

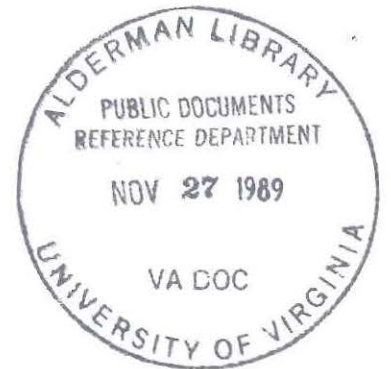
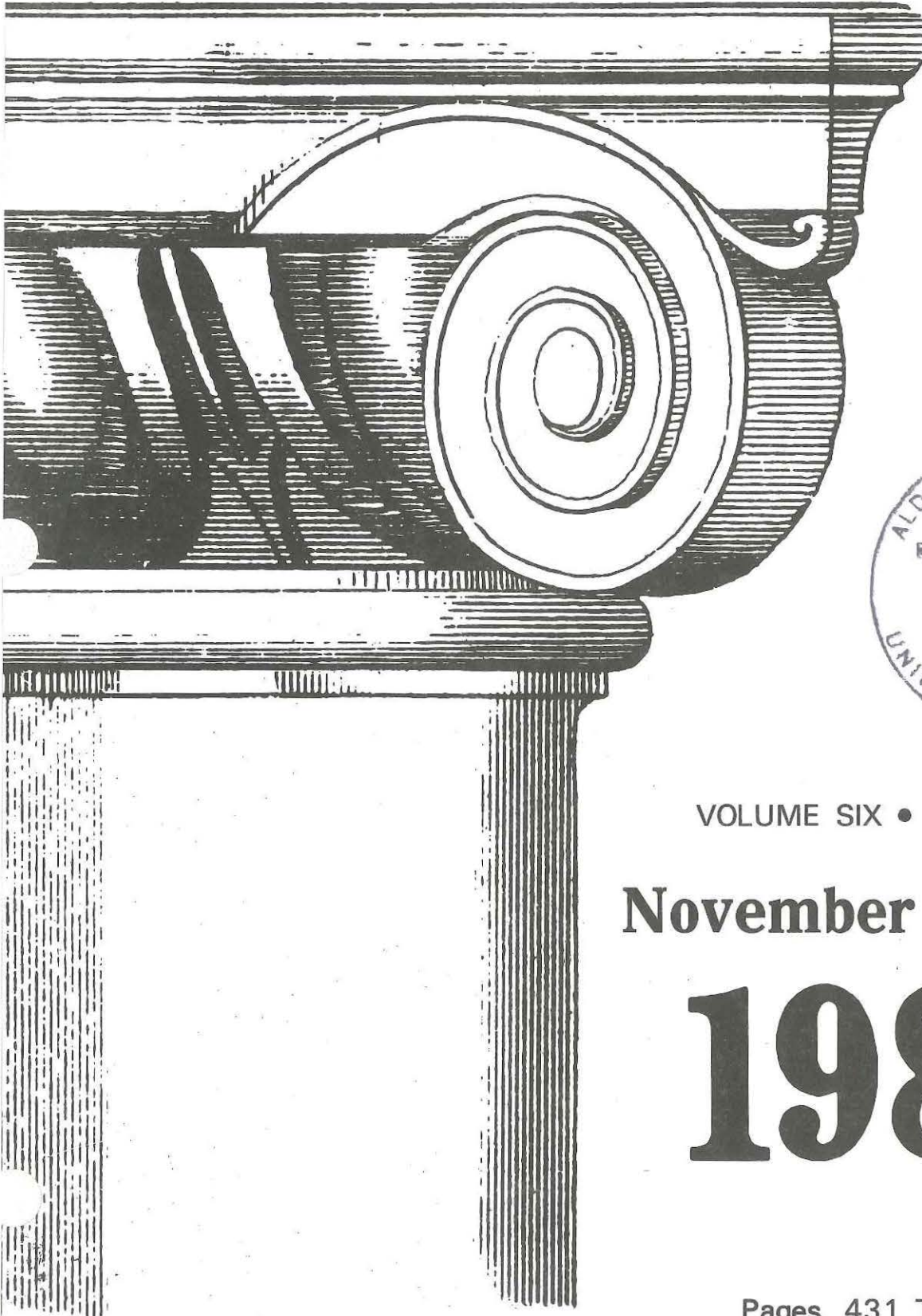
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THE VIRGINIA REGISTER

OF REGULATIONS

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November 20, 1989

1989

Pages 431 Through 684

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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July 1989 through September 1990

MATERIAL SUBMITTED BY
Noon Wednesday

PUBLICATION DATE

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| June 28 | July 17 |
| July 12 | July 31 |
| July 26 | Aug. 14 |
| Aug. 9 | Aug. 28 |
| Aug. 23 | Sept. 11 |
| Sept. 6 | Sept. 25 |
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| Nov. 15 | Dec. 4 |
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Symbol Key

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

DEPARTMENT OF COMMERCE

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

Statutory Authority: Chapter 5 (§§ 54.1-500 through 54.1-517) of Title 54.1 of the Code of Virginia.

Public Hearing Date: January 10, 1990 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

Pursuant to revisions to §§ 54.1-500 through 54.1-507, 54.1-509, 54.1-511, 54.1-512, 54.1-514, 54.1-516 and 54.1-517 of the Code of Virginia, regulations governing licensure of RFS contractors and training of RFS workers and supervisors are added as amendments to the Virginia Asbestos Licensing Regulations. Amendments also include revised qualifications for inspector and management planner licensure, asbestos contractor notification requirements, and revisions to the license application procedures.

VR 190-05-01. Asbestos Licensing Regulations.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"ACM" means asbestos containing material.

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

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

"Asbestos contractor's license" means an authorization issued by the Department of Commerce permitting a person to enter into contracts for a project to remove or encapsulate asbestos.

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

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

"Asbestos inspector's license" means an authorization issued by the Department of Commerce permitting a person to perform the duties of an asbestos inspector.

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

"Asbestos project" means an activity involving the inspection for removal or encapsulation of asbestos or involving the installation, removal or encapsulation of asbestos-containing roofing, flooring or siding materials.

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

"Asbestos RFS contractor's license" means an authorization issued by the Department of Commerce permitting a person to enter into contracts to install, remove or encapsulate asbestos-containing roofing, flooring and siding materials.

