (USDA) to implement the Food Stamp Act of 1977, as amended, require states to implement administrative disqualification hearings to determine whether acts of intentional program violation have occurred. These regulations exempt states which have a state law which requires that such cases be referred to a court of appropriate jurisdiction for prosecution, from conducting the administrative hearings. Virginia had been exempted under this provision. The Code of Virginia, at § 63.1-124 was changed to allow the state to determine whether an intentional program violation had been committed either through an administrative disqualification hearing or by referral for prosecution to a court of appropriate jurisdiction.

This emergency regulation is needed to allow the State Department of Social Services to implement the administrative disqualification hearing process allowed by the Code of Virginia. This change in the Code of Virginia, makes implementation of these regulations mandatory under the Code of Federal Regulations. The absence of such regulations will result in a failure to implement these hearings, as required. Failure to implement these hearings will result in noncompliance with a federal mandate which can result in federal sanctions, at the discretion of USDA.

5. **FISCAL IMPACT:** It is not anticipated that implementation of these regulations will have any fiscal impact. The hearings allowed by the regulations will be conducted with current staff. While determinations made at the hearings could result in smaller benefit amounts for households containing a member found guilty of an intentional program violation, Food Stamp Program benefits are paid 100% by the federal government. Therefore no State funds would be affected.

6. **AUTHORITY TO ACT:** The Department of Social Services developed this emergency regulation with the assistance of the Attorney General's office.

Immediately after this emergency regulation is approved and published in the Virginia Register, the Department of Social Services will initiate the procedure for the development of the regulation using the regular (non-emergency) procedure. Public comment will be solicited through a sixty-day public comment period.

Copies of the proposed regulation will be sent to persons/organizations who have been identified as interested persons. The interested persons include: local departments of social services, the legal service agencies of Virginia, and the Food and Nutrition Service of the U. S. Department of Agriculture.

Emergency Regulation

Preamble:

Federal regulations in Volume 7 of the Code of Federal Regulations, part 273.16, promulgated by the U. S. Department of Agriculture (USDA) to implement the Food Stamp Act of 1977, as amended, require states to implement administrative disqualification hearings to determine whether acts of intentional program violation have occurred. These regulations exempt states which have a state law which require that such cases be referred to a court of appropriate jurisdiction for prosecution, from conducting the administrative hearings. Virginia had been exempted under this provision. The Code of Virginia, at § 63.1-124 was changed to allow the state to determine whether an intentional program violation had been committed either through an administrative disqualification hearing or by referral for prosecution to a court of appropriate jurisdiction.

It is not anticipated that implementation of administrative disqualification hearings will have any fiscal impact on the State in that the hearings will be conducted by current fair hearings staff. Inasmuch as food stamp benefits are funded totally by the federal government, any change in total benefits issued will be borne by them.

Immediately after this emergency regulation is approved and published in the Virginia Register, the Department of Social Services will initiate the procedure for the development of the regulation using the regular (non-emergency) procedure. Public comment will be solicited through a sixty-day public comment period.

Emergency approval of the Governor is needed to allow the Department to implement the administrative disqualification hearing process allowed by the Code of Virginia and, now, required, in Virginia, by the Code of Federal Regulations.

The absence of such regulations will result in a failure to implement these hearings, as required.

Food Stamp Program Administrative Disqualification Hearings.

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:

"Administrative disqualification hearing (ADH)" means an impartial review by a hearing officer of a household member's actions involving an alleged intentional program violation for the purpose of rendering a decision of guilty or not guilty of committing an intentional program violation (IPV).

"Authorization to participate" (ATP) means a document authorizing a household to receive a food stamp allotment in a specific amount for a specific entitlement period from an authorized food coupon issuance agent.

"Hearings officer" means an impartial representative of the State to whom requests for administrative disqualification hearings are assigned and by whom they are heard. The hearings officer is given the authority to conduct and control hearings and to render decisions.

"Intentional program violation (IPV)" means any action by an individual who intentionally made a false or misleading statement to the local agency either orally or in writing, to obtain benefits to which the household is not entitled; concealed information or withheld facts to obtain benefits to which the household is not entitled; or, committed any act that constitutes a violation of the Food Stamp Act, Food Stamp regulations, or any state statutes relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or authorization to participate (ATP) cards.

PART II. REFERRAL OF ALLEGED INTENTIONAL PROGRAM VIOLATIONS.

§ 2.1. The local agency shall be responsible for investigating any case of alleged intentional program violation and ensuring that appropriate cases are acted upon either through referral for an administrative disqualification hearing or for prosecution by a court of appropriate jurisdiction.

PART II. INITIATION OF AN ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 3.1. In order for a local agency to request an ADH, there must be clear and convincing evidence which demonstrates the household member committed or intended to commit an IPV.

§ 3.2. The local agency shall ensure that the evidence against the household member alleged to commit an IPV is reviewed by either an eligibility supervisor or the agency superintendent for purposes of certifying that such evidence warrants referral for an ADH.

§ 3.3. Prior to submitting the referral for an ADH to the State Hearing Authority, the local agency shall provide written notification to the household member suspected of IPV that the member can waive his/her right to an ADH by signing a waiver request and returning it to the local agency within 10 days from the date notification is sent to the household in order to avoid submission of the referral for an ADH.

§ 3.4. If a signed waiver is received, no ADH is conducted and the disqualification period is imposed in accordance

Emergency Regulation

with federal regulations.

PART IV. ADVANCE NOTICE OF AN ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 4.1. The hearings officer will schedule a date for the ADH and provide written notice to the household member suspected of an IPV, by certified mail - return receipt requested, at least 30 days in advance of the date the ADH has been scheduled.

§ 4.2. If proof of receipt of the advance notification of the ADH or refusal to accept the notice have been received, the requirement to notify the individual alleged to have committed the IPV has been met.

§ 4.3. Without sufficient evidence that the advance notification was received or refused, the ADH is not to be held.

Part V. TIME AND PLACE OF THE ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 5.1. The time and place of the ADH shall be arranged so that the hearing is accessible to the household member suspected of an IPV.

§ 5.2. The member or member's representative may request a postponement of the ADH if the request for postponement is made at least 10 days in advance of the date of the scheduled hearing.

PART VI. FAILURE OF THE HOUSEHOLD MEMBER TO APPEAR AT THE ADH.

§ 6.1. The ADH can be held even if the member or member's representative subsequently cannot be located or fails to appear without good cause.

§ 6.2. Even though the household member is not represented, the hearings officer must carefully consider the evidence and determine if an IPV was committed, based on clear and convincing evidence.

§ 6.3. If the household member is found to have committed an IPV, but a hearings officer later determines there was good cause for not appearing, the previous decision is no longer valid and a new ADH shall be conducted.

PART VII. PARTICIPATION WHILE AWAITING A HEARING.

§ 7.1. A pending ADH shall not affect the household's right to be certified and participate in the Food Stamp Program.

PART VIII.

CONDUCT OF THE ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 8.1. The ADH is attended by persons directly concerned with the issue at hand.

§ 8.2. The hearing officer shall:

A. Identify those present for the record.

B. Advise the household member or representative that he/she may refuse to answer questions during the hearing.

C. Explain the purpose of the ADH, the procedure, how and by whom a decision will be reached and communicated, and the option of either the local agency or the household to request State Board review of the hearing officer's decision.

D. Consider all relevant issues. Even if the household is not present, the hearings officer is to carefully consider the evidence and determine if an IPV was committed based on clear and convincing evidence.

E. Request, receive and make part of the record all evidence determined necessary to render a decision.

F. Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing.

§ 8.3. The household member alleged to have committed an IPV and the representative must be given adequate opportunity to:

A. Examine all documents and records to be used at the ADH at a reasonable time prior to the ADH as well as during the ADH.

B. Present its case or have it presented by legal counsel or another person.

C. Bring witnesses.

D. Advance arguments without undue interference.

E. Question or refute any testimony or evidence, including the opportunity to confront and cross-examine witnesses.

F. Submit evidence to establish all pertinent facts and circumstances in the case.

PART IX. NOTIFICATION OF DECISION OF THE ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 9.1. The hearings officer is responsible for rendering a decision based on clear and convincing evidence from the hearing record which can be substantiated by supporting evidence and applicable regulations.

§ 9.2. *The hearings officer shall prepare a written report of the substance of the findings, conclusions, decision, and appropriate recommendations.*

§ 9.3. *The hearings officer shall notify the household member of the decision in writing and of the household's right to request a State Board review of the decision.*

§ 9.4. *If the hearing decision is that the household member has been found guilty of an IPV, the written decision shall advise the household that disqualification shall occur.*

§ 9.5. *The determination of IPV by the hearings officer cannot be reversed by a subsequent fair hearing decision.*

**PART X.
IMPLEMENTATION OF THE ADMINISTRATIVE
DISQUALIFICATION HEARING.**

§ 10.1. *Upon receipt of the notice of a decision from the hearings officer finding the household member guilty of an IPV, the local agency shall inform the household of the reason for the disqualification and the date the disqualification will take effect.*

Submitted by:

/s/ Larry D. Jackson
Commissioner
Date: July 11, 1989

Approved by:

/s/ Gerald L. Bailles
Governor
Date: August 8, 1989

Filed:

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: August 9, 1989

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 7, 1989

PETITION OF

AT&T COMMUNICATIONS
OF VIRGINIA, INC.

CASE NO. PUC890012

To modify Rule 11 of the Rules
Governing the Certification of
Inter-LATA, Interexchange Carriers

FINAL ORDER

By Order of April 6, 1989 and April 24, 1989, the Commission invited comments upon a proposed modification to Rule 11 of the Commission's Rules Governing the Certification of Inter-LATA, Interexchange Carriers. The original Rule is reported at 1984 S.C.C. Ann. Rep. 331 (Final Order June 29, 1984). The proposed modification would allow interexchange carriers to reduce rates without providing public notice.

The proposal was favorably received by the Commission's Staff. The Staff even suggested permitting a third form of notification, direct notice to customers. The Commission invited comments to be received on or before June 30, 1989 upon Rule 11 modified to read as follows:

Carriers shall give notice of proposed rate increases to subscribers by (1) billing inserts furnished at least two weeks prior to the increase, or (2) publication for two consecutive weeks as display advertising in newspapers having general circulation in the area served by the carrier with the last publication appearing at least two weeks prior to the increase, or (3) direct written notification to each affected subscriber at least two weeks prior to the increase. The notice shall state the subscribers' existing rates, the proposed rates and the percentage change between the two. Rate revisions which result in no increase to any subscriber may be implemented without notice.

No comments were received concerning the proposed revision. Because no opposition has been stated to the proposal, the Commission is of the opinion that it should be adopted and substituted in lieu of the current Rule 11. Accordingly,

IT IS THEREFORE ORDERED:

(1) That Rule 11 as stated at page 331 of the 1984 Annual Report of the State Corporation Commission is hereby amended to read as follows:

Carriers shall give notice of proposed rate increases to subscribers by (1) billing inserts furnished at least two weeks prior to the increase, or (2) publication for two consecutive weeks as display advertising in newspapers having general circulation in the area served by the

carrier with the last publication appearing at least two weeks prior to the increase, or (3) direct written notification to each affected subscriber at least two weeks prior to the increase. The notice shall state the subscribers' existing rates, the proposed rates and the percentage change between the two. Rate revisions which result in no increase to any subscriber may be implemented without notice.

(2) That there being nothing further to come before the Commission, this case shall be removed from the docket and the record developed herein placed in the file for ended causes.

ATTESTED COPIES hereof shall be sent to all of Virginia's certified local exchange telephone companies as indicated in Appendix A attached hereto; to all of Virginia's certificated interexchange carriers as indicated in Appendix B attached hereto; to Wilma R. McCarey, Esquire, 3201 Jermantown Road, #3A2, Fairfax, Virginia 22030-2087; 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 Divisions of Communications, Accounting and Finance and Economic Research and Development.

APPENDIX A

TELEPHONE COMPANIES IN VIRGINIA

Mr. Joseph E. Hicks, President
Amelia Telephone Corporation
P.O. Box 158
Leesburg, Alabama 35983

Mr. Raymond L. Eckels, Manager
Amelia Telephone Corporation
P.O. Box 76
Amelia, Virginia 23002

Mr. M. Dale Tetterton, Jr., Manager
Buggs Island Telephone Cooperative
P.O. Box 129
Bracey, Virginia 23919

Ms. Sue B. Moss, President
Burke's Garden Telephone Exchange
P.O. Box 428
Burke's Garden, Virginia 24608

Mr. J. Thomas Brown
Vice President and Division Manager
Central Telephone Company of Virginia
P.O. Box 6788
Charlottesville, Virginia 22906

Mr. Hugh R. Stallard, President
Chesapeake & Potomac Telephone Company
600 East Main Street
P.O. Box 27241

State Corporation Commission

Richmond, Virginia 23261

Mr. James R. Newell, Manager
Citizens Telephone Cooperative
P.O. Box 137
Floyd, Virginia 24091

Mr. Robert S. Yeago, President
Clifton Forge-Waynesboro Telephone Company
P.O. Box 2008
Staunton, Virginia 24401

Mr. Clarence Prestwood, President
Contel of Virginia, Inc.
9380 Walnut Grove Road
P.O. Box 900
Mechanicsville, Virginia 23111-0900

Mr. T. S. Morris, General Manager
GTE South
210 Bland Street
Bluefield, West Virginia 24701

Mr. L. Ronald Smith, General Manager
Mountain Grove-Williamsville Telephone Company
P.O. Box 105
Williamsville, Virginia 24487

Mr. T. A. Glover, Manager
Highland Telephone Cooperative
Monterey, Virginia 24465

Mr. K. L. Chapman, Jr., President
New Hope Telephone Company
P.O. Box 38
New Hope, Virginia 24469

Mr. W. Richard Fleming, Manager
North River Telephone Cooperative
P.O. Box 8
Dayton, Virginia 22821

Mr. Ross E. Martin, General Manager
Pembroke Telephone Cooperative
P.O. Box 549
Pembroke, Virginia 24136-0549

Mr. E. B. Fitzgerald, Jr.
President and General Manager
Peoples Mutual Telephone Company, Inc.
P.O. Box 367
Gretna, Virginia 24557

Mr. Ira D. Layman, Jr., President
Roanoke and Botetourt Telephone Company
Daleville, Virginia 24083

Mr. James W. McConnell, Manager
Scott County Telephone Cooperative
P.O. Box 487
Gate City, Virginia 24251

Mr. Christopher E. French
President
Shenandoah Telephone Company
P.O. Box 459
Edinburg, Virginia 22824

Mr. Richard B. Cashwell, President
United Inter-Mountain Telephone Company
112 Sixth Street, P.O. Box 699
Bristol, Virginia 37620

Mr. Dennis H. O'Hearn, General Manager
Virginia Hot Springs Telephone Company
P.O. Box 699
Hot Springs, Virginia 24445

APPENDIX B

OTHER COMMON CARRIERS

Mr. Gregory F. Allen, Vice President
AT&T Communications of Virginia
Three Flint Hill
3201 Jermantown Road, Room 3B
Fairfax, Virginia 22030-2885

Mr. Robert S. Yeago, President
Clifton Forge-Waynesboro Telephone Company
P.O. Box 2008
Staunton, Virginia 24401

Mr. Dallas Reid
Contel of Virginia, Inc.
1108 East Main Street, Suite 1108
Richmond, Virginia 23219

Ms. Mary Rouleau
Institutional Communications Company - Virginia
2000 Corporate Ridge
McLean, Virginia 22102

Mr. William F. Marmon, Jr.
MCI Telecommunications Corp. of Virginia
Mid-Atlantic Division
601 South 12th Street
Arlington, Virginia 22202

Mr. Allen Layman, Executive Vice President
Roanoke & Botetourt Telephone Company
P.O. Box 174
Daleville, Virginia 24083