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

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

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

"Department" means the Department of Commerce.

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

"Encapsulation" means the treatment of ACM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface

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(bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

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

"EPA" means Environmental Protection Agency.

"*Friable*" means material which is capable of being crumbled, pulverized or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit fibers into the air.

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

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

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

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

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

Necessity for license: These regulations are promulgated to carry out the provisions of Title 54.1 Chapter 5, § 54.1-500. Effective July 1, 1988, any person or entity must fulfill the requirements and obtain the necessary license as an asbestos contractor, *RFS contractor*, supervisor, inspector, management planner or project designer prior to contracting with another person for compensation to perform an asbestos project or develop a management plan. Effective July 1, 1988, an asbestos worker's license must be obtained by an individual prior to working on an asbestos project.

PART II.

ASBESTOS WORKERS LICENSING REQUIREMENTS.

§ 2.1. License application.

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

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

Richmond, Virginia 23230
1 (800) 552-2016

B. Applicants will be required to provide proof of successful completion of an asbestos workers training course and examination approved by the Department of Commerce or the *United States Environmental Protection Agency (EPA)*.

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

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

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

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

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

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

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

§ 2.2. Qualifications for licensure.

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

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

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

2.3. Fees.

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

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

C. All fees will be nonrefundable.

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

§ 2.4. Expiration.

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

§ 2.5. Renewal application.

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

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

B. *Only Virginia approved asbestos refresher training courses will meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a Virginia approved asbestos refresher training course.* Applicants shall forward proof that the annual retraining requirement of eight four hours of instruction and an examination has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

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

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

§ 2.6. Change of address.

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

§ 2.7. Interim licensure.

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

"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1980." After July 1, 1980, all applicants for an asbestos worker's license must have successfully completed a Virginia approved asbestos worker's training course.

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

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

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

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

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

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

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

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

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

§ 2.8. Fees.

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

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

C. All fees will be nonrefundable.

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

PART III. ASBESTOS CONTRACTOR LICENSING REQUIREMENTS.

§ 3.1. Contractor responsibilities.

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

The asbestos contractor shall designate a supervisor to serve as his agent for the purpose of meeting the training requirements.

A licensed asbestos supervisor must be present at each job site while an asbestos project is in progress.

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

The 20-day notification form is designed to comply with the reporting requirements of the U.S. Environmental Protection Agency's NESHAPS regulations (40CFR61.146).

The Department of Labor and Industry will not accept any incomplete forms and the 20-day notification period will not begin until a complete notification form is received by the Department of Labor and Industry.

As stated in § 54.1-507 of the Code of Virginia, a notification shall be sent certified mail or hand delivered to the Department of Labor and Industry. The notification mechanism has been expanded to include facsimile transmission of the notification form. If the facsimile mechanism is used, the submission of a hard copy by mail is not necessary. The Department of Labor and Industry will not accept notifications received by methods other than certified mail, hand delivery or facsimile transmission.

Any project cancellation shall be reported. A copy of the notification form marked cancelled must be received by the Department of Labor and Industry no later than the set-up date listed on the notification form.

Any project postponement shall be reported. The amended notification process can be used if the new removal dates are known. If the new dates are not known then the project notification shall be cancelled.

Amended notifications, notification inquiries and requests for waivers are subject to approval by the Department of Labor and Industry and should be addressed to the Asbestos Control Clerk, Department of Labor and Industry, 205 N. 4th Street, Room 1006, Richmond, Virginia 23219.

Any asbestos project not being performed during the reported time frame and any project where quantities of asbestos greater than reported quantities are being removed shall be considered a violation of § 54.1-507 of the Code of Virginia. Each of the above violations shall be referred to the Department of Commerce for enforcement action and will be reported to the Department of Commerce by the Department of Labor and Industry.

A licensed asbestos contractor shall use only licensed asbestos supervisors and workers to work on any asbestos project.

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

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

§ 3.3. License application.

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

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce

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3600 West Broad Street
5th Floor
Richmond, Virginia 23230
‡ (800) 552-3016

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

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

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

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

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

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

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

§ 3.4. Qualifications for licensure.

Each individual or business applying to the Department

of Commerce for licensing as an asbestos contractor/supervisor shall have the following qualifications:

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

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

§ 3.5. Fees.

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

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

C. All fees will be nonrefundable.

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

§ 3.6. Expiration.

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

§ 3.7. Renewal application.

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

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

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

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

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these regulations.

§ 3.8. License certificate.

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

§ 3.9. Change of address.

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

PART IV. ASBESTOS RFS CONTRACTOR LICENSING REQUIREMENTS.

Effective July 1, 1989, all individual workers and supervisors on RFS projects must have fulfilled the training requirements specified in this section.

§ 4.1. Contractor responsibilities.

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

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

The 20-day notification form is designed to comply with the reporting requirements of the U.S. Environmental Protection Agency's NESHAPS regulations (40CFR61.146).

The Department of Labor and Industry will not accept any incomplete forms and the 20-day notification period will not begin until a complete notification form is received by the Department of Labor and Industry.

As stated in § 54.1-507 of the Code of Virginia, a notification shall be sent certified mail or hand delivered to the Department of Labor and Industry. The notification mechanism has been expanded to include facsimile transmission of the notification form. If the facsimile mechanism is used, the submission of a hard copy by mail is not necessary. The Department of Labor and Industry will not accept notifications received by methods other than certified mail, hand delivery or facsimile transmission.

Any project cancellation shall be reported. A copy of the notification form marked cancelled must be received by the Department of Labor and Industry no later than the set-up date listed on the notification form.

Any project postponement shall be reported. The amended notification process can be used if the new removal dates are known. If the new dates are not known then the project notification shall be cancelled.

Amended notifications, notification inquiries and requests for waivers are subject to approval by the Department of Labor and Industry and should be addressed to the Asbestos Control Clerk, Department of Labor and Industry, 205 N. 4th Street, Room 1006, Richmond, Virginia 23219.

Any asbestos project not being performed during the reported time frame and any project where quantities of asbestos greater than reported quantities are being removed shall be considered a violation of § 54.1-507 of the Code of Virginia. Each of the above violations shall be referred to the Department of Commerce for enforcement action and will be reported to the Department of Commerce by the Department of Labor and Industry.

§ 4.2. Maintenance of licensing records at asbestos job site.