Mr. Christopher E. French
President & General Manager
Shenandoah Telephone Company
P.O. Box 459
Edinburg, Virginia 22824

Mr. David H. Jones
SoutherNet of Virginia, Inc.
61 Perimeter Street

State Corporation Commission

Atlanta, Georgia 30341

Ms. Laura Burley, Manager
Regulatory Affairs
TDX Systems, Inc.
1919 Gallows Road
Vienna, Virginia 22180

Ms. Rita Barmann
U.S. Sprint Communications Company
1850 M Street, N.W.
Suite 1110
Washington, D.C. 20036

Mr. Kevin J. Duane, Manager
Rates, Tariffs, Agreements
ITT Communications Services of Virginia, Inc.
100 Plaza Drive
Secaucuss, New Jersey 07096

STATE LOTTERY DEPARTMENT

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Title of Regulation: VR 447-01-2. Administration Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Dates: August 9, 1989 through August 8, 1990

SUMMARY

- 1. REQUEST:** *The Governor's approval is hereby requested to adopt the Administration Emergency Regulation affecting the Operations Special Reserve Fund.*
- 2. RECOMMENDATION:** *The State Lottery Department recommends approval of the Department's request to adopt the Administration emergency regulation to amend requirements for the Operations Special Reserve Fund. Section 58.1-4022(D) of the Code of Virginia provides for the transfer to the General Fund of the Commonwealth the audited balance of the State Lottery Fund, less the Special Reserve Fund. Section 58.1-4022(B) provides for establishment by Board regulation of a special reserve fund for 1) operation of the lottery or 2) to provide for prize payments when such liabilities exceed cash on hand. At the suggestion of the Auditor of Public Accounts, on June 14, 1989 § 1.7 of the State Lottery Department Administration Regulations was revised and filed under the emergency provisions of the Administrative Process Act. The revision changed the effective date of the establishment of the set specific requirements for the amount of money to be transferred to and maintained in that account. The revision was made only two days after the beginning of on-line games; therefore, there was no history upon which to base an estimate. Since that time we have determined that \$1 million is sufficient to establish the account and 1.7% of estimated annual gross lottery revenues is a sufficient amount to maintain in the account as reserve for administrative and operational costs. Therefore, an additional \$5 million in revenue will be transferred to the General Fund, following the annual audit by the Auditor of Public Accounts. As provided in the Code of Virginia, Section 9-6.14:4.1 subsection C, paragraph 5, the agency shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.*

VR 447-01-2. Administration Regulations.

§ 1.7 Operations of the department.

A. Generally.

The department shall be operated in a manner which considers the needs of the Commonwealth, the public-at-large, the convenience of the ticket purchasers, and winners of lottery prizes.

B. Employment.

The department shall hire people without regard to race, sex, color, national origin, religion, age, handicap, or political affiliation.

1. All employees shall be recruited and selected in a manner consistent with the policies which apply to classified positions.

2. Sales and marketing employees are exempt from the Virginia Personnel Act.

C. Internal operations.

The department will operate under the internal administrative, accounting and financial controls specifically developed for the State Lottery Department under the applicable policies requested by the Departments of Accounts, Planning and Budget, Treasury, State Internal Auditor and by the Auditor of Public Accounts.

1. Internal operations include, but are not limited to, ticket controls, money receipts and payouts, payroll and leave, budgeting, accounting, revenue forecasting, purchasing and leasing, petty cash, bank account reconciliation and fiscal report preparation.

2. Internal operations apply to automated and manual systems.

D. External operations.

The department will conduct business with the public, lottery retailers, vendors and others with integrity and honesty.

E. Apportionment of lottery revenue.

Moneys received from lottery sales will be divided approximately as follows:

50% Prizes

45% State Lottery Fund Account (On and after July 1, 1989, administrative costs of the lottery shall not exceed 10% of gross sales.)

5.0% Lottery retailer discounts

F. State Lottery Fund Account.

The State Lottery Fund will be established as an account in the Commonwealth's accounting system. The account will be established following usual procedures and will be under regulations and controls as other state accounts. Prior to the start of the first lottery game, the account will be funded from the proceeds of a Department of Treasury loan or loans (treasury loan). Thereafter, funding will be from gross sales.

State Lottery Department

1. Within the State Lottery Fund, there shall be established a "Special Reserve Fund" which shall contain the following subaccounts:

a. An "Operations Special Reserve Fund" subaccount for administrative and operations costs will be created in the State Lottery Fund account. On June 30, 1989, \$6 \$1 million dollars shall be transferred into the Operations Special Reserve Fund. Thereafter, ~~2.5%~~ 1.7% of gross monthly revenues from sales shall be transferred to the Operations Special Reserve Fund until the Operations Special Reserve equals not less than ~~2.5%~~ 1.7% of estimated annual gross lottery revenues from sales. Commencing with lottery operations, but prior to initial sales, all funds derived from the start-up treasury loan(s) shall be deposited to the Operations Special Reserve Fund. Except as otherwise provided in these regulations, start-up treasury loan fund balances shall remain in the Operations Special Reserve Fund until exhausted, until transferred to the Lottery Start-up Payback Special Reserve Fund or until 12 months after initial lottery sales at which time any fund balance from the start-up treasury loan(s) shall revert to the General Fund.

b. A "Lottery Prize Special Reserve Fund" subaccount will be created in the State Lottery Fund account and will be used when lottery prize pay-outs exceed department cash on hand. Immediately prior to initial lottery sales, \$500,000 shall be transferred to the Lottery Prize Special Reserve Fund from start-up treasury loan funds in the State Lottery Fund. Thereafter, 5.0% of monthly gross sales shall be transferred to the Lottery Prize Special Reserve Fund until the amount of the Lottery Prize Special Reserve Fund reaches 5.0% of the gross lottery revenue from the previous year's annual sales or five million dollars, whichever is less.

(1) The calculation of the 5.0% will be made for each instant or on-line game.

(2) The funding of this subaccount may be adjusted at any time by the board.

2. Until July 1, 1989, or when start-up funds are totally repaid, a special subaccount titled "Lottery Start-up Payback Special Reserve Fund" will be established to retire the start-up treasury loan(s).

a. Five percent of the state lottery fund balance, excluding funds derived from start-up treasury loan(s), at the beginning of each month will be placed in this subaccount. The director may increase this percentage when, in his judgment, sufficient funds remain in the State Lottery Fund to meet other needs and shall increase the percentage when necessary to retire the treasury loan(s) within the first 12 months from initial lottery sales.

b. The director may, at any time, direct the transfer from the State Lottery Fund balance to the "Lottery Start-up Payback Special Reserve Fund" of all or any portion of any funds derived from the start-up treasury loan(s) which, in his judgment are no longer required to fund lottery operations.

c. The director may, from time to time, direct the transfer of all or a portion of the "Lottery Start-up Payback Special Reserve Fund" to the General Fund of the Treasury to retire all or a portion of the start-up treasury loan(s). The director shall ensure that the entire amount of the start-up treasury loan(s) is repaid within the first 12 months of lottery sales.

3. Other subaccounts may be established in the State Lottery Fund account as needed at the direction of the board upon the request of the director or the internal auditor with concurrence of the State Comptroller, State Treasurer and the Auditor of Public Accounts.

G. Administrative and operations costs.

Lottery expenses include, but are not limited to, ticket costs, vendor fees, consultant fees, advertising costs, salaries, rents, utilities, and telecommunications costs.

H. Audit of lottery revenues.

The cost of any audit shall be paid from the State Lottery Fund.

1. The Auditor of Public Accounts or his designee shall conduct a monthly post-audit of all accounts and transactions of the department. When, in the opinion of the Auditor of Public Accounts, monthly post-audits are no longer necessary to ensure the integrity of the lottery, the Auditor of Public Accounts shall notify the board in writing of his opinion and fix a schedule of less frequent post-audits. The schedule of post-audits may, in turn, be further adjusted by the same procedure to require either more or less frequent audits in the future.

2. Annually, the Auditor of Public Accounts shall conduct a fiscal and compliance audit of the department's accounts and transactions.

I. Other matters.

The board and director may address other matters not mentioned in these regulations which are needed or desired for the efficient and economical operation and administration of the lottery.

/s/ Kenneth W. Thorson
Director, State Lottery Department
Date: July 26, 1989

State Lottery Department

/s/ Gerald L. Baliles
Governor, Commonwealth of Virginia
Date: August 8, 1989

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: August 9, 1989 - 9:40 a.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

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

Governor's Comment:

The promulgation of these regulations would protect interstate commerce by establishing more stringent standards for swine importation. The regulation would also delete a business-inhibiting provision regarding health certificates. Pending public comment, I recommend approval of these regulations.

/s/ Gerald L. Baliles
Date: August 8, 1989

BOARD FOR HEARING AID SPECIALISTS

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

Governor's Comment:

The purpose of these regulations is to provide more clarity to the existing regulations involving licensing of Hearing Aid Specialists and to reduce fees in accordance with the Callahan Act. Pending public comment, I recommend approval of this regulation.

/s/ Gerald L. Baliles
Date: August 8, 1989

GUBERNATORIAL OBJECTION

COMMONWEALTH OF VIRGINIA

Office of the Governor

August 16, 1989

MEMORANDUM

TO: Joan Smith, Registrar of Regulations

FROM: Gerald L. Baliles

RE: VR 173-02-01. Chesapeake Bay Preservation Area
Designation and Management Regulations.

I have completed my review of the subject regulations pursuant to § 9-6.14:9.1 of the Code of Virginia, and I have concluded that some changes to the regulations are substantial. Accordingly, I have suspended the regulatory process for thirty days to require the promulgating agency to solicit additional public comment on those changes. Specifically, I have instructed the agency to solicit additional public comment concerning whether a measurement or standard should be adopted to explain further the "equivalency" concept and whether the septic tank pump-out and alternative drainfield provisions that were deleted from the final regulations should be retained.

The effective date of the regulations will be specified by the promulgating agency.

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: **VR 115-01-01. Rules Governing the Solicitation of Contributions.** The purpose of the proposed action is to (i) review the regulations for currency and continued need; (ii) define certain terms contained in statute regarding exemption from annual registration; (iii) specify pursuant to § 57-55.2 (i) of the Code of Virginia the name or names by which a professional solicitor may identify himself and his employer; and (iv) consider other measures to enforce the Solicitation of Contributions Law (§§ 57-48 et seq. of the Code of Virginia) and to assure uniform regulation of charitable solicitations throughout the Commonwealth.

Drafts of the amended regulations will be sent to those who respond to this notice.

Statutory Authority: §§ 57-66 of the Code of Virginia.

Written comments may be submitted until October 15, 1989.

Contact: Jo Freeman, Chair, Revisions Committee, Department of Agriculture and Consumer Services, Division of Consumer Affairs, 1100 Bank St., P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-1343, toll-free 1-800-552-9963 or SCATS 786-1343

† 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 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.** The purpose of the proposed action is to adopt the standards of the National Conference on Weights and Measures pertaining to the Method of Sale of Clams, Mussels, and Oysters. These standards are contained in NBS Handbook 130, 1989 edition.

NBS Handbook 130 provides, as follows, with respect to the Method of Sale of Clams, Mussels, and Oysters:

1.5.3. Clams, Mussels, and Oysters

1.5.3.1. Processed clams, mussels, or oysters on the half shell (fresh or frozen) shall be sold by weight excluding the weight of the shell.

1.5.3.2. Canned (heat-processed) mussels, clams, or oysters shall be sold by net weight. A maximum of 41% free liquid by weight is permitted for canned oysters.

1.5.3.3. Fresh oysters, clams, or mussels removed from the shell and placed in a container shall be sold by fluid volume. A maximum of 15% free liquid by weight is permitted.

1.5.3.4. Whole clams, oysters, or mussels in the shell (fresh or frozen) shall be sold by weight (including the weight of the shell, but not including the liquid or ice packed with them), dry measure (e.g., bushel), and/or count. In addition, size designations may be provided.

Statutory Authority: § 3.1-926 of the Code of Virginia.

Written comments may be submitted until 5 p.m., September 29, 1989.

Contact: J. Alan Rogers, Bureau Chief, Virginia Weights and Measures Bureau, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 402, Richmond, VA 23209, telephone (804) 786-2476 or SCATS 786-2476

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 require the owner to limit source emissions of noncriteria pollutants to a level that will not produce ambient air concentrations that may cause, or contribute to, the endangerment of public health.

A public meeting will be held on September 20, 1989, at 10 a.m. in House Committee Room 1, State Capitol Building, Richmond, Virginia, to receive input on the development of the proposed regulations.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until September 20,

1989, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Nancy S. Saylor, Policy and Program Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249 or SCATS 786-1249

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 regulation is to enhance the Department of Air Pollution Control's ability to ensure compliance with emission standards by requiring a permit to operate.

A public meeting will be held on September 27, 1989, at 10 a.m. in House Committee Room 1, State Capitol Building, 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 September 27, 1989, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

Contact: Nancy S. Saylor, Policy and Program Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249 or SCATS 786-1249

VIRGINIA ATHLETIC BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Athletic Board intends to consider amending regulations entitled: **Virginia Athletic Board Rules and Regulations.** The purpose of the proposed action is to promulgate and amend technical rules and equipment requirements for the safety of contestants. Standard of conduct pertaining to controlled narcotic substances. Repeal outdated technical rules.

Statutory Authority: § 54.1-805 of the Code of Virginia.

Written comments may be submitted until September 15, 1989.

Contact: C. Douglas Beavers, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507 or toll-free 1-800-552-3016

DEPARTMENT OF CONSERVATION AND RECREATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 215-02-00. Stormwater Management Regulations.** The purpose of the proposed action is to implement the Stormwater Management Law, Chapter 467 and Chapter 499 of the 1989 Virginia Acts of Assembly (Formerly SB 722 and HB 1848) to provide the minimum state requirements whereby local governments may adopt comprehensive Stormwater Management Programs at their option. All state agency projects involving land clearing, soil movement or construction activity involving soil movement or land development will be governed by these regulations.

Note: This replaces notice published in 5:19 VA.R. 2722 June 19, 1989.

Statutory Authority: §§ 10.1-104 and 10.1-603.4 of the Code of Virginia.

Written comments may be submitted until August 30, 1989, to Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219.

Contact: John R. Poland, Urban Programs Supervisor, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-7483 or SCATS 371-7483

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

General Notices/Errata

VIRGINIA EMPLOYMENT COMMISSION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Employment Commission intends to consider amending regulations entitled: **VR 300-01-3. Benefits.** The purpose of this action is to clarify the conditions under which training is approved by the commission so as to allow claimants for unemployment insurance to meet the requirements that they be available for work or actively seeking work during weeks they are enrolled in and regularly attending such training.

The proposed amendment is intended to permit claimants for Unemployment Insurance to obtain commission approval of a training course when it conforms to the usual and customary educational and industrial requirements.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until September 27, 1989.

Contact: Joseph L. Hayes, Manager, Administration and Appeals, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23211, telephone (804) 786-7554 or SCATS 786-7554

DEPARTMENT OF HEALTH (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 Health intends to consider amending regulations entitled: **Board of Health Regulations Governing Vital Records.** The purpose of the proposed action is to bring standard certificates of birth, death, fetal death, induced abortion, marriage, and divorce into conformity with federal requirements.

Statutory Authority: § 32.1-12 and Chapter 7 (§ 32.1-249 et seq.) of Title 32.1 of the Code of Virginia.

Written comments may be submitted until September 5, 1989.

Contact: Russell E. Booker, Jr., State Registrar, Division of Vital Records, P.O. Box 1000, Richmond, VA 23208-1000, telephone (804) 786-6221 or SCATS 786-6221

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 amending regulations entitled: **VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Chiropractic, Clinical Psychology, Podiatry, Acupuncture, and Other Healing Arts.** The purpose of the proposed action is to amend Part I - General Provisions to add new §§ 1.6. Misleading or Deceptive Advertising and 1.7. Anabolic Steroids.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until September 28, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

† 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 amending regulations entitled: **VR 465-03-01. Physical Therapy.** The purpose of the proposed action is to amend Part V - Practice of Physical Therapy, § 5.3 - Supervisory responsibilities, F. Supervision of personnel in Mental Health Institutions and Part IX - Fees, Section I - Lapsed License - Reinstatement.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until September 28, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

DEPARTMENT OF MOTOR VEHICLES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider promulgating regulations entitled: **VR 485-60-8901. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.** The purpose of the proposed regulation is to administer the administrative and civil penalties necessary for enforcement of prohibited advertising practices.

These permanent regulations will replace the emergency regulations (VR 485-60-8901) which were adopted and effective July 1, 1989.

Statutory Authority: §§ 46.1-26, 46.1-520 and 46.1-550.5:41 of the Code of Virginia.

Written comments may be submitted until September 22, 1989.

Contact: William A. Malanima, Manager, Dealer and Records Division, Virginia Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-0455 or SCATS 367-0455

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Division of Benefit Programs

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider amending regulations entitled: **Aid to Dependent Children (ADC) Program - Lump Sum, Shortening the Period of Ineligibility**. The purpose of the proposed action is to delete language in policy that gives final authority to the local social services agency for decisions regarding conditions deemed to have occurred beyond the control of the assistance unit, that could shorten the period of ineligibility established due to the receipt of a lump sum. The revision will remove any implication that the client does not have the right to appeal agency decisions.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until August 31, 1989, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Agency Regulatory Coordinator, Division of Planning and Program Review, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

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: **VR 625-03-00. Flood Prevention and Protection Assistance Fund**. The purpose of the proposed regulation is to make grants or loans to any city, county, town, water authority, service authority or taxing district for the purpose of assisting local sponsors in providing required matching funds for flood prevention or protection, or for flood prevention or protection studies conducted by agencies of the federal government.

Statutory Authority: § 10.1-603.18 of the Code of Virginia.

Written comments may be submitted until October 1, 1989, to Leon E. App, Executive Assistant, Department of

Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219.

Contact: L. S. Button, Jr., Bureau of Dam Safety and Floodplain Programs Manager, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 238, Richmond, VA 23219, telephone (804) 371-7536 or SCATS 371-7536

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: **VR 625-02-00. Erosion and Sediment Control Regulations**; and repeal regulations entitled: **VR 625-01-01. The Virginia Erosion and Sediment Control Handbook, including standards, criteria and guidelines**. The purpose of the proposed action is to implement the Erosion and Sediment Control Law, as amended, for the effective control of soil erosion, sediment deposition and nonagricultural runoff which must be met in any local control program to prevent unreasonable degradation of properties, stream channels and other natural resources.

Note: This replaces notice published in 5:19 VA.R. 2722 June 19, 1989.

Statutory Authority: §§ 10.1-502 and 10.1-561 of the Code of Virginia.

Written comments may be submitted until August 30, 1989, to Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219.

Contact: John R. Poland, Urban Program Supervisor, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-7483 or SCATS 371-7483

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 630-2-335. Virginia Individual Income Tax Regulation: Virginia Tax Credit**. The purpose of the proposed regulation is to set forth the correct procedure for the claiming of the Virginia Tax Credit.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until August 31, 1989.

Contact: Janie E. Bowen, Director, Tax Policy Division,

General Notices/Errata

P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010 or SCATS 367-8010

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-27-640 through VR 630-27-644, Virginia Tire Tax Regulations**. The purpose of the proposed regulations is to set forth the application of the Virginia tire tax to the retail sale of new tires.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until August 31, 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

GENERAL NOTICES

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Legal Notice

Take notice that a referendum will be conducted by mail ballot among Virginia corn producers regardless of age, and as otherwise defined in § 3.1-1035, Title 3.1 of the Code of Virginia, who sold corn, except sugar corn, popcorn, and ornamental corn during two of the past three years preceding September 1, 1989.

The purpose of the referendum is to allow Virginia farmers producing corn to vote to determine whether they want to increase the corn assessment from 1/4 cent to 1 cent per bushel sold. The increased assessment shall be used by the Virginia Corn Board to provide programs for additional research, education, publicity and promotion of the sale and use of corn.

The processor, dealer, shipper, exporter or any other business entity who purchases corn from the producer shall deduct the assessment from payments made to the producer for corn. The levy thereon shall be remitted to the Virginia State Tax Commissioner.

Producers must establish their eligibility to vote in this referendum by properly completing a certification form and returning the form to the Virginia Department of Agriculture and Consumer Services no later than July 31, 1989.

Eligible voters will be mailed a ballot and a return envelope. Each eligible voter must return the ballot, and the ballot must be received by the Director, Division of Marketing, Virginia Department of Agriculture and

Consumer Services on or before 5 p.m. September 1, 1989.

Producers may obtain eligibility certification forms from the following sources: County Extension Offices; Virginia Corn Growers Association, 10806 Trade Road, Richmond, Virginia 23236; Virginia Department of Agriculture and Consumer Services Office, Division of Marketing, P.O. Box 1163, Richmond, Virginia 23209.

DEPARTMENT OF HEALTH

Notice of Intent to Solicit Comments on the Proposed WIC Program State Plan of Program Operations and Administration for Federal Fiscal Year 1990

Notice is hereby given that the Special Supplemental Food Program for Women, Infants and Children (WIC) is soliciting additional comments from the general public regarding its proposed WIC State Plan for Federal FY 1990.

The WIC State Plan includes state goals and objectives for FY 1990, names and addresses of local agencies, a map identifying the areas being served, an affirmative action plan, a description of the financial management system, fair hearing procedures, state agency monitoring procedures, an outreach program description, a plan for the provision of nutrition education, a description of the methods used to certify participants, the specific nutritional risk criteria used to determine a person's eligibility, a description of the food delivery system and other sections required by federal regulations.

The State WIC Office has provided one copy of the proposed State Plan for public review at the headquarters office in each of the state's 36 health districts. The location of the office in your area may be obtained by calling your local health department or the State WIC Office at (804) 786-5420. Additional copies of the proposed State Plan are available on a limited basis upon request.

Those individuals wishing to comment in person on the proposed State Plan are invited to attend a public hearing from 1 - 5 p.m. on September 12, 1989, in the Main Floor Conference Room, James Madison Building, 109 Governor Street, Richmond, VA 23319.

Written comments will be accepted until 5 p.m. on October 13, 1989, and should be sent to:

WIC Program Director
State Department of Health
109 Governor Street - 6th Floor
Richmond, Virginia 23219

DEPARTMENT OF LABOR AND INDUSTRY

† September 11, 1989 - 7 p.m. - Open Meeting
Roanoke County Administration Building, 3738 Brambleton

Avenue, S.W., Roanoke, Virginia

† September 13, 1989 - 7 p.m. - Open Meeting
Department of Motor Vehicles, Military Circle Branch,
5745 Poplar Hall Drive, Norfolk, Virginia

† September 14, 1989 - 7 p.m. - Open Meeting
Fairfax City Council Chambers, 10455 Armstrong Street,
Room 305, Fairfax, Virginia

† September 18, 1989 - 7 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia

In accordance with this agency's public participation guidelines, comments on a proposed Standard for Boiler and Pressure Vessel Operator Certification, VR 425-01-64, will be accepted at the open meeting listed. The standard can be found in the proposed regulations section of this issue of The Virginia Register. Oral comments to be presented must be accompanied by a written copy. Written comments will be accepted at the meetings or by mail to John J. Crisanti, Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia, through October 30, 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 AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: VR 115-04-01. Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act.

Publication: 5:23 VA.R. 3470 August 14, 1989

Correction to the Final Regulation:

Page 3470, The effective date of the regulation is September 14, 1989.

Page 3470, under "Summary," "13" in line one should read "12."

Page 3470, under "Summary," "small whorled pogonia, Isotria medeoloides" in lines 10-11 should be deleted.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Title of Regulation: VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.

Publication: 5:22 VA.R. 3241-3254 July 31, 1989

Correction to the Final Regulation:

Page 3243, § 1.4. Definitions, the word "not" was mistakenly included in the definition of "Chesapeake Bay Preservation Area." The last sentence of the definition should read "A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area."

Page 3243, § 1.4. Definitions, "Redevelopment Management Area" should read "Resource Management Area"

Page 3244, § 2.1, language was omitted in the first paragraph and should read "...and restoration of all other state waters to a condition or quality that will permit all reasonable public uses..."

Page 3245, § 3.2 B 4, the reference to subsection A of § 2.2 should be subsection A of § 3.2.

Page 3248, § 4.3 B 1, the word "indigenous" was omitted and should read "...functional value of the buffer area, indigenous..."

Page 3249, § 4.3 B 2 b, the word "estimated" should be changed to "established" and should read "...shall be established elsewhere on the lot..."

General Notices/Errata

Page 3252, § 5.6, first paragraph, the word "changes" should be changed to "ordinances" and should read "...zoning ordinances, subdivision ordinances, and other local authorities..."

Page 3254, § 6.3, first paragraph, unstrike "or not" to read "...will decide whether or not to take legal..."

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Title of Regulation: VR 245-03-01. Regulations Governing Interpreter Services for the Hearing Impaired.

Publication: 5:22 VA.R. 3255-3259 July 31, 1989

Correction to the Final Regulation:

Page 3259, § 3.4 D 2 c, "75% - Level II" should read "65% - Level II."

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Title of Regulation: VR 400-02-0011. Rules and Regulations for Allocation of Low Income Housing Tax Credits.

Publication: 5:23 VA.R. 3393-3398 August 14, 1989

Correction to the Proposed Regulation:

Page 3393, "Effective Date" should be changed to read "Public Hearing Date."

* * * * *

Title of Regulation: VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.

Publication: 5:23 VA.R. 3398-3408 August 14, 1989

Correction to the Proposed Regulation:

Page 3401, § 6 A 7, language is missing and should read:

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

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

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Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

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.

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.

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

STATE AIR POLLUTION CONTROL BOARD

September 6, 1989 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Southwest Virginia Regional Office, 121 Russell Road, Abingdon, Virginia

September 6, 1989 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Valley of Virginia Regional Office, 5338 Peters Creek Road, Suite D, Roanoke, Virginia

September 6, 1989 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Central Virginia Regional Office, 7701-03 Timberlake Road, Lynchburg, Virginia

September 6, 1989 - 10 a.m. – Public Hearing
Department of Air Pollution Control, State Capitol Regional Office, 8205 Hermitage Road, Richmond, Virginia

September 6, 1989 - 10 a.m. – Public Hearing
Department of Air Pollution Control, Hampton Roads Regional Office, Old Greenbrier Village - Suite A, 2010 Old Greenbrier Road, Chesapeake, Virginia

Calendar of Events

September 6, 1989 - 10 a.m. - Public Hearing
Department of Air Pollution Control, National Capitol
Regional Office, Springfield Towers, Suite 502, 6320
Augusta Drive, Springfield, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate newly promulgated federal New Source Performance Standards and National Emissions Standard for Hazardous Air Pollutants.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until September 6, 1989, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, Division of Program Development, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249 or SCATS 786-1249

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

September 20, 1989 - 10 a.m. - Public Hearing
2901 Hermitage Road, First Floor Hearing Room,
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Alcoholic Beverage Control Board intends to amend numerous regulations which relate to (i) corporations not being required to be represented by attorneys at initial or appeal hearings with respect to matters involving legal conclusions, examination of witnesses, preparation of briefs or pleadings, (ii) statutory reference changes to the Wine Franchise Act, (iii) permitting more alcoholic beverage advertising inside retail licensee establishments through the use of printed paper and cardboard materials which are not obtained from manufacturers, bottlers or wholesalers, (iv) regulation subsection and subdivision changes, (v) the sale of ice and the cleaning and servicing of equipment, (vi) changing licensee record keeping requirements for beer and 3.2 beverages to two years, and (vii) permitting the 45% food sales ratio requirement for special mixed beverage licensees located in food courts to be determined by reference to the combined sales of all places primarily engaged in the sale of meals or light lunches in a food court.

Statutory Authority: §§ 4-7(l), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Written comments may be submitted until 10 a.m., September 20, 1989.

Contact: Robert N. Swinson, Secretary to the Board, Alcoholic Beverage Control Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616 or SCATS 367-0616

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† **September 29, 1989 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) approve minutes of July 27, 1989 meeting; (ii) review and discuss enforcement files; and (iii) review correspondence.

Board for Architects

† **September 12, 1989 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) approve minutes from June 2, 1989 meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, toll-free 1-800-552-3016 or SCATS 367-8514

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

NOTE: CHANGE IN TIME OF MEETING

October 4, 1989 - 8:30 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☒

A board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9111

VIRGINIA COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

September 8, 1989 - 10 a.m. - Open Meeting
Virginia House, Richmond, Virginia

The commission is the statewide organization charged with planning and coordinating Virginia's celebration of the Constitution and the Bill of Rights bicentennial.

Calendar of Events

The September meeting will include a resume of past activities and a discussion of future activities commemorating the birth of the Bill of Rights.

Contact: Tracy K. Warren, Associate Director, Virginia Commission on the Bicentennial of the United States Constitution, Center for Public Service, University of Virginia, 2015 Ivy Rd., Charlottesville, VA 22903-1795, telephone (804) 924-0948

VIRGINIA BOATING ADVISORY BOARD

† **September 14, 1989 - 10:30 a.m.** – Open Meeting
State Capitol, House Room 1, Capitol Square, Richmond, Virginia. ☒

Discussion of and action on issues, legislation and regulations affecting Virginia's recreational boating public.

Contact: Wayland W. Rennie, Chairman, 8411 Patterson Ave., Richmond, VA 23229, telephone (804) 740-7206

BOARD FOR BRANCH PILOTS

NOTE: CHANGE OF HEARING DATE

September 12, 1989 - 9 a.m. – Public Hearing
Virginia Port Authority, World Trade Center, Suite 600, Norfolk, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Branch Pilots intends to adopt, amend and repeal regulations entitled: **VR 535-01-01. Branch Pilot Regulations.** The purpose of the proposed amendments is to continue and revise the standards for Branch Pilot licensure, continued licensure and conduct in piloting vessels in Virginia's waters.

Statutory Authority: § 54.1-902 of the Code of Virginia.

Written comments may be submitted until September 5, 1989.

Contact: David E. Dick, Deputy Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8500, toll-free 1-800-552-3016 or SCATS 367-8500

CHESAPEAKE BAY COMMISSION

September 7, 1989 - 10:30 a.m. – Open Meeting
September 8, 1989 - 9 a.m. – Open Meeting
Norfolk Airport Hilton, 1500 North Military Highway at Northampton Boulevard, Norfolk, Virginia

A quarterly meeting. Agenda will include Chesapeake

Bay oil and gas regulations for drilling, storage and transportation; boating pump-out; and the 1991 re-evaluation of progress made under the Chesapeake Bay Agreement.

Contact: Ann Pesiri Swanson, 60 West St., Suite 200A, Annapolis, MD 21401, telephone (301) 263-3420

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

October 13, 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 Chesapeake Bay Local Assistance Board intends to adopt regulations entitled: **VR 173-01-00. Public Participation Procedures for the Formulation and Promulgation of Regulations.** These regulations establish public participation procedures for the development or revision of regulations by the Chesapeake Bay Local Assistance Board, in accordance with Administrative Process Act.

Statutory Authority: § 10.1-2103 of the Code of Virginia.

Written comments may be submitted until 5 p.m., October 13, 1989.