It shall be the responsibility of the RFS contractor to maintain at each job site, a list of the trained RFS asbestos workers and supervisors that includes the date of their RFS training. This information shall be maintained at the job site available for review by the Department of Labor and Industry, the Department of Commerce, and all other agencies having authorization to inspect as asbestos job site.

§ 4.3. License application.

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

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

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

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

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

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

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

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

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

§ 4.4. Qualifications for licensure.

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

1. Applicants shall be at least 18 years of age.
2. Applicants shall have all licenses necessary and required by state statute or local ordinance to transact the business of an asbestos contractor in addition to those requirements as set forth in these regulations.

§ 4.5. Fees.

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

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

C. All fees will be nonrefundable.

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

§ 4.6. Expiration.

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

§ 4.7. Renewal application.

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

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

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

C. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements as specified in Part IV, § 4.4 of these regulations.

D. Each worker and supervisor employed by a licensed RFS contractor must attend an annual refresher training course. The RFS contractor will be required to maintain records verifying the dates of the refresher training completed by each worker and supervisor. This information shall be maintained at the job site available for review by the Department of Labor and Industry, the Department of Commerce, and all other agencies having authorization to inspect an asbestos RFS job site.

§ 4.8. License certification.

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

§ 4.9. Change of address.

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

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PART IV. PART V. ASBESTOS SUPERVISOR LICENSING REQUIREMENTS.

§ 4-1. § 5.1. License application.

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

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

B. Applicants will be required to provide proof of successful completion of an asbestos supervisor training course and examination approved by the Department of Commerce or the United States Environmental Protection Agency (EPA).

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

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

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

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

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

§ 4-2. § 5.2. Qualifications for licensure.

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

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

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

§ 4-3. 5.3. Fees.

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

B. A completed application (as required in Part IV, § 4-1 V, § 5.1. of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees will be nonrefundable.

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

§ 4-4. § 5.4. Expiration.

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

§ 4-5. § 5.5. Renewal application.

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

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

B. Only Virginia approved asbestos refresher training courses will meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a Virginia approved asbestos refresher training course. Applicant shall forward

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

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

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements as specified in Part IV, § 4-1 V, § 5.1. of these regulations.

§ 4-6. § 5.6. License certificate.

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

§ 4-7. § 5.7. Change of address.

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

§ 4-8. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos supervisor training course and have passed an EPA approved asbestos supervisor examination since January 1, 1986, may apply for an interim license for a period of 12 months. During the 12-month interim license period, a Virginia approved asbestos supervisor refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos supervisor license as required in these regulations.

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

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

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

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within

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

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

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

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

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

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

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

§ 4-9. Fees.

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

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

C. All fees will be nonrefundable.

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

PART V. PART VI. ASBESTOS INSPECTOR LICENSING REQUIREMENTS.

§ 5-1. § 6.1. License application.

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

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to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
† (800) 652-3016

B. Applicants will be required to provide proof of successful completion of an asbestos inspector training course and examination approved by the Department of Commerce or the United States Environmental Protection Agency (EPA).

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

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

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

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

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

§ 5.2. § 6.2. Qualifications for licensure.

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

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

2. The applicant must have successfully completed an asbestos inspector course and examination approved by the Department of Commerce or an EPA accredited AHERA Inspector training course and examination. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

3. Experience is required of the applicant in performing the field work portion of asbestos inspections in buildings or industrial facilities or both, including collecting bulk samples, categorizing ACM, assessing ACM and preparing inspection reports.

a. Experience may be gained acting as an inspector, being in responsible charge of inspectors or being under the responsible charge of an inspector.

b. Experience gained since December 17, 1987, must meet one of the following standards:

(1) Acting as an inspector accredited (after December 17, 1987) according to AHERA or the Virginia Asbestos Licensing Program;

(2) Being in responsible charge of persons accredited as inspectors according to AHERA or the Virginia Asbestos Licensing Program;

(3) Being under the responsible charge of an inspector accredited according to AHERA or the Virginia Asbestos Licensing Program.

4. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least six months experience as described above.

5. An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, science or a related field must have at least 12 months experience as described above.

6. An applicant with a high school degree must have at least 24 months experience as described above.

§ 5.3. § 6.3. Fees.

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

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

C. All fees will be nonrefundable.

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

§ 5-4. § 6.4. Expiration.

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

§ 5-5. § 6.5. Renewal application.

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

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

B. *Only Virginia approved asbestos refresher training courses will meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a Virginia approved asbestos refresher training course.* Applicants shall forward proof that the annual retraining requirement of four hours of instruction and an examination has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. *After January 1, 1991, each licensee who was licensed as an asbestos inspector prior to April 1990 will be required to meet the qualifications set forth in these regulations for license renewal.*

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

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

§ 5-7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos inspector training and have passed an EPA approved asbestos inspector examination since January 1, 1986, may apply for an interim license for a

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

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

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

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

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

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

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

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

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

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

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

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§ 5.8. Fees.

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

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

C. All fees will be nonrefundable.

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

§ 5.6. § 6.7. Change of address.

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

PART VI. ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.

§ 6.1. License application.

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

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

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

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

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

public health, safety and welfare.

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

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

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

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

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

§ 6.2. Qualifications for licensure.

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

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

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

§ 6.3. Fees.

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

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

C. All fees will be nonrefundable.

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

§ 6.4. Expiration.

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

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license:

§ 6-5. Renewal application.

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

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$25 renewal fee. Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee.

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

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license a late renewal fee of \$25 shall be required in addition to the renewal fee.

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

§ 6-6. Change of address.

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

§ 6-7. Interim licensure.

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

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

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

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23220

1 (800) 652-2016

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

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

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

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

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

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

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

§ 6-8. Fees.

A. The fee for an interim asbestos project designer license shall be \$25. The fee amounts are based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VI, § 6-7 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees shall be non-refundable.

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

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Licensure.

PART VII. ASBESTOS MANAGEMENT PLANNER LICENSING REQUIREMENTS.

§ 7.1. License application.

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

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

B. Applicants will be required to provide proof of successful completion of an asbestos management planner training course and examination approved by the Department of Commerce or the United States Environmental Protection Agency (EPA).

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

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

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

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

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

application.

§ 7.2. Qualifications for licensure.