Contact: Scott Crafton, Regulatory Assistance Coordinator, Chesapeake Bay Local Assistance Department, 701 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or SCATS 225-3440

CHILD DAY-CARE COUNCIL

† **September 14, 1989 - 9 a.m.** – Open Meeting
Koger Executive Center, West End, Blair Building, Conference Rooms A & B, 8007 Discovery Drive, Richmond, Virginia. ☒

The Child Day-Care Council will meet to discuss issues, concerns, and programs that impact licensed child care centers.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

CONSORTIUM ON CHILD MENTAL HEALTH

† **August 30, 1989 - 9 a.m.** – Open Meeting
Eight Street Office Building, Room B3, 805 East Broad Street, Richmond, Virginia. ☒

Special business meeting open to the public.

September 6, 1989 - 9 a.m. – Open Meeting

Calendar of Events

† **October 4, 1989 - 9 a.m.** – Open Meeting
† **November 1, 1989 - 9 a.m.** – Open Meeting
† **December 6, 1989 - 9 a.m.** – Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. ☒

A regular business meeting open to the public, followed by an executive session for purposes of confidentiality; and to review applications for funding of services to individuals.

Contact: Wenda Singer, Chair, Virginia Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-2208 or SCATS 786-2208

DEPARTMENT FOR CHILDREN

Child Abuse Fatalities Study Committee

September 7, 1989 - 3 p.m. – Open Meeting
September 28, 1989 - 3 p.m. – Open Meeting
State Capitol, Capitol Square, Senate Room 4, Richmond, Virginia. ☒

A meeting of the legislative study committee reviewing criminal sanctions in child abuse fatality cases.

Contact: Gerardine Luongo, Planner, Virginia Department for Children, 805 E. Broad St., 11th Floor, Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-5399 or SCATS 786-5399

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

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

† **September 21, 1989 - 11 a.m.** – Open Meeting
Department of Commerce, Conference Room 1, 3600 West Broad Street, Richmond, Virginia. ☒

A quarterly meeting of the board to (i) consider the

final report of the subcommittee on the study of Estheticians; (ii) consider federal requirements for the regulation of real estate appraisers; and (iii) consider such other matters as may come before the board.

Contact: Alvin Whitley, Policy Analyst, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564 or toll-free 1-800-552-3016 (VA only) or SCATS 367-8519

DEPARTMENT OF COMMERCE

† **September 28, 1989 - 11 a.m.** – Public Hearing
Department of Commerce, Conference Room 1, 3600 West Broad Street, Richmond, Virginia. ☒

In response to House Joint Resolution 322, the Department of Commerce, the Department of Health, and the Department of Health Professions will conduct a public hearing on issues related to the current utilization practices of employment agencies specializing in the provision of certified and licensed temporary nursing personnel to health care facilities and the impact of such utilization practices on the cost and quality of services provided in such facilities within the Commonwealth of Virginia.

Contact: Alvin Whitley, Policy Analyst, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8519 or toll-free 1-800-552-3016 (VA only) or SCATS 367-8519

BOARD ON CONSERVATION AND DEVELOPMENT OF PUBLIC BEACHES

† **September 13, 1989 - 10:30 a.m.** – Open Meeting
Fisherman's Wharf Restaurant, Willoughby Spit, Norfolk, Virginia. ☒

A meeting to discuss proposals from localities requesting matching grant funds from the board.

Contact: Jack E. Frye, Shoreline Programs Manager, Shoreline Programs Bureau, P.O. Box 1024, Gloucester Point, VA 23062, telephone (804) 642-7121 or SCATS 842-7121

BOARD OF CORRECTIONS

August 28, 1989 - 10 a.m. – Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

Special board meeting/budget briefing.

NOTE: If this briefing is completed during the August 23, 1989, board meeting; the August 28, 1989, special meeting will not be held.

Calendar of Events

† September 20, 1989 - 10 a.m. - Open Meeting
† October 11, 1989 - 10 a.m. - Open Meeting
6900 Atmore Drive, Board of Corrections Board Room,
Richmond, Virginia. ☐

A regular monthly meeting to consider such matters
as may be presented to the Board of Corrections.

Contact: Vivian Toler, Secretary of the Board, 6900
Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

November 14, 1989 - 1 p.m. - Public Hearing
Department of Corrections, 6900 Atmore Drive, Richmond,
Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of
the Code of Virginia that the Board of Corrections
intends to adopt regulations entitled: **VR 230-01-003.
Regulations Governing the Certification Process.**
These regulations establish the procedures utilized to
conduct compliance audits.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until October 16,
1989.

Contact: John T. Britton, Certification Unit Manager,
Department of Corrections, 6900 Atmore Dr., Richmond,
VA 23225, telephone (804) 674-3237 or SCATS 674-3237

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

NOTE: CHANGE OF HEARING DATE

September 15, 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.

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

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October 4, 1989 - 9:30 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of
the Code of Virginia that the Criminal Justice Services
Board intends to amend regulations entitled: **VR
240-03-01. Rules Relating to Compulsory Minimum
Training Standards for Private Security Services
Business Personnel.** The amended regulations will
revise and update training standards and requirements
of Private Security Services Business Personnel.

Statutory Authority: § 9-182 of the Code of Virginia.

Written comments may be submitted until September 29,
1989, to L.T. Eckenrode, Department of Criminal Justice
Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Executive Assistant, Department of
Criminal Justice Services, 805 E. Broad St., Richmond, VA
23219, telephone (804) 786-4000 or SCATS 786-4000

BOARD OF DENTISTRY

September 21, 1989 - 2 p.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

An informational public hearing for the purpose of
receiving comments on current regulations and
proposals for new regulations.

September 20, 1989 - 1 p.m. - Open Meeting
September 21, 1989 - 8:30 a.m. - Open Meeting
September 22, 1989 - 1:45 p.m. - Open Meeting
September 23, 1989 - 10 a.m. - Open Meeting
Richmond-Marriott Hotel, 500 East Broad Street, Richmond,
Virginia. ☐

A business meeting, formal hearings, committee
meetings, disciplinary actions, and committee reports.

Contact: Nancy Taylor Feldman, Executive Director, 1601
Rolling Hills Dr., Richmond, VA 23229, telephone (804)
662-9906

STATE EDUCATION ASSISTANCE AUTHORITY

Board of Directors

September 26, 1989 - 2 p.m. - Open Meeting
† November 21, 1989 - 10 a.m. - Open Meeting
State Education Assistance Authority, 6 North 6th Street,
Suite 300, Richmond, Virginia

Calendar of Events

A general business meeting.

Contact: Lyn Hammond, Secretary to the Board, State Education Assistance Authority, 6 N. 6th St., Suite 300, Richmond, VA 23219, telephone (804) 786-2035, toll-free 1-800-792-5626 or SCATS 786-2035

BOARD OF EDUCATION

† **September 27, 1989 - 9 a.m. – Open Meeting**
† **September 28, 1989 - 9 a.m. – Open Meeting**
James Monroe Building, Conference Rooms D and E, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

† **October 24, 1989 - 9 a.m. – Open Meeting**
† **October 25, 1989 - 9 a.m. – Open Meeting**
Longwood College, Farmville, Virginia

The Board of Education and the Board of Vocational Education will hold regularly scheduled meetings. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: Margaret Roberts, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540

DEPARTMENT OF EDUCATION

August 31, 1989 - 7 p.m. – Public Hearing
Hermitage High School, Richmond, Virginia
Lake Taylor High School, Norfolk, Virginia
George Wythe High School, Wytheville, Virginia
Osborn High School, Manassas, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Education intends to amend regulations entitled: **VR 270-01-0012. Standards for Accrediting Public Schools in Virginia.** These regulations provide a foundation for quality education and provide guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests and aspirations of students. These proposed regulations establish minimum standards and criteria which serve as the basis for determining the accreditation status of public schools in the Commonwealth.

Statutory Authority: §§ 22.1-16 and 22.1-19 of the Code of Virginia.

Written comments may be submitted until September 1, 1989.

Contact: Dr. Robert B. Jewell, Associate Director, Accreditation and Evaluation Service, Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2105

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

September 7, 1989 - 5:30 p.m. – Open Meeting
October 5, 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

LOCAL EMERGENCY PLANNING COMMITTEE OF GLOUCESTER COUNTY

August 30, 1989 - 6:30 p.m. – Open Meeting
The Old Courthouse, Gloucester, Virginia. ☒

The committee will conduct a table top exercise addressing a Haz-Mat scenario for Gloucester County.

Contact: Georgette N. Hurley, Assistant County Administrator, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042

LOCAL EMERGENCY PLANNING COMMITTEE OF THE COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG

† **September 12, 1989 - 3 p.m. – Open Meeting**
Montgomery County Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

A meeting to consider the development of a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

Contact: Steve Via, New River Valley Planning District Commission, P.O. Box 3726, Radford, VA 24143, telephone (703) 639-9313 or SCATS 676-4012

LOCAL EMERGENCY PLANNING COMMITTEE OF WINCHESTER

† **September 6, 1989 - 3 p.m. – Open Meeting**
Old County Court House Conference Room, Winchester, Virginia. ☒

Committee to resume regular meeting schedule. Items of business include: New Membership, Contingency Plan Status, Freedom of Information Act, Up-Coming Committee Activities.

Contact: Kim Havenner, SARA Clerical Aid, Fire Department Headquarters, 126 N. Cameron St., Winchester, VA 22601, telephone (703) 665-5695

Calendar of Events

DEPARTMENT OF FORESTRY

Reforestation of Timberlands Board

† **September 6, 1989 - 10 a.m.** – Open Meeting
Department of Forestry Gariand Gray Forestry Center, Rt. 607, 3 miles south of Littleton in Sussex County, Courtland, Virginia. ☒

Semi-annual meeting of the board to review accomplishments and budget.

Contact: Phil T. Grimm, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

August 28, 1989 - 9 a.m. – Open Meeting
August 29, 1989 - 9 a.m. – Open Meeting
Koger Center - West, 1601 Rolling Hills Drive, Surry Building, Richmond, Virginia.

August 28, 1989 - Certify candidates for September examination, general board meeting, and discuss proposed regulations.

August 29, 1989 - Informal fact-finding conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907

† **October 30, 1989 - 9 a.m.** – Open Meeting
Omni Hotel, 235 West Main Street, Charlottesville, Virginia

A general board meeting to include certifying candidates for the November examination session and may discuss proposed regulations.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Holls Dr., Richmond, VA 23229-5005, telephone (804) 662-9907

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

† **September 8, 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

BOARD FOR GEOLOGY

† **September 15, 1989 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from May 2, 1989 meeting; (ii) review applications; and (iii) review correspondence.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016 or SCATS 367-8514

DEPARTMENT OF HEALTH

Perinatal Services Advisory Board

† **September 14, 1989 - 12:30 p.m.** – Open Meeting
James Madison Building, 10th Floor Conference Room, Richmond, Virginia

A meeting of the board.

Contact: Alice S. Linyear, M.D., M.P.H., Director, Division of Maternal and Child Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-7367

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.**

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

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **September 5, 1989 - 2 p.m.** – Open Meeting
† **September 6, 1989 - 9 a.m.** – Open Meeting
The Tides Inn, Irvington, Virginia

A monthly council meeting. The agenda is available on request.

Calendar of Events

Contact: Marla G. Richardson, 101 N. 14th St., 9th Floor, Richmond, VA, telephone (804) 225-2638

BOARD OF HISTORIC RESOURCES

† August 31, 1989 - 10 a.m. - Open Meeting
State Capitol, House Room 1, Richmond, Virginia. ☒

A meeting to swear in of new members of the board.
A general business meeting will follow.

Contact: Margaret T. Peters, Information Officer, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, SCATS 786-3143 or (804) 786-4276/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

† September 5, 1989 - 9 a.m. - Open Meeting
† October 3, 1989 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

A Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Amusement Device Technical Advisory Committee

† September 14, 1989 - 9 a.m. - Open Meeting
Department of Housing and Community Development, 7th Floor Conference Room, 205 North Fourth Street, Richmond, Virginia ☒

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices.

Contact: Jack A. Proctor, CPCA, Deputy Director, Division of Building Regulatory Services, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219-1747, telephone (804) 786-4752

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

† September 4, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Department of Housing and Community Development intends to adopt regulations entitled: VR 394-01-105. **Proposed Program Guidelines for the Migrant Housing Program.** The Migrant Housing Program provides loans and grants for the acquisition, new construction and rehabilitation of Migrant Housing.

STATEMENT

Purpose: The proposed program guidelines for the Migrant Housing Program provide the basic technical and administrative framework for distributing program funds throughout the Commonwealth.

Basis: To be adopted according to Statutory Authority § 36-141 et seq. of the Code of Virginia.

Impact: The program impacts growers, nonprofit organizations or units of local government which provide housing for migrant farmworkers. The program makes available 3.0% interest loan and grant moneys for the acquisition, construction and/or rehabilitation of migrant housing.

Statutory Authority: § 36-141 et seq. of the Code of Virginia

Written comments may be submitted until September 4, 1989, to Warren C. Smith, Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219.

Contact: Warren C. Smith, Associate Director, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-7891

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† September 12, 1989 - 9 a.m. - Open Meeting
Omni International Hotel, 777 Waterside Drive, Norfolk, Virginia ☒

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the Authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the rules and regulations; 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 St., Richmond, VA 23220, telephone (804)

782-1986

COUNCIL ON INDIANS

September 18, 1989 - 2 p.m. - Open Meeting
Old City Hall, 1001 East Broad Street, AT&T
Communications Conference Room, 1st Floor, Richmond,
Virginia

A regular meeting of the Council on Indians to
conduct general business and to receive reports from
the council standing committees.

Contact: Mary Zoller, Information Director, Virginia
Council on Indians, 8007 Discovery Dr., Richmond, VA
23229-8699, telephone (804) 662-9285 or SCATS 662-9285

COUNCIL ON INFORMATION MANAGEMENT

August 30, 1989 - 9 a.m. - Open Meeting
Washington Building, 1100 Bank Street, 9th Floor
Conference Room, Richmond, Virginia. ☐

A regular meeting of the council to receive a report
on Central Agencies Information Systems which will be
voted on for submission to the General Assembly.

Contact: Linda Hening, Administrative Assistant,
Washington Bldg., 1100 Bank St., Suite 1100, Richmond, VA
23219, telephone (804) 225-3622, SCATS 225-2622 or (804)
225-3624/TDD ☐

DEPARTMENT OF LABOR AND INDUSTRY

† **November 15, 1989 - 10 a.m. - Public Hearing**
General Assembly Building, House Room D, Richmond,
Virginia ☐

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Department of Labor
and Industry intends to adopt regulations entitled: **VR
425-01-84. Standard for Boiler and Pressure Vessel
Operator Certification.** The proposed regulation
provides a uniform standard to be used by the
governing bodies of counties, cities, and towns which
have adopted ordinances requiring the certification of
boiler and pressure vessel operators.

STATEMENT

Senate Bill 617 amends the Virginia Code by adding §
15.1-11.6 which provides that all local governments may
require boiler and pressure vessel operators to obtain
initial certification from a locality before engaging in the
operation and maintenance of boiler and pressure vessels
in that jurisdiction. This legislation also requests the Safety
and Health Codes Board to develop a standard to be used
in such certification.

This standard will provide for statewide uniformity in the
determination of the ability, proficiency and qualifications
of boiler and pressure vessel operators.

Applicability of this standard is limited to individuals who
offer their services directly to the general public for
compensation and does not apply to any person, who as an
employee, is engaged in the operation or maintenance of a
boiler or pressure vessel.

No substantial additional cost to employers nor any impact
on employees is expected as the standards will only apply
to self-employed independent contractors which are
estimated to be very few in number.

Statutory Authority: § 15.1-11.6 of the Code of Virginia.

Written comments may be submitted until October 30, 1989
to John J. Crisanti, Policy Analyst, Department of Labor
and Industry, P.O. Box 12064, Richmond, Virginia 23241.