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

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

2. *The applicant must have successfully completed an Asbestos Management Planner training course and examination approved by the Department of Commerce or an EPA accredited AHERA Management Planner training course and examination. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.*

3. *The applicant must meet all of the qualifications to be licensed as an asbestos inspector, whether or not the asbestos inspector license is held.*

4. *The applicant is required to have experience in: evaluating inspection reports, selecting response actions, analyzing cost of response actions, ranking response actions, preparing operations and maintenance plans and preparing management plans.*

a. Experience may be gained acting as a management planner, being in responsible charge of management planners or being under the responsible charge of a management planner;

b. Any experience gained after December 17, 1987, must be gained acting as a management planner accredited according to AHERA, being in responsible charge or persons accredited as management planners according to AHERA or being under the responsible charge of a management planner accredited according to AHERA; or

c. Experience gained as an inspector and outlined in Part VI, § 6.2 of these regulations can be substituted rather than experience as a management planner to meet the management planner experience requirements.

5. *The applicant must have a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field and must have at least six months experience as described above.*

6. *An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, science or a related field must have at least six months experience as described above.*

7. *An applicant with a high school degree must have at least 24 months experience as described above.*

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§ 7.3. Fees.

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

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

C. All fees will be nonrefundable.

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

§ 7.4. Expiration.

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

§ 7.5. Renewal application.

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

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

B. *Only Virginia approved asbestos refresher training courses will meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a Virginia approved asbestos refresher training course.* Applicants shall forward proof that the annual retraining requirement of eight four hours of instruction and an examination has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. *After January 1, 1991, each licensee who was licensed as an asbestos inspector prior to April 1990 will be required to meet the qualifications set forth in these regulations for license renewal.*

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

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

§ 7.6. Change of address.

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

§ 7.7. Interim Licensure.

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

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

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

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

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

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

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

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

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

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

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

§ 7.8. Fees.

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

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

C. All fees will be nonrefundable.

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

PART VIII.

ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.

§ 8.1. License application.

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

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

B. Applicants will be required to provide proof of successful completion of an asbestos project designer training course and examination approved by the Department of Commerce or the United States Environmental Protection Agency (EPA).

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his

license or other authorization to design asbestos abatement projects has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

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

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

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

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

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

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

§ 8.2. Qualifications for licensure.

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

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

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

§ 8.3. Fees.

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

B. A completed application (as required in Part VIII, § 8.1 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees will be nonrefundable.

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

§ 8.4. Expiration.

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

§ 8.5. Renewal application.

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

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

B. Only Virginia approved asbestos refresher training courses will meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a Virginia approved asbestos refresher training course. Applicants shall forward proof that the annual retraining requirement of eight hours of instruction and an examination has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

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

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

§ 8.6. Change of address.

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

PART VIII. PART IX. TRAINING COURSE REQUIREMENTS.

IN ALL OF THE FOLLOWING TRAINING COURSE REQUIREMENTS ONE DAY SHALL BE EQUAL TO EIGHT HOURS.

§ 8.1. § 9.1. Worker training.

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

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

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descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.

b. Positioning of warning signs.

c. Electrical and ventilation system lock-out.

d. Proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.

e. Proper clean-up and disposal procedures.

f. Work practices for removal, encapsulation, enclosure, and repair.

g. Emergency procedures for sudden releases.

h. Potential exposure situations, and transport and disposal procedures.

i. Recommended and prohibited work practices.

5. Personal hygiene:

a. Entry and exit procedures for the work area, use of showers, avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.

b. Potential exposures, such as family exposure.

6. Additional safety hazards:

a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

b. Scaffold and ladder hazards.

c. Slips, trips and falls.

d. Confined spaces.

7. Medical monitoring:

a. OSHA requirements for a pulmonary function test.

b. Chest x-rays and a medical history for each employee.

8. Air monitoring:

a. Procedures to determine airborne concentrations of asbestos fibers.

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

9. Relevant federal, state and local regulatory

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

10. Establishment of respiratory protection programs.

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

§ 8.2. § 9.2. Examinations.

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

Asbestos abatement workers:

1. 50 multiple choice questions.

2. Passing score: 70% correct.

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

§ 8.3. § 9.3. Refresher training course.

Refresher courses shall be one day (8 hours) in length for asbestos abatement workers. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and a review of key aspects of the initial training course as set forth in Part VIII, § 8.1 IX, § 9.1 of these regulations. A written closed book examination of 50 multiple choice questions will be administered covering the topics included in the refresher course. A passing refresher examination score will be 70% correct. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

§ 8.4. § 9.4. Supervisor training.

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

For purposes of approval, asbestos abatement supervisors include those persons who provide supervision and

direction to workers engaged in asbestos removal, encapsulation, enclosure, and repair. The contractor must designate a supervisor to serve as his agent for the purposes of meeting the training requirements for approval.

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

1. The physical characteristics of asbestos and asbestos-containing materials:
 - a. Identification of asbestos.
 - b. Aerodynamic characteristics.
 - c. Typical uses, physical appearance.
 - d. A review of hazard assessment considerations.
 - e. A summary of abatement control options.
2. Potential health effects related to asbestos exposure:
 - a. The nature of asbestos-related diseases.
 - b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
 - c. Synergism between cigarette smoking and asbestos exposure.
 - d. Latency period for disease.
3. Employee personal protective equipment:
 - a. Classes and characteristics of respirator types.
 - b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance and storage procedures.
 - c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).
 - d. Qualitative and quantitative fit testing procedures.
 - e. Variability between field and laboratory protection factors.
 - f. Factors that alter respirator fit (e.g., facial hair).
 - g. The components of a proper respiratory protection program.
 - h. Selection and use of personal protective clothing; use, storage and handling of nondisposable clothing.
 - i. Regulations covering personal protective equipment.
4. State-of-the-art work practices:
 - a. Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.
 - b. Positioning of warning signs.
 - c. Electrical and ventilation system lock-out.
 - d. Proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.
 - e. Proper clean-up and disposal procedures.
 - f. Work practices for removal, encapsulation, enclosure and repair.
 - g. Emergency procedures for sudden releases.
 - h. Potential exposure situations.
 - i. Transport and disposal procedures.
 - j. Recommended and prohibited work practices.
 - k. Discussion of new abatement-related techniques and methodologies.
5. Personal hygiene:
 - a. Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing, (gum or tobacco) in the work area.
 - b. Potential exposures, such as family exposure, shall also be included.
6. Additional safety hazards:
 - a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants, other than asbestos, fire and explosion hazards.
 - b. Scaffold and ladder hazards.
 - c. Slips, trips and falls.
 - d. Confined spaces.
7. Medical monitoring. OSHA requirements for a pulmonary function test, chest x-rays and a medical history for each employee.
8. Air monitoring:

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- a. Procedures to determine airborne concentration of asbestos fibers, including a description of an aggressive sampling, sampling equipment and methods.
 - b. Reasons for air monitoring.
 - c. Types of samples and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.
9. Relevant federal, state, and local regulatory requirements, procedures and standards including:
- a. Requirements of TSCA Title II.
 - b. 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standards for Asbestos).
 - c. OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).
 - d. OSHA Asbestos Construction Standard (29 CFR 1926.58).
 - e. EPA Worker Protection Rule, 40 CFR Part 763, Subpart G.
10. Respiratory protection programs and medical surveillance programs.
11. Insurance and liability issues:
- a. Contractor issues, worker's compensation coverage, and exclusions.
 - b. Third-party liabilities and defenses.
 - c. Insurance coverage and exclusions.
12. Recordkeeping for asbestos abatement projects:
- a. Records required by federal, state, and local regulations.
 - b. Records recommended for legal and insurance purposes.
13. Supervisory techniques for asbestos abatement activities. Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.
14. Contract specifications. Discussions of key elements that are included in contract specifications.
15. Course review. A review of key aspects of the

training course.

~~§ 8-5.~~ § 9.5. Examinations.

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

Asbestos abatement supervisors:

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

~~§ 8-6.~~ § 9.6. Refresher training course.

Refresher courses shall be one day (8 hours) in length for supervisors. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and review of key aspects of the initial training course as set forth in Part VIII, § 8-4 IX, § 9.4 of these regulations. A written closed book examination will be included in the refresher course. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

~~§ 8-7.~~ § 9.7. Inspector training.

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

The inspector training course shall adequately address the following topics:

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

d. Latency period for asbestos-related diseases, a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancer of other organs.

3. Functions/qualifications and role of inspectors:

a. Discussions of prior experience and qualifications for inspectors and management planners.

b. Discussions of the functions of an accredited inspector as compared to those of an accredited management planner.

c. Discussion of inspection process including inventory of ACM and physical assessment.

4. Legal liabilities and defenses:

a. Responsibilities of the inspector, a discussion of comprehensive general liability policies, claims made and occurrence policies, environment and pollution liability policy clauses; state liability insurance requirements.

b. Bonding and relationship of insurance availability to bond availability.

5. Understanding building systems:

a. The interrelationship between building systems, including: an overview of common building physical plan layout; heat, ventilation and air conditioning (HVAC) system types; physical organization; and where asbestos is found on HVAC components.

b. Building mechanical systems, their types and organization and where to look for asbestos on such systems.

c. Inspecting electrical systems, including appropriate safety precautions.

d. Reading building plans and as-built drawings.

6. Public/employee/building occupant relations:

a. Notifying employee organizations about the inspection.

b. Signs to warn building occupants.

c. Tact in dealing with occupants and the press.

d. Scheduling of inspections to minimize disruption.

e. Education of building occupants about actions being taken.

7. Preinspection planning and review of previous inspection records:

a. Scheduling the inspection and obtaining access.

b. Building record review; identification of probable homogeneous areas from building plans or as-built drawings.

c. Consultation with maintenance or building personnel.

d. Review of previous inspection, sampling, and abatement records of a building.

e. The role of the inspector in exclusions for previously performed inspections.

8. Inspection for friable and nonfriable asbestos-containing material (ACM) and assessment of the condition of friable ACM:

a. Procedures to follow in conducting visual inspections for friable and nonfriable ACM.

b. Types of building materials that may contain asbestos.

c. Touching materials to determine friability.

d. Open return air plenums and their importance in HVAC systems.

e. Assessing damage, significant damage, potential damage, and potential significant damage.

f. Amount of suspected ACM, both in total quantity and as a percentage of the total area.

g. Type of damage.

h. Accessibility.

i. Material's potential for disturbance.

j. Known or suspected causes of damage or significant damage, and deterioration as assessment factors.

9. Bulk sampling/documentation of asbestos in schools:

a. Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials" (EPA 560/5-85-030a October 1985).

b. Techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials.

c. Techniques for bulk sampling.

d. Sampling equipment the inspector should use.

e. Patching or repair of damage done in sampling;

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and inspector's repair kit.

f. Discussion of polarized light microscopy.

g. Choosing an accredited laboratory to analyze bulk samples.

h. Quality control and quality assurance procedures.

10. Inspector respiratory protection and equipment:

a. Classes and characteristics of respirator types.

b. Limitations of respirators.

c. Proper selection, inspection, donning, use maintenance, and storage procedures for respirators.

d. Methods for field testing of the facepiece-to-mouth seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures.

e. Variability between field and laboratory protection factors.

f. Factors that alter respirator fit (e.g., facial hair).

g. The components of a proper respiratory protection program.

h. Selection and use of personal protective clothing.

i. Use, storage, and handling of nondisposable clothing.

11. Recordkeeping and writing the inspection report:

a. Labeling of samples and keying sample identification to sampling location.

b. Recommendations on sample labeling.

c. Detailing of ACM inventory.

d. Photographs of selected sampling areas and examples of ACM condition.

e. Information required for inclusion in the management plan by TSCA Title II § 203 (i)(1).

12. Regulatory review:

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

b. TSCA Title II.

c. OSHA Asbestos Construction Standard 29 CFR 1926.58.

d. OSHA respirator requirements found at 29 CFR

1910.134.

e. The friable ACM in Schools Rule found at 40 CFR Part 763 Subpart F.

(The above materials are incorporated by reference).

f. Applicable state and local regulations.

g. Differences in federal/state requirements where they apply and the effects, if any, on public and nonpublic schools.

13. Field trip:

a. To include a field exercise including a walk-through inspection.

b. On-site discussion on information gathering and determination of sampling locations.

c. On-site practice in physical assessment.

d. Classroom discussion of field exercise.

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

§ 8-8. § 9.8. Examinations.

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

Asbestos inspectors:

1. 50 multiple choice questions.

2. Passing score: 70% correct.

§ 8-8. § 9.9. Refresher training course.

Refresher courses shall be one-half day (4 hours) in length for inspectors. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the initial training course as set forth in Part VIII, § 8-7 IX, § 9.7 of these regulations. A written closed book examination will be administered covering the topics included in the asbestos inspector refresher training course. Persons who pass the refresher course examination will receive some form of written certification indicating successful completion of the course.

§ 8-10. Asbestos project designers.

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

1. Background information on asbestos:

- a. Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings.
- b. Physical appearance of asbestos.

2. Potential health effects related to asbestos exposure:

- a. Nature of asbestos-related diseases.
- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
- c. The synergistic effect between cigarette smoking and asbestos exposure.
- d. The latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.

3. Overview of abatement construction projects:

- a. Abatement as a portion of a renovation project.
- b. OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.58).

4. Safety system design specifications:

- a. Construction and maintenance of containment barriers and decontamination enclosure systems.
- b. Positioning of warning signs.
- c. Electrical and ventilation system lock-out.
- d. Proper working techniques for minimizing fiber release.
- e. Entry and exit procedures for the work area, use of wet methods, use of negative pressure exhaust ventilation equipment, use of high efficiency particulate aerosol (HEPA) vacuums, proper clean-up and disposal of asbestos, work practices as they apply to encapsulation, enclosure, and repair, use of glove bags and a demonstration of glove bag use.

5. Field trip:

- a. Visit an abatement site or other suitable building site, including on-site discussions of abatement design.
- b. Building walk-through inspection, and discussion following the walk-through.

6. Employee personal protective equipment:

- a. To include the classes and characteristics of respirator types.
- b. Limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures.
- c. Methods for field testing of the facepiece-to-facepiece seal (positive and negative pressure fitting tests).
- d. Qualitative and quantitative fit testing procedures.
- e. Variability between field and laboratory protection factors, factors that alter respirator fit (e.g., facial hair).
- f. Components of a proper respiratory protection program.
- g. Selection and use of personal protective clothing, use, storage and handling of nondisposable clothing.
- h. Regulations covering personal protective equipment.

7. Additional safety hazards:

- a. Hazards encountered during abatement activities and how to deal with them.
- b. Electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

8. Fiber aerodynamics and control:

- a. Aerodynamic characteristics of asbestos fibers.
- b. Importance of proper containment barriers.
- c. Settling time for asbestos fibers.
- d. Wet methods in abatement.
- e. Aggressive air monitoring following abatement.
- f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.

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9. Designing abatement solutions.

- a. Discussions of removal, enclosure, and encapsulation methods.
- b. Asbestos waste disposal.

10. Budgeting/cost estimation.

- a. Development of cost estimates.
- b. Present costs of abatement versus future operations and maintenance costs.
- c. Setting priorities for abatement jobs to reduce cost.

11. Writing abatement specifications.

- a. Means and methods specifications versus performance specifications.
- b. Design of abatement in occupied buildings.
- c. Modification of guide specifications to a particular building.
- d. Worker and building occupant health/medical considerations.
- e. Replacement of ACM with nonasbestos substitutes.
- f. Clearance of work area after abatement.
- g. Air monitoring for clearance.

12. Preparing abatement drawings.

- a. Use of as-built drawings.
- b. Use of inspection photographs and on-site reports.
- c. Particular problems in abatement drawings.

13. Contract preparation and administration.

14. Legal/liabilities/defenses.

- a. Insurance considerations, bonding, hold harmless clauses, use of abatement contractor's liability insurance.
- b. Claims-made versus occurrence policies.

15. Replacement of asbestos with asbestos-free substitutes.

16. Role of other consultants:

a. Development of technical specification sections by industrial hygienists or engineers.

b. The multidisciplinary team approach to abatement design.

17. Occupied buildings.

- a. Special design procedures required in occupied buildings.
- b. Education of occupants.
- c. Extra monitoring recommendations.
- d. Staging of work to minimize occupant exposure.
- e. Scheduling of renovation to minimize exposure.

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

- a. Requirements of TSCA Title II.
- b. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).
- c. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1010.134).
- d. EPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.
- e. OSHA Asbestos Construction Standard found at 29 CFR 1026.58.

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

§ 8.11. Examinations.

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

Asbestos Project Designers:

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

§ 8.12. Refresher training course.

Proposed Regulations

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

§ 8.13. § 9.10. Asbestos management planner training.

Asbestos management planners seeking accreditation must complete an inspection training course as outlined above and a two day management planning training course. The two day training program shall include lectures, demonstrations, course review, and a written examination. The management planner training course shall adequately address the following topics:

1. Course overview:

- a. The role of the management planner.
- b. Operations and maintenance programs.
- c. Setting work priorities; protection of building occupants.

2. Evaluation/interpretation of survey results:

- a. Review of TSCA Title II requirements for inspection and management plans as given in § 203(i)(1) of TSCA Title II.
- b. Summarized field data and laboratory results; comparison between field inspector's data sheet with laboratory results and site survey.

3. Hazard assessment:

- a. Amplification of the difference between physical assessment and hazard assessment.
- b. The role of the management planner in hazard assessment.
- c. Explanation of significant damage, potential damage, and potential significant damage and use of a description (or decision tree) code for assessment of ACM; assessment of friable ACM.
- d. Relationship of accessibility, vibration sources, use of adjoining space, and air plenums and other factors to hazard assessment.

4. Legal implications:

- a. Liability; insurance issues specific to planners.

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

c. Use of results from previously performed inspections.

5. Evaluation and selection of control options:

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

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

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

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

6. Role of other professionals:

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

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

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

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

a. Purpose of the plan.

b. Discussion of applicable EPA guidance documents.

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

d. Reducing disturbance of ACM.

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

f. Boiler room maintenance.

g. Disposal of ACM.

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

Proposed Regulations

i. Discussion of employee protection programs and staff training.

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

8. Regulatory review:

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

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

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

d. Applicable state regulations.

9. Recordkeeping for the management planner:

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

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

c. Procedures for recordkeeping.

10. Assembling and submitting the management plan:

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

b. The management plan as a planning tool.

11. Financing abatement actions:

a. Economic analysis and cost estimates.

b. Development of cost estimates.

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

d. Asbestos School Hazard Abatement Act grants and loans.

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

~~§ 8-14.~~ § 9.11. Examinations.

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

course. The following are the requirements for examination:

Asbestos Management Planners:

1. 50 multiple choice questions.

2. Passing score: 70% correct.

~~§ 8-15.~~ § 9.12. Refresher training course.