Contact: John J. Crisanti, Policy Analyst, Department of
Labor and Industry, P.O. Box 12064, Richmond, VA 23241,
telephone (804) 786-2385 or SCATS 786-2385

STATE LAND EVALUATION ADVISORY COUNCIL

September 8, 1989 - 10 a.m. - Open Meeting
Department of Taxation, 2220 West Broad Street,
Richmond, Virginia. ☐

A meeting to determine a range of suggested values
for each of the several soil conservation service land
capability classifications for agricultural, horticultural,
forest and open-space uses in the various areas of the
Commonwealth.

Contact: David E. Jordan, Assistant Director, Property Tax,
P.O. Box 6-L, Richmond, VA 23282, telephone (804)
367-8020 or SCATS 367-8020

LIBRARY BOARD

September 7, 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
library.

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 or
SCATS 786-2332

Calendar of Events

COMMISSION ON LOCAL GOVERNMENT

September 18, 1989 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A regular meeting of the commission to consider such matters as may be presented.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508

VIRGINIA LONG-TERM CARE COUNCIL

September 28, 1989 - 9:30 a.m. – Open Meeting
Cabinet Conference Room, 622 Ninth Street Office Building, Richmond, Virginia. ☒

Business pertains to developing increased long-term care services for disabled or chronically ill people of all ages.

† **November 2, 1989 - 9:30 a.m. – Open Meeting**
† **November 3, 1989 - 9 a.m. – Open Meeting**
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia

Statewide conference on long-term care issues of interest to professionals in the field, providers of services and consumers.

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

† **September 27, 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

MARINE RESOURCES COMMISSION

† **September 12, 1989 - 9:30 a.m. – Open Meeting**
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia ☒

The Virginia Marine Resources Commission will meet

on the first Tuesday of each month, except September, at which time the meeting will be held on Tuesday, September 12, 1989. It hears and decides cases on fishing licensing, oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes and beaches. It hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days and is empowered to take specialized marine life harvesting and conservation measures within five days.

Contact: Sandra S. Schmidt, Secretary to the Commission, 2600 Washington Ave., Room 303, Newport News, VA 23607-0756, telephone (804) 247-2208

BOARD OF MEDICAL ASSISTANCE SERVICES

August 29, 1989 - 9 a.m. – Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia

A meeting to discuss 1990 proposed budget-addenda.

Contact: Jacqueline Fritz, 600 E. Broad St., Richmond, VA 23219, telephone (804) 786-7958

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

September 1, 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 amend regulations entitled: **VR 460-02-4.191. Disproportionate Share Adjustments for Inpatient Hospitals.** These proposed regulations intend to regulate the additional reimbursement to qualifying hospitals which serve a disproportionately higher number of Medicaid days.

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

Written comments may be submitted until 4:30 p.m., September 1, 1989, to William R. Blakely, Director, Division of Cost Settlement and Audit, 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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Calendar of Events

September 15, 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: **VR 460-03-3.1100; VR 460-05-2000.0000; VR 460-05-2000.1000. New Drug Review Program.** The proposed regulations will regulate Medicaid's coverage of new drugs as a cost savings measure.

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

Written comments may be submitted until September 15, 1989, to Stephen B. Riggs, D.D.S., Director, Division of Health Services Review, 600 E. 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

GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

August 29, 1989 – CANCELLED
Hyatt Hotel - I-64, West Broad Street, Richmond, Virginia.
☐

This meeting has been cancelled.

Contact: Jacqueline Fritz, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219, telephone (804) 786-7958

BOARD OF MEDICINE

September 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 Medicine intends to adopt and amend regulations entitled: **VR 465-02-01. Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** The purpose is to amend regulations to clarify advertising free services/examination of practitioners of the healing arts and establish fees for special purpose examinations, out-of-state candidates to sit for FLEX, and withdrawing an application for licensure.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until September 20, 1989, to Hilary H. Conner, M.D., Executive Director, Virginia Board of Medicine, Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Richmond, VA 23229-5005, telephone (804) 662-9908.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

Advisory Committee on Acupuncture

† **September 27, 1989** - 1 p.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia ☐

A meeting to (i) conduct general business, (ii) review educational programs, regulations, and other state laws; and (iii) discuss such other items which may come before this committee.

Chiropractic Examination Committee

† **September 14, 1989** - 2 p.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia ☐

A meeting for orientation in the methodology of construction and development of test items for the licensure examination for chiropractic.

Credentials Committee

† **October 7, 1989** - 8:15 a.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia ☐

A meeting to (i) conduct general business; (ii) interview, and review medical credentials of applicants applying for licensure in Virginia in open and executive session; and (iv) discuss any other items which may come before this committee

Executive Committee

† **October 6, 1989** - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia ☐

A meeting in open session to review closed cases, cases/files requiring administrative actions and consider any other items which may come before the committee.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

Informal Conference Committee

† **September 6, 1989** - 10 a.m. – Open Meeting
Radisson Hotel Lynchburg, 601 Main Street, Lynchburg, Virginia ☐

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The

Calendar of Events

committee will meet in open and closed sessions pursuant to § 2.1-344(a)(6) 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

Ad Hoc Committee on Optometry

† **October 6, 1989 - 2 p.m.** – Open Meeting
Surry Building, 2nd Floor, 1601 Rolling Hills Drive, Richmond, Virginia ☐

The committee will review and discuss the post graduate training programs and the development of an examination for certification of optometrists to treat certain diseases of the human eye with certain therapeutic pharmaceutical agents, and other items which may come before the committee.

Advisory Board on Physical Therapy

† **September 22, 1989 - 9 a.m.** – Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia ☐

The advisory board will review and discuss regulations, bylaws, procedural manuals, receive reports, and other items which may come before the advisory board.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **September 13, 1989 - 10 a.m.** – Open Meeting
Southwestern Virginia Mental Health Institute, Auditorium, Marion, Virginia ☐

A regular monthly meeting. The agenda will be published on September 6, 1989 and may be obtained by calling Jane Helfrich.

Contact: Jane Helfrich, Administrative Staff, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921 or SCATS 786-3921

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **September 27, 1989 - 10 a.m.** – Open Meeting
James Madison Building, Main Floor Conference Room, 109 Governor Street, Richmond, Virginia ☐

A meeting to hear public comments on the proposed

revision of the Rules and Regulations to Assure the Rights of Residents published August 14, 1989 in the Virginia Register.

Contact: Elsie D. Little, State Human Rights Director, Office of Human Rights, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988 or SCATS 786-3988

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October 13, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health, Mental Retardation and Substance Abuse Services intends to adopt new regulations and repeal existing regulations entitled: **VR 470-03-02. Regulations to Ensure the Rights of Residents.** The purpose is to delineate the rights of residents in state operated facilities by the Department of Mental Health, Mental Retardation and Substance Abuse Services. These regulations apply to all facilities operated by the DMHMRSAS.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Written comments may be submitted until October 13, 1989.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988 or SCATS 786-3988

Virginia Interagency Coordinating Council

September 20, 1989 - 9 a.m. – Open Meeting
Richmond Airport Hilton, Richmond, Virginia. ☐
(Interpreter for deaf provided if requested)

A meeting of Virginia's Early Intervention Coordinating Council for Part H, P.L. 99-457 (VICC). The council is an advisory body assisting the Department of Mental Health, Mental Retardation and Substance Abuse Services, the lead agency, in the development and implementation of a statewide interagency multidisciplinary system of early intervention services for infants and toddlers with disabilities, ages birth through two.

Contact: Michael Fehl, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710

MIGRANT AND SEASONAL FARMWORKERS BOARD

September 5, 1989 - 1 p.m. - Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☐

This will be a regular meeting of the board.

Contact: Marilyn Mandel, Director, Office of Planning and Policy Analysis, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2385 or SCATS 786-2385

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† **October 7, 1989 - 8 a.m.** - Open Meeting
Virginia Military Institute, Smith Hall Board Room, Smith Hall, Lexington, Virginia ☐

A regular Fall meeting of the VMI Board of Visitors Committee reports.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

† **September 11, 1989 - 2 p.m.** - Open Meeting
Division's AML Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia ☐

An open meeting will be held to give interested persons an opportunity to comment on a proposed amendment to the FY89 Abandoned Mined Land Construction Grant. This proposed amendment would add the Woodard Landslide Project to this grant and will be submitted to the Federal Office of Surface Mining. This project is located near St. Charles in Lee County, Virginia.

Contact: Roger L. Williams, Abandoned Mine Land Manager, P.O. Drawer U, 622 Powell Ave., Big Stone Gap, VA 24219, telephone (703) 523-2925

DEPARTMENT OF MOTOR VEHICLES

September 11, 1989 - 10:30 a.m. - Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Cafeteria, Richmond, Virginia

September 12, 1989 - 1 p.m. - Public Hearing
Ramada Renaissance, Herndon, Virginia. ☐

September 14, 1989 - 10:30 a.m. - Public Hearing
Sheraton Inn, Military Circle, Norfolk, Virginia

September 15, 1989 - 10:30 a.m. - Public Hearing
Holiday Inn, Route 58 & I-85, South Hill, Virginia. ☐

September 19, 1989 - 10:30 a.m. - Public Hearing
Virginia Highlands Community College Auditorium, Bristol, Virginia. ☐

September 20, 1989 - 10:30 a.m. - Public Hearing
Roanoke Airport Marriott, Roanoke, Virginia. ☐

September 21, 1989 - 10:30 a.m. - Public Hearing
Red Carpet Inn, Waynesboro, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to adopt regulations entitled: **VR 485-50-8901. Virginia Commercial Driver's License Regulations.** These regulations establish certain standards and requirements for licensing drivers of commercial motor vehicles in Virginia. These requirements and standards relate to (i) the licensing of new residents and nonresidents, (ii) the satisfaction of vision requirements, and (iii) the administration of skills tests by persons other than DMV employees. The Virginia Commercial Driver's License Act (House Bill 1675, enacted by the 1989 General Assembly); the federal Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-750), and §§ 46.1-26 and 46.1-370.2 of the Code of Virginia.

Statutory Authority: §§ 46.1-26 and 46.1-370.2 of the Code of Virginia.

Written comments may be submitted until September 1, 1989.

Contact: Dan W. Byers, DSA Assistant Administrator or Rudy C. McCollum, CDL Program Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-1836 (Dan Byers) or 367-6633 (Rudy McCollum)

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September 26, 1989 - 10 a.m. - Public Hearing
Holiday Inn Airport, 6626 Thirlane Road, Roanoke, Virginia. ☐ (Interpreter for deaf provided if requested)

September 27, 1989 - 1 p.m. - Public Hearing
Best Western Springfield Inn, 6550 Loisdale Court, Springfield, Virginia. ☐ (Interpreter for deaf provided if requested)

October 2, 1989 - 10 a.m. - Public Hearing
Omni, 100 Batten Bay Boulevard, Newport News, Virginia. ☐ (Interpreter for deaf provided if requested)

October 3, 1989 - 1 p.m. - Public Hearing

Calendar of Events

Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Department of Motor Vehicles, in conjunction with the Commission on Virginia Alcohol Safety Action program and the Transportation Safety Board, will conduct a public hearing for the purpose of discussing issues regarding SJR 172, administrative revocation of the driver's licenses of persons who operate motor vehicles while under the influence of alcohol or drugs, or both, or who refuse to submit to chemical testing after having been arrested for driving under the influence.

Contact: Vince M. Burgess, Administrator, Traffic Safety Administrator, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-8150 or SCATS 367-8150

BOARD OF NURSING

October 14, 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 Nursing intends to adopt and amend regulations entitled: **VR 495-01-1. Board of Nursing Regulations.** The purpose of the proposed action is to establish a registry for clinical nurse specialists, minimum standards for education of clinical nurse specialists and requirements for the practice of clinical nurse specialists.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Written comments may be submitted until October 14, 1989.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or SCATS 662-9909

BOARD OF NURSING HOME ADMINISTRATORS

September 6, 1989 - 8 a.m. – Open Meeting
September 7, 1989 - 8 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

National and State Examinations will be given to applicants for licensure for nursing home administrators.

Board committee meetings.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804)

662-9111

COMMISSION ON PRISON AND JAIL OVERCROWDING

September 20, 1989 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

Full commission meeting. Committees final reports will be given to members.

Contact: Lin Corbin-Howerton, Staff Director, Ninth Street Office Bldg., 3rd Floor, Richmond, VA 23219, telephone (804) 786-1657

VIRGINIA RACING COMMISSION

September 1, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-01-01. Virginia Racing Commission Public Participation Guidelines for Adoption or Amendment of Regulations.** The guidelines will establish permanent procedures to solicit and obtain comments from interested individuals and organizations as the commission drafts and promulgates regulations governing horse-racing and parimutuel wagering.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until September 1, 1989, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

Contact: Elizabeth Kaplan, Senior Analyst, Department of Planning and Budget, P.O. Box 1422, Richmond, VA 23211, telephone (804) 786-7478 or SCATS 786-7478

REAL ESTATE BOARD

† **September 13, 1989 - 10 a.m.** – Open Meeting
Council Chambers, Town Hall Building, 16 North Royal Avenue, Front Royal, Virginia

The Real Estate Board will meet to conduct a formal hearing on File No. 87-00781 The Real Estate Board v. Gary K. Olsen.

October 3, 1989 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

The board will meet to conduct a formal hearing:

The Real Estate Board v. Clyde Wayne London.

Calendar of Events

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

BOARD FOR RIGHTS OF THE DISABLED

† **September 20, 1989 - 4 p.m.** – Open Meeting
General Assembly Building, Senate Room A, Capitol Square, Richmond, Virginia ☒ (Interpreter for deaf provided upon request)

† **September 22, 1989 - 4 p.m.** – Open Meeting
Wytheville Community College, Wytheville, Virginia ☒ (Interpreter for deaf provided upon request)

- Description of "Eligibility for, Extent, Scope, and Effectiveness" of services provided to persons with developmental disabilities by relevant federally-assisted and state-funded programs.
- Findings from a "Consumer Satisfaction Survey," which minimally must include a representative sample of clients of relevant federally-assisted programs.
- Recommendations for how the state will serve unserved/underserved developmentally disabled constituencies, including designation of responsible agency/agencies.
- Plans for how the "State Planning Council" will incorporate the 1990 report findings into its ongoing systems advocacy role to promote public policy and model service demonstrations to benefit persons with developmental disabilities.

Contact: Sarah A. Liddle, Board Administrator, 101 N. 14th St., James Monroe Bldg., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042, toll-free 1-800-552-3962/TDD or SCATS 225-2042

BOARD OF SOCIAL SERVICES

September 20, 1989 - 2 p.m. – Open Meeting
September 21, 1989 - 9 a.m. – Open Meeting (If necessary)
Mountain Lake Lodge, Route 700, Mountain Lake, Virginia. ☒

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9236 or SCATS 662-9236

DEPARTMENT OF SOCIAL SERVICES

September 18, 1989 - 10 a.m. – Public Hearing
Department of Social Services, 8007 Discovery Drive, Conference Rooms A and B, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-43-3. Nonagency Placements for Adoption-Consent.** The regulations will enable local departments of social services and licensed child placing agencies to implement new legislation governing parental placements for adoption.

Statutory Authority: § 63.1-220.3 of the Code of Virginia.

Written comments may be submitted until October 13, 1989.

Contact: Margaret J. Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217 or SCATS 662-9217

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September 18, 1989 - 10 a.m. – Public Hearing
Department of Social Services, 8007 Discovery Drive, Blair Building, Conference Rooms A and B, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-43-10. Nonagency Placements for Adoption-Adoptive Home Study.** The regulations provide guidelines to child-placing agencies in conducting an adoptive home study when children are placed for adoption by their birth parents or legal guardian.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until October 13, 1989.