Management planners shall attend the inspector refresher course of one-half day (four hours) in length plus an additional half-day (four hours) on management planning. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the inspector and management planner training courses as set forth in Part V and VII IX, §§ 9.10 and 9.12 of these regulations. A written closed book examination will be administered covering the topics included in the asbestos inspector and management planner refresher courses. Persons who pass the asbestos inspector and management planner refresher course examinations will receive some form of written certification indicating successful completion of the course.

§ 9.13. Asbestos project designers.

Asbestos project designers shall complete either a three-day abatement project designer training course as outlined below or the four-day asbestos abatement contractor and supervisor's training course as outlined in § 9.4. The three-day abatement project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The three-day abatement project designer training course shall adequately address the following topics:

1. Background information on asbestos:

a. Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings.

b. Physical appearance of asbestos.

2. Potential health effects related to asbestos exposure:

a. Nature of asbestos-related diseases.

b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.

c. The synergistic effect between cigarette smoking and asbestos exposure.

d. The latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.

3. Overview of abatement construction projects:

- a. Abatement as a portion of a renovation project.
- b. OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.58).

4. Safety system design specifications:

- a. Construction and maintenance of containment barriers and decontamination enclosure systems.
- b. Positioning of warning signs.
- c. Electrical and ventilation system lock-out.
- d. Proper working techniques for minimizing fiber release.
- e. Entry and exit procedures for the work area, use of wet methods, use of negative pressure exhaust ventilation equipment, use of high efficiency particulate aerosol (HEPA) vacuums, proper clean-up and disposal of asbestos, work practices as they apply to encapsulation, enclosure, and repair, use of glove bags and a demonstration of glove bag use.

5. Field trip:

- a. Visit an abatement site or other suitable building site, including on-site discussions of abatement design.
- b. Building walk-through inspection, and discussion following the walk-through.

6. Employee personal protective equipment:

- a. To include the classes and characteristics of respirator types.
- b. Limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures.
- c. Methods for field testing of the facepiece-to-facepiece seal (positive and negative pressure fitting tests).
- d. Qualitative and quantitative fit testing procedures.
- e. Variability between field and laboratory protection factors, factors that alter respirator fit (e.g., facial hair).
- f. Components of a proper respiratory protection program.
- g. Selection and use of personal protective clothing,

- use, storage and handling of nondisposable clothing.
- h. Regulations covering personal protective equipment.

7. Additional safety hazards:

- a. Hazards encountered during abatement activities and how to deal with them.
- b. Electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

8. Fiber aerodynamics and control:

- a. Aerodynamic characteristics of asbestos fibers.
- b. Importance of proper containment barriers.
- c. Settling time for asbestos fibers.
- d. Wet methods in abatement.
- e. Aggressive air monitoring following abatement.
- f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.

9. Designing abatement solutions.

- a. Discussions of removal, enclosure, and encapsulation methods.
- b. Asbestos waste disposal.

10. Budgeting/cost estimation.

- a. Development of cost estimates.
- b. Present costs of abatement versus future operations and maintenance costs.
- c. Setting priorities for abatement jobs to reduce cost.

11. Writing abatement specifications.

- a. Means and methods specifications versus performance specifications.
- b. Design of abatement in occupied buildings.
- c. Modification of guide specifications to a particular building.
- d. Worker and building occupant health/medical considerations.
- e. Replacement of ACM with nonasbestos substitutes.
- f. Clearance of work area after abatement.

Proposed Regulations

- g. Air monitoring for clearance.*
- 12. *Preparing abatement drawings:*
 - a. Use of as-built drawings.*
 - b. Use of inspection photographs and on-site reports.*
 - c. Particular problems in abatement drawings.*
- 13. *Contract preparation and administration.*
- 14. *Legal/liabilities/defenses.*
 - a. Insurance considerations, bonding, hold harmless clauses, use of abatement contractor's liability insurance.*
 - b. Claims-made versus occurrence policies.*
- 15. *Replacement of asbestos with asbestos-free substitutes.*
- 16. *Role of other consultants:*
 - a. Development of technical specification sections by industrial hygienists or engineers.*
 - b. The multidisciplinary team approach to abatement design.*
- 17. *Occupied buildings.*
 - a. Special design procedures required in occupied buildings.*
 - b. Education of occupants.*
 - c. Extra monitoring recommendations.*
 - d. Staging of work to minimize occupant exposure.*
 - e. Scheduling of renovation to minimize exposure.*
- 18. *Relevant federal, state and local regulatory requirements. Procedures and standards including:*
 - a. Requirements of TSCA Title II.*
 - b. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).*
 - c. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).*
 - d. EPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.*

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

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

§ 9.14. Examinations.

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

Asbestos Project Designers:

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

§ 9.15. Refresher training course.

Refresher courses shall be one day (8 hours) in length for project designers. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and review of key aspects of the initial training course as set forth in Part IX, 9.10 of these regulations. A written closed book examination shall be included in the refresher course. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

§ 9.16. RFS training course modules.

EACH MODULE SHALL CONSIST OF A MINIMUM OF FOUR HOURS OF ACTUAL INSTRUCTION. This training does not replace the training requirements of OSHA in 29 CFR 1926.58.

A. Module I.

Basic training information required for all supervisors and workers.

- 1. Physical characteristics.*
 - a. Identification of asbestos.*
 - b. Aerodynamic characteristics.*
 - c. Typical uses and physical appearance.*
 - d. Summary of RFS hazard control options.*
- 2. Health effects related to asbestos exposure.*
 - a. Nature of asbestos related disease.*

- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
 - c. Cigarette smoking and asbestos exposure.
 - d. Latency period for disease.
 - e. Need and importance of following all safety instructions.
3. Laws and regulations.
- a. Licensing requirements.
 - b. Relevant federal, state, and local regulatory requirements, procedures and standards.
4. Personal protection equipment
- a. Classes and characteristics of respirator types, limitations, proper selection, inspection, donning, use, maintenance, and storage procedures.
 - b. Fit testing procedures.
 - c. Components of a proper respiratory protection program.
 - d. Selection and use of personal protection clothing; use, storage, and handling of nondisposable clothing, hard hats, safety glasses, nonslip shoes.
5. Air monitoring.
- a. Procedures to determine airborne concentrations of asbestos fibers.
 - b. Discussion of how personal air sampling is performed and the reasons for it.
6. Personal hygiene.
- a. Entry and exit procedures for the work area.
 - b. Avoidence of eating, drinking, smoking and chewing (gum or tobacco) in the work area.
 - c. Potential exposures, such as family exposure.
- B. Floorcovering specialty module.
1. Floorcovering materials and adhesives which may contain asbestos.
- a. Floorcovering materials.
 - b. Adhesives - asbestos containing and nonasbestos containing.
 - c. Dates of production of asbestos containing resilient floorcoverings.
- d. Alternatives to removal of existing floor and proper methods.
2. Recommended work practices.
- a. Proper work techniques for minimizing fiber releases; wetting, steaming, dry ice, hand tools, HEPA vacuumed tools, use of sealants, no grinding, no crushing, no breakage, use of mastic removers.
 - b. Instruction as to proper techniques for:
 - (1) Removal of tile.
 - (2) Removal of sheet goods.
 - (3) Removal of residual adhesives.
 - c. Proper clean up and disposal techniques, construction of leak tight containers, sealing of friable ACM edges or wetting of edges, HEPA vacuuming, wet wiping.
 - d. Safety practices and hazard prevention during removal of floorcoverings.
 - (1) Discussion of hazards posed by wet working conditions, electrical hazards, slips, trips and falls.
 - e. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys, and all opening.
 - f. Positioning of warning signs, critical barriers and designation of regulated areas.
 - g. Emergency procedures.
3. Course review.
4. Examination.
- C. Roofing specialty module.
1. Identification of roofing materials which may contain asbestos.
- a. Typical uses and physical appearance of asbestos roofing materials.
2. Recommended work practices.
- a. Proper work techniques for minimizing fiber releases, wet methods, use of HEPA vacuums, procedures for removal of asbestos cement products versus built up roof products. Discussion of prohibited work practices.
 - b. Work practices for removal - wetting, hand tools, HEPA vacuumed tools, use of sealants.

Proposed Regulations

c. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys and all openings.

d. Proper clean up and disposal techniques, construction of leak tight chutes, sealing of friable ACM edges of wetting of edges.

e. Discussion of additional safety hazards:

(1) Scaffold and ladder hazards.

(2) Slips, trips and falls.

f. Positioning of warning signs, critical barriers and designation of regulated areas.

g. Emergency procedures.

3. Recommended safe work practices for installation of asbestos containing roofing materials.

4. Course review.

5. Examination.

D. Siding specialty module.

1. Identification and discussion of siding materials which may contain asbestos.

a. Typical uses and physical appearance of asbestos roofing materials.

2. Recommended work practices.

a. Proper work techniques for minimizing fiber releases; wetting, procedures for removal of asbestos cement products. Discussion of prohibited work practices.

b. Work practices for removal, wetting, hand tools, HEPA vacuumed tools, use of sealants.

c. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys and all openings.

d. Positioning of warning signs and designation of regulated areas.

e. Proper clean up and disposal techniques, construction of leak tight containers, sealing of friable ACM edges or wetting of edges.

f. Safety practices and hazard prevention during removal of siding.

(1) Scaffold and ladder hazards.

(2) Slips, trips, and falls.

g. Emergency procedures.

3. Recommended safe work practices for installation of asbestos containing siding materials.

4. Course review.

5. Examination.

E. RFS supervisor module.

1. Prewrite activities and considerations.

(1) Methods of identification.

(2) Inspection report.

b. Air monitoring, specific methods and documentation procedures.

c. Inspection of the nature of the asbestos containing materials.

2. Assessment of the work area.

a. Check for difficulty of isolating the work area.

b. Necessary considerations if areas adjacent to the activity will be occupied.

c. Check for items requiring special protection.

3. Site consideration and preparations.

a. Regulated area, barricade set-up, warning signs, etc.

4. Supervisory techniques, worker training, cleanliness of the job site.

5. Record keeping, disposal of asbestos containing waste, review of laws, regulations, and standards.

6. Course review.

7. Examination.

F. Each RFS worker training course shall consist of at least 8 hours (the basic module and one specialty module) of instruction.

G. Each RFS supervisor training course shall consist of at least 12 hours (the basic module, one specialty module and the supervisor module) of instruction.

~~PART IX.~~ PART X. TRAINING COURSE APPROVAL.

§ ~~9.1.~~ § 10.1. Training course approval requirements.

The Virginia accreditation program has been granted full

accreditation approval by the United States Environmental Protection Agency under the provisions found in 40CFR763 Subpart F. All training courses approved by the Department of Commerce will concurrently be granted EPA approval.

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

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

§ 9.2. § 10.2. Examination.

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

§ 9.3. § 10.3. Certificate of course approval.

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

§ 9.4. § 10.4. Refresher course approval.

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

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

§ 9.5. § 10.5. Changes to an approved training course.

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

§ 9.6. § 10.6. Suspension or revocation of approval of a training course.

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

1. The school, instructors, or courses no longer meet the standards established by the director, and found in Part IX § 9.1 Part X, § 10.1 of these regulations.

Proposed Regulations

2. Field inspectors indicate an approved individual, business, agency, institution or sponsor is not conducting the training that meets the requirements as set forth in these regulations. Training course sponsors shall permit Department of Commerce and Department of Labor and Industry representatives to attend, evaluate, and monitor any training course.

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

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

~~PART X~~ PART XI. EXEMPTIONS.

~~§ 10.1.~~ § 11.1. Emergency exemption from licensing.

An exemption from the licensing requirements, as set forth in these regulations may be granted by the director, pursuant to § 54.1-512 of the Code of Virginia, based on a situation that requires immediate removal, repair or encapsulation of asbestos containing materials and a licensed contractor/supervisor and workers are not available to perform the abatement work. Notification shall be immediate and followed by:

1. A written description of the emergency situation.
2. A description of the planned abatement project to include the abatement techniques, safety precautions, provisions for worker safety and protection, and safety equipment to be used in the abatement project.

The project shall not commence until the exemption has been approved by the director.

~~§ 10.2.~~ § 11.2. "BUSINESS NECESSITY" WILL NOT QUALIFY FOR EMERGENCY EXEMPTION FROM LICENSING REQUIREMENTS.

~~§ 10.3.~~ § 11.3. Exemption from licensure (not an emergency exemption).

The director may exempt from licensure any employer and any employees of such employer, but only with respect to an asbestos project on premises owned or leased by such employer and only after the director has determined that the training course implemented by the employer for his employees meets all of the standards as set forth in ~~Part VIII~~