Contact: Margaret J. Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217 or SCATS 662-9217

BOARD OF SOCIAL WORK

September 8, 1989 - 10 a.m. – Open Meeting
September 9, 1989 - 10 a.m. – Open Meeting
September 10, 1989 - 10 a.m. – Open Meeting
Virginia Beach Resort and Convention Center, 2800 Shore Drive, Virginia Beach, Virginia

General board business; review and planning for the board for the next biennium; long-range goals of the board.

Contact: Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229, telephone (804) 662-9914

Calendar of Events

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† September 21, 1989 - 9 a.m. - Open Meeting
203 Governor Street, Suite 200, Richmond, Virginia

A regular bi-monthly business meeting.

Contact: Donald L. Wells, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-4356

DEPARTMENT OF TAXATION

† October 27, 1989 - 10 a.m. - Public Hearing
General Assembly Building, 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 Taxation intends to adopt regulations entitled: **VR 630-3-400.1. Corporation Income Tax: Telecommunications Companies.**

STATEMENT

Basis: This regulation is issued under the authority granted by § 58.1-203 of the Code of Virginia.

Purpose: This regulation is being adopted to implement the change in the taxation of telecommunications companies enacted by the 1988 General Assembly [1988 Acts, Chapter 899 (S.B. 312)].

Issues: Prior to taxable year 1989, telecommunications companies were subject to the state license tax administered by the State Corporation Commission. For taxable years 1989 and thereafter, these companies will be subject to the greater of the corporate income tax or a minimum tax based on gross receipts administered by the Department of Taxation. Prior to this regulation there was no guidance on the computation of the taxes, filing requirements, payment of estimated taxes or administrative appeal procedures.

Substance: This regulation is the initial Virginia corporation income tax regulation providing guidance to telecommunications companies on the tax implications of the change from a state license tax on gross receipts to the corporation income tax.

The regulation sets forth the requirements necessary for telecommunications companies to make the transition from the state license tax on gross receipts to the corporation income tax, including the phase in period from 1989 - 1998. During this phase in period, telecommunications companies which pay the corporate income tax may be allowed a credit against the tax. If a company is subject to the minimum tax, it will not be eligible for a credit.

Statutory Authority: § 58.1-203 of the Code of Virginia

Written comments may be submitted until October 27, 1989.

Contact: Janie E. Bowen, Director, Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010 or SCATS 367-8010

TEEN PREGNANCY PREVENTION TASK FORCE

† October 6, 1989 - 10 a.m. - Open Meeting
Monroe Building, Room 4, Mezzanine Level, 101 North 14th Street, Richmond, Virginia ☐

A regular meeting open to the public.

Contact: Martha J. Frickert, Human Resources Developer, Virginia Department for Children, 805 E. Broad St., 11th Floor, Richmond, VA 23219, telephone (804) 786-5994 or SCATS 786-5994

COMMONWEALTH TRANSPORTATION BOARD

† September 20, 1989 - 10 a.m. - Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia ☐ (Interpreter for deaf provided if requested)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

† September 21, 1989 - 10 a.m. - Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia ☐ (Interpreter for deaf provided if requested)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, VA, telephone (804) 786-9950

BOARD FOR THE VISUALLY HANDICAPPED

† October 14, 1989 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia ☐ (Interpreter for deaf provided upon request)

The board meets quarterly to review policy and procedures of the Virginia Department for the Visually Handicapped. The board also reviews and approves the department's budget.

Contact: Diane E. Allen, Administrative Assistant, 397 Azalea Ave., Richmond, VA 23227, telephone (804)

371-3145, toll-free 1-800-622-2155, SCATS 371-3145 or 371-3140/TDD ☎

Interpreter services are available upon request. Please call 1-800-622-2155/TDD ☎

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR THE)

† September 28, 1989 - 7 p.m. - Public Hearing
The Virginia Department for the Visually Handicapped is holding public hearings to receive public comment on the following proposed regulations governing the major programs administered by the department. The public hearing will be broadcast from the Department of Information Technology to the following satellite sites:

Alexandria Regional Office
Northern Virginia Community College
8333 Little River Turnpike
Annandale, Virginia ☎

Northern Virginia 4-H Educational Center
Front Royal, Virginia ☎

Shenandoah College and Conservatory
Winchester, Virginia ☎

Bristol Regional Office
Virginia Highlands Community College
Abingdon, Virginia ☎

Southwest Virginia Community College
Richlands, Virginia ☎

Norfolk Regional Office
(waiting for one more site)

Eastern Shore Agricultural Experimental Station
Virginia Cooperative Extension Service
Painter, Virginia ☎

Richmond Regional Office
Department of Information Technology
4th Floor Auditorium
110 South 7th Street
Richmond, Virginia ☎

Southside Virginia Community College
Keysville, Virginia ☎

Roanoke Valley Graduate Center
117 West Church Avenue
Roanoke, Virginia ☎

Waynesboro Regional Office
Blue Ridge Community College
Weyers Cave, Virginia ☎

Staunton Virginia Cooperative Extension Service
6 East Johnson Street, County Office Building
Room 357
Staunton, Virginia ☎

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for the Visually Handicapped intends to adopt regulations entitled: **VR 670-02-1. Regulations to Govern the Operation of Vending Facilities Established in Public Buildings and Other Property.** These regulations set forth the department's policies under which the Business Enterprises for the Blind is operated.

STATEMENT

Basis: Section 63.1-78 gives authority to the Board for the Visually Handicapped to make such rules and regulations as may be necessary to carry out the purpose of the title and to provide for proper supervision and administration of this title.

Purpose: The purpose of this regulation is to state the department's policies by which the Business Enterprise Program for the Blind is operated.

Substance: This regulation identifies the criteria for the issuance of licenses and termination of licenses. It provides for the operation of the program through an agreement with the department and blind vendor, training of operators, and the use of a standards of operation in vending facilities. The regulation describes and sets forth income and distribution of funds acquired. The regulation also provides a description of a licensed vendor's rights and method of seeking relief through appeals of administrative review and evidentiary hearing.

Issues: The regulation specifies who is eligible to be a licensed vendor and the requirements of qualification. The regulation states who is responsible for the ownership and maintenance of equipment as well as the maintenance of permits and contracts. The regulation sets forth the manner by which Vendor's Council is comprised and the method of election. The function of council is also stipulated in this regulation. The regulation describes in full the method of setting aside funds from net proceeds of each vendor to support the program as well as the method for arriving at the funds for assessment and the requirement that the council has active participation rights and review capacity for funds expenditure on a quarterly basis. The regulation sets forth the method by which licensed vendors may pursue grievances and appeals.

Estimated Impact: The impact of this regulation will affect approximately 78 licensed vendors in the Randolph-Sheppard Vending Program in Virginia. The nominee of the Program will be affected by the requirement of submission of an annual budget to both the Board for the Visually Handicapped and the Vending Facility Vendor's Council with the follow-up responsibility of quarterly reporting.

Fiscal impact upon the agency, nominee, and licensed

Calendar of Events

vendors of the Business Enterprise Program is expected to be negligible as a result of this regulation.

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for the Visually Handicapped intends to amend the regulation entitled: **VR 670-03-1. Regulations Governing Provision of Services in Vocational Rehabilitation.**

STATEMENT

Basis: This regulation is issued under the authority of the Code of Virginia § 63.1-78.

Purpose: The purpose of this regulation is to make necessary changes for clarity and also of substance to this program's existing regulations.

Issues: The proposed changes are necessitated by concerns raised by the Office of the Attorney General, internal management decisions, or routine reviews to ensure compliance with federal regulations.

Substance: The substantive changes in the Vocational Rehabilitation regulations are as follows:

- A. Inclusion of rehabilitation engineering services in Part III, § 3.3 C 38, to conform with federal regulations.
- B. Inclusion of supported employment services in Part III, § 3.4, to conform with federal regulations.
- C. Inclusion of a statement that the agency will conduct a public hearing prior to implementation of the order of selection in Part III, § 3.1 B to conform with federal regulations.
- D. Exclusion of the formula for determining when to implement an order of selection in Part III, § 3.1 B as a result of an internal management decision.

All other changes and revisions in these regulations are for the purposes of consistency in definitions, clarity in writing, and grammatical correctness.

Estimated Impact: Changes A and B above will provide the regulatory base and also ensure uniformity in provision of these two Vocational Rehabilitation Services. Change C above will ensure an opportunity for public comment before implementing an order of selection. Change D above deletes an obsolete expenditure formula for determining when to implement an order of selection. None of the above changes will have major impact within the Vocational Rehabilitation existing regulations.

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for the Visually Handicapped intends to amend regulations entitled: **VR 670-03-2. Regulations Governing Provision of Services for the Infants, Children and Youth Program.**

STATEMENT

Basis: Section 63.1-78 gives authority to the Board for the Visually Handicapped to make such rules and regulations as may be necessary to carry out the purpose of the title and to provide for proper supervision and administration of this title.

Purpose: The purpose of the regulation is twofold: (i) to conform with language changes prepared by the Office of Attorney General; and (ii) to add the department's "Protection, Use, and Release of Personal Information" policy and procedures to this regulation.

Issues: The regulation specifies who is eligible to receive a free eye examination and glasses. It also delineates the process and assurance of confidentiality of personally identifiable client information.

Substance:

- A. The term "Article" was deleted in three cases in order to conform to the prescribed regulation format. In Part I, Article 1, Definitions and Article 2, Legal Basis were deleted. In Part III, Article 2, Client Property Determination was deleted.
- B. Section 3.2. Since the agency no longer receives federal Title XX funds, the phrase "whose family's income is less than 70% of the federally estimated median income for Virginia as determined by the U.S. Department of Health and Human Services, Family Support Administration" was substituted for "who meet the Title XX financial eligibility requirements," since that is how the Title XX income eligibility was established.
- C. In § 3.3, the phrase "Subject to the limitations specified in § 3.7" was added in order to clarify this section.
- D. In § 4.1, number 4, the term "a reasonable time not to exceed" was deleted because it was not necessary for the intent of that section.
- E. In § 4.1, number 5 f was deleted since this was a requirement which spoke to vocational rehabilitation clients, and is covered by the vocational rehabilitation regulations.
- F. In § 4.1, number 5, the phrases "(See step f)" and "do the following, provided, however, that none of these may be exercised in an arbitrary or capricious manner" were eliminated because they are unnecessary to these regulations.
- G. Part V, Protection, Use and Release of Personal Information was added to the regulations in order to delineate the agency's confidentiality policy.

Estimated Impact: There is no change in the fiscal impact upon either the clients or the agency.

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for the Visually Handicapped intends to amend regulations entitled: **VR 670-03-3. Provision of Services in Rehabilitation**

Teaching.

STATEMENT

Basis: This set of regulations is issued under the authority granted by the Code of Virginia §§ 63.1-78 and 63.1-79. These sections authorize the Board for the Visually Handicapped to promulgate regulations and establish standards for these services.

Purpose: This set of regulations provides the basis for the provision of Rehabilitation Teaching Services. They define the terms applicable to the program; set forth the basis for eligibility and scope of services for persons receiving Rehabilitation Teaching Services. Additionally, minor revisions have been made to provide conformity of definitions and clarity in accordance with state and federal statutes.

Issues: The regulations have been changed to clarify the process for certification of eligibility for services and to clarify the role and function of rehabilitation teaching in the provision of Low Vision Services.

Substance: The changes were for clarification purposes as recommended by the Attorney General's Office.

Estimated impact: This set of regulations embodies current practices and procedures within the program. The changes will not impact negatively for any clients nor is there any fiscal impact associated with this proposal.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Visually Handicapped intends to amend regulations entitled: VR 670-03-4. Provision of Independent Living Rehabilitation Services.

STATEMENT

Basis: This set of regulations is issued under the authority granted by the Code of Virginia §§ 63.1-78 and 63.1-79. These sections authorize the Board for the Visually Handicapped to promulgate regulations and establish standards for these services.

Purpose: These regulations state the basis for the provision of Independent Living Rehabilitation Services to those eligible to receive them. The state regulations reflect the requirements set forth by the federal regulations. Policies and procedures are developed from the state regulations to implement the statewide Independent Living Program to serve the blind and visually impaired individuals who also have an additional disability that substantially reduces functional independence.

The revisions contained in this proposal are to provide conformity of definitions and clarity in accordance with appropriate state and federal regulations.

Issues: The regulations have been changed to clarify the following:

- a. Definition of "comparable services and benefits"
- b. Provide clarification of financial eligibility guidelines

Substance: The changes were made for clarification purposes as recommended by the Attorney General's Office.

Estimated impact: This set of regulations embodies current practices and procedures within the program. The changes will not impact negatively for clients, nor is there any fiscal impact associated with this proposal.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for the Visually Handicapped intends to amend regulations entitled: VR 670-03-5. Supervision of Administrative Regulations Governing Intake and Social Services.

STATEMENT

Basis: Section 63.1-78 gives authority to the Board for the Visually Handicapped to make such rules and regulations as may be necessary to carry out the purpose of the title and to provide for proper supervision and administration of this title.

Purpose: To set forth the criteria for establishing administrative procedures governing intake and social services to the blind and visually impaired.

Issues: There are no substantive changes. The changes are for clarity and conformity only as recommended by the Office of the Attorney General.

Substance: Changes are for clarity and conformity only.

Estimated impact: There is no impact as a result of these changes.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for the Visually Handicapped intends to amend regulations entitled: VR 670-03-6. Regulations Governing Deaf-Blind Services.

STATEMENT

Basis: Section 63.1-78 gives authority to the Board for the Visually Handicapped to make such rules and regulations as may be necessary to carry out the purpose of the title and to provide for proper supervision and administration of this title.

Purpose: The purpose of these revisions is to provide clarity and conformity of definitions in accordance with

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state and federal regulations.

Issues: In response to concerns raised by the Office of the Attorney General, changes were made to provide clarity and conformity of definitions.

Substance: Changes were made in order to provide clarity and conformity of definitions.

Estimated impact: There is no monetary impact to affected entities. These changes are only to provide clarity and conformity of definitions.

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for the Visually Handicapped intends to amend regulations entitled: **VR 670-03-7. Regulations Governing Low Vision Services.**

STATEMENT

Basis: This regulation is issued under the authority of the Code of Virginia § 63.1-78.

Purpose: The purpose of this regulation is to provide clarification as to the procedures, instructions, and guidelines pertaining to low vision services.

Issues: The issues pertinent to changes in this regulation were to make financial eligibility criteria uniform and to expand services to special populations. The change in the issue of driving and bioptics was made by the Attorney General's office. It was considered an inappropriate issue with the section on bioptics.

Substance: There were three changes made to these regulations. Financial eligibility was changed from the Medicare level to 80% of the median income level for a family of four, nonfinancially eligible clients will be charged for exams if not prohibited by a federal regulation and the word "driving" was dropped from the section on bioptics.

Estimated impact: The changes in this regulation will provide uniformity in service delivery statewide.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Written comments may be submitted until October 16, 1989.

Contact: Judy P. Divers, Director of Legislation and Media Services, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155

Advisory Committee on Services

October 14, 1989 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue,
Richmond, Virginia. ☒ (Interpreter for deaf provided if

requested)

Committee meets quarterly to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3055, toll-free 1-800-622-2155, SCATS 371-3055 or 371-3140/TDD ☎

VIRGINIA WASTE MANAGEMENT BOARD

September 21, 1989 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☒

A public hearing and work session on proposed infectious waste management regulations.

Contact: Cheryl Cashman, Legislative Liaison, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667, toll-free 1-800-552-2075 or SCATS 225-2667

DEPARTMENT OF WASTE MANAGEMENT

August 31, 1989 - 7:30 p.m. - Public Hearing
Charles City County Neighborhood Center, Courthouse Complex, Charles City, Virginia.

A public hearing on the draft permit for the proposed Charles City County landfill will be held pursuant to § 7.2 E 2, VR 672-20-10. The draft permit will be available for public review and comment by August 17, 1989, subject to the results of the full review pursuant to § 7.2 D 3, VR 672-20-10. A public announcement will be made in the Richmond Times-Dispatch at least two weeks prior to the scheduled date should cancellation become necessary.

Contact: Persons wishing to speak contact: A. C. McNeer, Hearing Officer, Department of Waste Management, Division of Administration, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667; for additional information contact: E. D. Gillispie, Department of Waste Management, Division of Technical Services, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667

† **September 6, 1989 - 7 p.m. - Open Meeting**
Virginia Polytechnic Institute and State University, Rear Auditorium, Blacksburg, Virginia

The meeting is being held to discuss Virginia's plan to comply with § 104(k) of the Superfund Amendment and Reauthorization Act, which requires states to develop a plan to meet capacity needs for hazardous

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waste generation for the next 20 years.

Contact: Madeline M. Grulich, Director, Pollution Prevention Program, 101 N. 14th St., 11th Floor, Monroe Bldg., Richmond, VA 23219, telephone (804) 225-2667 or toll-free 1-800-552-2075 or SCATS 225-2667

† **September 18, 1989 - 7 p.m. - Open Meeting**
Richmond City Council Chambers, 900 East Broad Street, Richmond, Virginia

† **September 18, 1989 - 7 p.m. - Open Meeting**
Hampton Public Library, 4207 Victoria Boulevard, Hampton, Virginia

† **September 19, 1989 - 7 p.m. - Open Meeting**
Manassas City Hall, 9027 Center Street, Manassas, Virginia

† **September 19, 1989 - 7 p.m. - Open Meeting**
South Boston City Council Chambers, Yancy Street (behind library), South Boston, Virginia

† **September 19, 1989 - 7 p.m. - Open Meeting**
Virginia Highlands Community College, Highway 372 off of Highway 140, Abingdon, Virginia

† **September 20, 1989 - 7 p.m. - Open Meeting**
Roanoke City Council Chambers, 215 Church Avenue S.W., Roanoke, Virginia

† **September 20, 1989 - 7 p.m. - Open Meeting**
Charlottesville City Hall Chambers, 7th and Market Streets, Charlottesville, Virginia

Informational meetings on the preliminary draft of the regulations governing the preparation of local solid waste management plans and recycling goals as mandated by the 1989 General Assembly.

Contact: Cheryl Cashman, Legislative Liaison, 11th Floor, Monroe Building, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2667 or toll-free 1-800-552-2075

† **October 2, 1989 - 10 a.m. - Public Hearing**
James Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia

A public hearing will be held for Amendment 10 to the Virginia Hazardous Waste Management Regulations (VR 672-10-1) to discuss the proposed changes in U.S. Environmental Protection regulations for solid and hazardous waste management.

Persons wishing to speak should contact: Vladimir Gulevich, Ph.D., Director, Division of Technical Services, Department of Waste Management, 101 N. 14th St., 11th Floor Monroe Bldg., Richmond, VA 23219, telephone (804) 225-2667.

Additional information may be obtained from: Stuart T. Ashton IV, Staff Specialist, Department of Waste

Management, 101 N. 14th St., 11th Floor Monroe Bldg., Richmond, VA 23219, telephone (804) 225-2667

STATE WATER CONTROL BOARD

August 29, 1989 - 2 p.m. - Public Hearing
Williamsburg/James City Courthouse Council Chambers, 321-45 Court Street, West, Williamsburg, Virginia

August 31, 1989 - 7 p.m. - Public Hearing
Prince William County, McCourt Building, Board Room, 1 County Complex, 4850 Davis Ford Road, Prince William, 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. Surface Water Standards with General, Statewide Application; and VR 680-21-03. Water Quality Criteria for Surface Water.** The board proposes to repeal existing regulations. The purpose of this proposed action is to adopt standards for toxics for protection of aquatic life to comply with federal regulations which state that water quality standards must be adopted for section 307(a) toxic pollutants. The associated narrative and amendments to existing sections are necessary to clarify the language, specify the implementation of the standards and provide a mechanism whereby permittees could request alternate permit limitations due to site specific factors, technology/economic limitations, or cases where natural background levels exceed established standards.

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

Written comments may be submitted until 4 p.m., September 18, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Eleanore Moll, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418 or SCATS 367-6418

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August 29, 1989 - 7 p.m. - Public Hearing
Williamsburg/James City Courthouse Council Chambers, 321-45 Court Street, West, Williamsburg, 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 680-13-04. Eastern Virginia Groundwater Management Area.** The proposed amendments would expand the existing Groundwater Management Area in Southeastern Virginia to include the counties of

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Charles City, James City, King William, New Kent, and York; the areas of Chesterfield, Hanover, and Henrico counties east of Interstate 95; and the cities of Hampton, Newport News, Poquoson, and Williamsburg.

Statutory Authority: § 62.1-44.96 of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 15, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Fred C. Cunningham, Officer of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0411 or SCATS 367-0411

† **September 8, 1989 - 10 a.m.** – Open Meeting
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia ☒

† **September 11, 1989 - 7 p.m.** – Open Meeting
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia ☒

† **September 11, 1989 - 1:30 p.m.** – Open Meeting
Board of Supervisors Room, Warren Green Building, 10 Hotel Street, Warrenton, Virginia ☒

† **September 12, 1989 - 7 p.m.** – Open Meeting
Municipal Office Building Multi-Purpose Room, 150 East Monroe Street, Wytheville, Virginia ☒

† **September 12, 1989 - 1:30 p.m.** – Open Meeting
Roanoke City Council's Chamber, 215 Church Street S.W., Roanoke, Virginia ☒

† **September 14, 1989 - 10 a.m.** – Open Meeting
City Council's Chambers, 207 West Second Street, Franklin, Virginia ☒

The purpose of these meetings is to receive comments regarding SJR 161 which requests the State Water Control Board, in cooperation with the Department of Health, to study the problems associated with small package treatment systems and other alternatives for onsite sewage disposal.

† **September 20, 1989 - 7 p.m.** – Public Hearing
Brookneal Elementary School Auditorium, 133 Charlotte Street, Brookneal, Virginia ☒

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance of 401 Certification 89-0230 for Multitrade, Incorporated, to withdraw 2.0 mgd from the Roanoke River with a return flow of 0.336 mgd, the issuance or denial of the certificate, and the effect the withdrawal will have on water quality or beneficial uses of state waters.

Contact: Lori A. Freeman, Hearings Reporter, State Water Control Board, Office of Policy Analysis, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815

† **September 25, 1989 - 9 a.m.** – Open Meeting
† **September 26, 1989 - 9 a.m.** – Open Meeting
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia ☒

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, Office of Policy Analysis, P.O. Box 11143, 2111 N. Hamilton St., Richmond, VA 23230, telephone (804) 367-6829

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† **October 17, 1989 - 2 p.m.** – Public Hearing
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-14-03. Toxics Management Regulation.** The proposed amendments would allow permittees an opportunity to conduct instream evaluations of the impact of the effluent on the receiving waters prior to entering into toxicity reduction evaluations and remove references to water quality criteria.

STATEMENT

Subject: The subject of the Toxics Management Regulation is the control and management of toxic pollutants discharged to surface waters. The subject of the proposed amendments to this regulation are to remove references to water quality criteria and to provide for the conduct of instream impact studies following a determination that an effluent is actually or potentially toxic, but prior to initiating a toxicity reduction evaluation.

Substance: These proposed amendments will affect all permittees who would be required to conduct toxicity reduction evaluations, based on the results of effluent testing mandated under the board's regulation VR 680-14-03. The effect of these amendments will be to potentially reduce the cost of toxics management for permittees by allowing them the option to demonstrate that, in spite of the results of effluent tests, they are not having an impact on reasonable and beneficial uses of state waters and therefore, should not be required to conduct toxicity reduction evaluations. The number of facilities affected is unknown, because the application of the toxicity reduction provision of the Toxics Management Regulation is dependent on data not yet generated in many cases. Estimates range from 30 to 150 permittees, with many permittees having more than one outfall.

These amendments would also recognize actions taken in a separate rulemaking on VR 680-21-00 in which water quality criteria are being deleted and the compounds previously included as criteria are being adopted as water quality standards. With this change there is no longer a need to refer to water quality criteria in the Toxics Management Regulations.

Issues: The primary issue in this action is whether or not a VPDES permit holder should be required to submit a toxicity reduction evaluation plan prior to exercising his option to conduct an instream impact study.

The second issue with these proposed amendments is the deletion of references to water quality criteria, which are being replaced in VR 680-21-00 by water quality standards.

Basis: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(2) authorizes the board to study and investigate all problems concerned with quality of state waters and to make reports and recommendations. Further, § 62.1-44.15(14) authorizes the State Water Control Board to establish requirements for the treatment of sewage, industrial wastes and other wastes that are consistent with the purposes of the State Water Control Law. Section 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of a discharge on the quality of state waters. Statutory authority for the adoption of regulations can be found in § 62.1-44.15(10).

Purpose: The proposed amendments will allow for the conduct of instream impact studies prior to initiation of toxicity reduction evaluations and bring the Toxics Management Regulation in line with the Water Quality Standards Regulation by removing references to water quality criteria.

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

Written comments may be submitted until October 31, 1989.

Contact: Doneva Dalton, Hearing Reporter, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0384 or SCATS 367-0384

VIRGINIA COUNCIL ON THE STATUS OF WOMEN

September 11, 1989 – CANCELLED

September 12, 1989 CANCELLED

The Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

These meetings have been cancelled.

† **September 14, 1989 - 7:30 p.m. – Open Meeting**

Springfield Inn-Best Western, 6550 Loisdale Road (I-95 Exit 57), Springfield, Virginia

A regular meeting of the council to conduct general business and to receive reports from the Council Standing Committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9200 or SCATS 662-9200

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING THE FEASIBILITY OF CREATING AN ADMINISTRATIVE LAW JUDGE PANEL AND THE ESTABLISHMENT OF UNIFORM RULES OR PROCEDURE FOR ADMINISTRATIVE HEARINGS

August 28, 1989 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia ☐

The joint subcommittee will consider alternatives, including the establishment of these alternatives, to the current hearing officers systems in Virginia. HJR 333

Contact: Mary Geisen, Research Associate, Division of Legislative Services, General Assembly Bldg., Capitol Square, Richmond, VA 23219, telephone (804) 786-3591

SENATE COMMITTEE ON AGRICULTURE, CONSERVATION AND NATURAL RESOURCES AND HOUSE COMMITTEE ON AGRICULTURE

Joint Meeting

† **September 26, 1989 - 1 p.m. – Open Meeting**
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia ☐

The purpose of this meeting is to discuss status of Farmers' Market Network, plans of the new Pesticide Board, marketing Virginia products internationally, "Virginia's Finest" program, agricultural diversification, aquaculture initiative, and 1990 legislation.

Contact: John McE. Garrett, Deputy Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-4639 or Martin Farber, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING AIDS

† **September 14, 1989 - 10 a.m. – Open Meeting**
General Assembly Building, House Room C, Capitol Square,

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Richmond, Virginia ☐

Subcommittee will meet to continue examination of the issues relative to its study. HJR 431

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE COMMONWEALTH'S SYSTEM OF APPELLATE REVIEW OF CIVIL CASES

† **September 28, 1989 - 10 a.m.** – Public Hearing
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia ☐

† **October 10, 1989 - 10 a.m.** – Working Session
General Assembly Building, Sixth Floor Conference Room, Capitol Square, Richmond, Virginia ☐

† **November 13, 1989 - 10 a.m.** – Working Session
General Assembly Building, Sixth Floor Conference Room, Capitol Square, Richmond, Virginia ☐

A public hearing and working sessions relating to HJR 329.

Contact: Oscar Brinson, Staff Attorney or Mary K. Geisen, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

HOUSE APPROPRIATIONS COMMITTEE, HOUSE FINANCE COMMITTEE AND SENATE FINANCE COMMITTEE

Joint Meeting

† **August 28, 1989 - 9:30 a.m.** – Open Meeting
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia ☐

At this joint meeting Governor Baliles will present his financial statement of revenues and expenditures for fiscal year 1988-89, the first year of the current biennium.

Contact: John Garka, Economist, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

VIRGINIA COAL AND ENERGY COMMISSION

† **August 29, 1989 - 9:30 a.m.** – Public Hearing
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia ☐

A public hearing to receive comments on the necessity

or desirability of making changes to Virginia's Oil and Gas Act. HJR 364

† **August 29, 1989 - 1 p.m.** – Public Hearing
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia ☐

A public hearing to receive comments on the regulation of independent power problems in the Commonwealth. HJR 438

Contact: John T. Heard, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

VIRGINIA CODE COMMISSION

September 5, 1989 - 10 a.m. – Open Meeting
General Assembly Building, Sixth Floor Conference Room, Capitol Square, Richmond, Virginia ☐

The commission will meet to begin its revision of Title 51 (Pensions and Retirement). It will also review the current status of The Virginia Register of Regulations.

Contact: Joan W. Smith, Registrar of Regulations, General Assembly Bldg., Room 292, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING DNA TEST DATA EXCHANGE

† **September 26, 1989 - 2 p.m.** – Working Session
State Capitol, Senate Room 4, Capitol Square, Richmond, Virginia ☐

A working session. SJR 127

Contact: Amy Wachter, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838, or Mary Devine, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING TRAINING AND CERTIFICATION OF EMERGENCY MEDICAL SERVICES PERSONNEL

† **September 11, 1989 - 9 a.m.** – Open Meeting
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia ☐

A regular meeting. SJR 209, 1989 (continued).

† **November 13, 1989 - 9 a.m.** – Open Meeting
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia ☐

A regular meeting. SJR 209, 1989 (continued).

Contact: Amy Wachter, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838, or Norma Szakal, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE REGULATION OF ENGINEERS, ARCHITECTS, AND LAND SURVEYORS AND THE EXEMPTION FROM LICENSURE OF EMPLOYEES OF THE COMMONWEALTH AND ITS LOCALITIES

† September 18, 1989 - 1:30 p.m. - Open Meeting
† October 19, 1989 - 10 a.m. - Open Meeting
† November 21, 1989 - 10 a.m. - Open Meeting
State Capitol, House Room 4, Capitol Square, Richmond, Virginia ☐

Regular meetings. HJR 408

Contact: Angela P. Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

COMMISSION TO STUDY ALTERNATIVE METHODS OF FINANCING CERTAIN FACILITIES AT STATE-SUPPORTED COLLEGES AND UNIVERSITIES

September 11, 1989 - 2 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

This commission is meeting to study alternative methods of financing certain facilities at state-supported colleges and universities. HJR 373

Contact: Kathleen G. Harris, Staff Attorney, Division of Legislative Services, General Assembly Bldg., Capitol Square, Richmond, VA 23219, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING ACTIVITIES OF FINANCIAL INSTITUTIONS AND REAL ESTATE BROKERS AND AGENTS

† September 21, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia ☐

A regular meeting. SJR 218

Contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869, or Arlen Bolstad, 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

† November 20, 1989 - 10 a.m. - Public Hearing
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia ☐

A public hearing to receive comments relating to legislation proposed by the subcommittee and other matters pertaining to the Freedom of Information Act.

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

NEEDS OF HEAD AND SPINAL CORD INJURED CITIZENS

September 12, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

This meeting is one of several scheduled to be held during the interim to discuss needs of head and spinal cord injured citizens. HJR 287

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

INDIGENT DEFENSE SYSTEMS

September 15, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

The joint subcommittee is studying indigent defense systems. HJR 279

Contact: Mary P. Devine, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

LONG-TERM CARE SUBCOMMITTEE OF THE JOINT SUBCOMMITTEE STUDYING HEALTH CARE FOR ALL VIRGINIANS

September 11, 1989 - 1 p.m. - Open Meeting
General Assembly Building, House Appropriations Room, 9th Floor, Capitol Square, Richmond, Virginia ☐

A regular meeting. SJR 214

Contact: Jane Kusiak, House Appropriations Office, 9th Floor, General Assembly Bldg., Richmond, VA 23219, telephone (804) 786-1837 or John McE. Garrett, Deputy Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-4639

Calendar of Events

UNINSURED SUBCOMMITTEE OF THE JOINT SUBCOMMITTEE STUDYING HEALTH CARE FOR ALL VIRGINIANS

September 18, 1989 - 1:30 p.m. - Open Meeting
General Assembly Building, Capitol Square, 10th Floor
Conference Room, Richmond, Virginia. ☐

A regular meeting. SJR 214

Contact: John McE. Garrett, Deputy Clerk, Senate of
Virginia, P.O. Box 396, Richmond, VA 23203, telephone
(804) 786-4639 or Dick Hickman, Senate Finance Office,
10th Floor, General Assembly Bldg., Richmond, VA 23219,
telephone (804) 786-4400

JOINT SUBCOMMITTEE STUDYING AVAILABILITY AND AFFORDABILITY OF MOTOR VEHICLE INSURANCE

† August 31, 1989 - 9:30 a.m. - Open Meeting
General Assembly Building, Senate Room A, Capitol
Square, Richmond, Virginia ☐

A regular meeting. SJR 223

Contact: John McE. Garrett, Deputy Clerk, Senate of
Virginia, P.O. Box 396, Richmond, VA 23203, telephone
(804) 786-4638, or C. William Cramme, III, Staff Attorney,
Division of Legislative Services, P.O. Box 3-AG, Richmond,
VA 23208, telephone (804) 786-3591

MILITIA AND POLICE SUBCOMMITTEE ON VIRGINIA NATIONAL GUARD AND THE VIRGINIA STATE DEFENSE FORCE

September 7, 1989 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond,
Virginia. ☐

The subcommittee will meet to receive report from
the Virginia Defense Force.

Contact: Oscar Brinson, Staff Attorney, Division of
Legislative Services, P.O. Box 3-AG, Richmond, VA 23208,
telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE CREATION, MEMBERSHIP AND STANDARDS OF CONDUCT OF A NONPARTISAN FAIR CAMPAIGN PRACTICES COMMISSION

September 11, 1989 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

A public hearing to receive testimony with regard to
the need for a Fair Campaign Practices Commission.

HJR 416

Contact: Mary Spain, Staff Attorney, or Dr. R. J. Austin,
Research Associate, Division of Legislative Services, P.O.
Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591.
Persons wishing to speak contact: Anne R. Howard, House
Committee Operations Office, P.O. Box 406, Richmond, VA
23203, telephone (804) 786-7681

JOINT SUBCOMMITTEE STUDYING THE SUPPLY AND DEMAND OF NURSES IN THE COMMONWEALTH

† September 7, 1989 - 11 a.m. - Public Hearing
Norfolk City Council Chambers, City Hall Building, Norfolk,
Virginia ☐

A public hearing to discuss the supply and demand of
nurses in the Commonwealth. HJR 165

Contact: Brenda Edwards, Research Associate, Division of
Legislative Services, P.O. Box 3-AG, Richmond, VA 23208,
telephone (804) 786-3591

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

September 28, 1989 - 10 a.m. - Open Meeting
October 26, 1989 - 10 a.m. - Open Meeting
November 30, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Sixth Floor
Conference Room, Richmond, Virginia. ☐

Meetings to address matters relevant to the mission of
the commission.

Contact: Jeffrey A. Finch, House of Delegates, P.O. Box
406, Richmond, VA 23203, telephone (804) 786-2227

JOINT SUBCOMMITTEE STUDYING CERTAIN PRACTICES OF PSYCHIATRIC PROFESSIONALS AND INSTITUTIONS

† September 6, 1989 - 2 p.m. - Open Meeting
General Assembly Building, Senate Room B, Capitol
Square, Richmond, Virginia ☐

A regular meeting. SJR 191

Contact: Thomas C. Gilman, Chief Committee Clerk, Senate
of Virginia, P.O. Box 396, Richmond, VA 23203, telephone
(804) 786-7869, or E. Gayle Nowell, Research Associate,
Division of Legislative Services, P.O. Box 3-AG, Richmond,
VA 23208, telephone (804) 786-3591

COMMISSION TO STUDY EFFICIENCY IN THE USE OF PUBLIC EDUCATION FUNDS

† August 30, 1989 - 1 p.m. - Open Meeting

Calendar of Events

General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia ☐

A regular meeting. SJR 171

Contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869, or Norma E. Szakal, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

SPECIAL FINANCE SUBCOMMITTEE STUDYING REAL ESTATE TAX ASSESSMENTS

† **September 14, 1989 - 2 p.m.** – Public Hearing
Supervisors Chambers of the McCoart Building, 1 County Complex Court, Manassas, Virginia

† **September 14, 1989 - 7:30 p.m.** – Public Hearing
Edison High School, 5801 Franconia Road, Alexandria, Virginia

The subcommittee will meet to hear from interested citizens and government officials on alternatives to alleviate escalating assessments in the area.

Contact: John Garka, Economist, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING REINSURANCE, INSURANCE ANTITRUST LAWS AND LIABILITY INSURANCE COVERAGE

September 22, 1989 - 10 a.m. – Open Meeting
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia ☐

The focus of this meeting will be devoted to either Reinsurance, Anti-trust laws or Liability Insurance Coverage. HJR 382

Contact: C. William Cramme', Deputy Director, or Arlen Bolstad, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591, or Jeffrey A. Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227

JOINT SUBCOMMITTEE STUDYING TAXATION OF PUBLIC AND PRIVATE RETIREMENT BENEFITS

† **August 29, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia ☐

The subcommittee will meet for organizational purposes and to establish agenda for interim. HJR 6

Contact: Regina McNally, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING EXEMPTION OF RETIREMENT BENEFITS FROM CLAIMS OF CREDITORS

† **September 18, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia ☐

The subcommittee will look at current exemptions available under Virginia law and possible expansion of Virginia law to include exemption of retirement benefits.

Contact: Mary Geisen, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SURROGATE MOTHERHOOD

September 6, 1989 - 10 a.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 LEGISLATIVE SUBCOMMITTEE ON UNEMPLOYMENT COMPENSATION

† **September 28, 1989 - 2 p.m.** – Open Meeting
General Assembly Building, Senate Room A, Capitol Square, Richmond, Virginia ☐

The purpose of meeting is to receive an update on the status of Virginia's Unemployment Insurance Trust Fund from staff of the Virginia Employment Commission.

Contact: John McE. Garrett, Deputy Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-4639, or C. William Cramme', Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

Calendar of Events

CHRONOLOGICAL LIST

OPEN MEETINGS

August 28

Administrative Law Judge Panel and the Establishment of Uniform Rules of Procedures for Administrative Hearings, Joint Subcommittee Studying the Feasibility of Creating an

† Appropriations, Finance and Senate Finance
Corrections, Board of, Joint House
Funeral Directors and Embalmers, Board of

August 29

Funeral Directors and Embalmers, Board of
Medical Assistance Services, Board of
† Retirement Benefits, Joint Subcommittee Studying
Taxation of Public and Private

August 30

† Child Mental Health, Consortium on
Gloucester County Local Emergency Planning
Committee
Information Management, Council on
† Public Education Funds, Commission to Study
Efficiency in the Use of

August 31

Education, Department of
† Historic Resources, Board of
† Motor Vehicle Insurance, Joint Subcommittee
Studying Availability and Affordability of

September 5

Code Commission, Virginia
† Higher Education for Virginia, State Council of
† Hopewell Industrial Safety Council
Migrant and Seasonal Farmworkers Board

September 6

Child Mental Health, Consortium on
† Emergency Planning Committee, Winchester Local
† Forestry, Department of
- Reforestation of Timberlands Board
† Higher Education for Virginia, State Council of
† Medicine, Board of
- Informal Conference Committee
~~† Psychiatric Professionals, Joint Subcommittee
Studying Certain Practices of~~
Nursing Home Administrators, Board of
Surrogate Motherhood, Joint Subcommittee Studying
† Waste Management, Department of

September 7

Chesapeake Bay Commission
Chesterfield County Local Emergency Planning
Committee
Children, Department for
- Child Abuse Fatalities Study Committee

Library Board

Militia and Police Subcommittee on Virginia National
Guard and the Virginia State Defense Force
Nursing Home Administrators, Board of

September 8

Bicentennial of the United States Constitution, Virginia
Commission on the
Chesapeake Bay Commission
Children, Coordinating Committee for Licensure and
Certification of Residential Facilities for
† General Services, Department of
- Art and Architectural Review Board
Land Evaluation Advisory Council, State
Social Work, Board of
† Water Control Board, State

September 9

Social Work, Board of

September 10

Social Work, Board of

September 11

Alternative Methods of Financing Certain Facilities at
State-Supported Colleges and Universities, Commission
to Study
† Emergency Medical Services Personnel, Joint
Subcommittee Studying Training and Certification of
Long-Term Care Subcommittee of the Joint
Subcommittee Studying Health Care for All Virginians
† Mines, Minerals and Energy, Department of
- Division of Mined Land Reclamation
† Water Control Board, State

September 12

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
- Board for Architects
† Emergency Planning Committee, County of
Montgomery/Town of Blacksburg, Local
Head and Spinal Cord Injured Citizens, Needs of
† Housing Development Authority, Virginia
† Marine Resources Commission
† Water Control Board, State

September 13

† Conservation and Development of Public Beaches,
Board on
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
† Real Estate Board

September 14

† AIDS, Joint Subcommittee Studying
† Boating Advisory Board, Virginia
† Child Day-Care Council
† Health, Department of
- Perinatal Services Advisory Board
† Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee

Calendar of Events

- † Medicine, Board of
 - Chiropractic Examination Committee
- † Water Control Board, State
- † Women, Virginia Council on the Status of

September 15

- † Geology, Board for Indigent Defense Systems

September 18

- † Engineers, Architects, and Land Surveyors and the Exemption from Licensure of Employees of the Commonwealth and Its Localities, Joint Subcommittee Studying the Regulation of Health Care for All Virginians, Uninsured Subcommittee of the Joint Subcommittee Studying Indians, Council on Local Government, Commission on Retirement Benefits, Joint Subcommittee Studying Exemption of Waste Management, Department of

September 19

- † Waste Management, Department of

September 20

- † Corrections, Board of Dentistry, Board of Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - Virginia Interagency Coordinating Council
- Prison and Jail Overcrowding, Commission on
- † Rights of the Disabled, Board for Social Services, Board of
- † Transportation Board, Commonwealth
- † Waste Management, Department of
- † Water Control Board, State

September 21

- † Commerce, Board of Dentistry, Board of
- † Financial Institutions and Real Estate Brokers and Agents, Joint Subcommittee Studying Activities of Social Services, Board of
- † Soil and Water Conservation Board, Virginia
- † Transportation Board, Commonwealth

September 22

- Dentistry, Board of
- † Medicine, Board of
 - Advisory Board on Physical Therapy
- Reinsurance, Insurance Antitrust Laws and Liability Insurance Coverage, Joint Subcommittee Studying
- † Rights of the Disabled, Board for

September 23

- Dentistry, Board of

September 25

- † Water Control Board, State

September 26

- † Agriculture, Conservation and Natural Resources Senate Committee on, and House Committee on Agriculture, Joint Meeting
- † DNA Test Data Exchange, Joint Subcommittee Studying Education Assistance Authority, State
 - Board of Directors
- † Water Control Board, State

September 27

- † Education, Board of
- † Lottery, State Board
- † Medicine, Board of
 - Advisory Committee on Acupuncture
- † Mental Health, Mental Retardation and Substance Abuse Services, Department of

September 28

- Children, Department for
 - Child Abuse Fatalities Study Committee
- † Education, Board of Long-Term Care Council, Virginia Population Growth and Development, Commission on
- † Unemployment Compensation, Joint Legislative Subcommittee on

September 29

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for

October 3

- † Hopewell Industrial Safety Council Real Estate Board

October 4

- Audiology and Speech Pathology, Board of
- † Child Mental Health, Consortium on

October 5

- Chesterfield County, Local Emergency Planning Committee of

October 6

- † Medicine, Board of
 - Executive Committee
 - Ad Hoc Committee on Optometry
- † Teen Pregnancy Prevention Task Force

October 7

- † Medicine, Board of
 - Credentials Committee
- † Military Institute, Virginia
 - Board of Visitors

October 10

- † Appellate Review of Civil Cases, Joint Subcommittee Studying Commonwealth's System of

October 11

Calendar of Events

† Corrections, Board of

PUBLIC HEARINGS

October 14

† Visually Handicapped, Board for the
Visually Handicapped, Department for the
- Advisory Committee on Services

October 19

† Engineers, Architects, and Land Surveyors and the
Exemption from Licensure of Employees of the
Commonwealth and Its Localities, Joint Subcommittee
Studying the Regulation of

October 24

† Education, Board of

October 25

† Education, Board of

October 28

† DNA Test Data Exchange, Joint Subcommittee
Studying
Population Growth and Development, Commission on

October 30

† Funeral Directors and Embalmers, Board of

November 1

† Child Mental Health, Consortium on

November 2

† Long-Term Care Council, Virginia

November 3

† Long-Term Care Council, Virginia

November 13

† Appellate Review of Civil Cases, Joint Subcommittee
Studying Commonwealth's System of
† Emergency Medical Services Personnel, Joint
Subcommittee Studying Training and Certification of

November 21

† Education Assistance Authority, State
- Board of Directors
† Engineers, Architects, and Land Surveyors and the
Exemption from Licensure of Employees of the
Commonwealth and Its Localities, Joint Subcommittee
Studying the Regulations of

November 30

† Funeral Directors and Embalmers, Board of
Population Growth and Development, Commission on

December 6

† Child Mental Health, Consortium

December 7

† Emergency Planning Committee of Chesterfield
County, Local

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† Coal and Energy Commission, Virginia
Water Control Board, State

August 31

Education, Department of
Waste Management, Department of
Water Control Board, State

September 6

Air Pollution Control Board, State

September 7

† Nurses in the Commonwealth, Joint Subcommittee
Studying the Supply and Demand of

September 11

Hearing Aid Specialists, Board for
Motor Vehicles, Department of
† Nonpartisan Fair Campaign Practices Commission,
Joint Subcommittee Studying the Creation, Membership
and Standards of Conduct of a

September 12

Branch Pilots, Board for
Motor Vehicles, Department of

September 14

Motor Vehicles, Department of
† Real Estate Tax Assessments, Special Finance
Subcommittee Studying

September 15

Motor Vehicles, Department of

September 18

Social Services, Department of

September 19

Criminal Justice Services, Department of
Motor Vehicles, Department of

September 20

Alcoholic Beverage Control, Department of
Motor Vehicles, Department of
† Water Control Board, State

September 21

Motor Vehicles, Department of
Waste Management Board, Virginia

September 26

Motor Vehicles, Department of

September 27

Agriculture and Consumer Services, Department of
Motor Vehicles, Department of

Calendar of Events

September 28

† Appellate Review of Civil Cases, Joint Subcommittee
Studying the Commonwealth's System of
† Commerce, Department of
† Visually Handicapped, Department for the

October 2

Motor Vehicles, Department of
† Waste Management, Department of

October 3

Motor Vehicles, Department of

October 4

Criminal Justice Services Board

October 17

† Water Control Board, State

October 27

† Taxation, Department of

November 14

Corrections, Department of

November 15

† Labor and Industry, Department of

November 20

† Freedom of Information Act, Joint Subcommittee
Studying the

Calendar of Events
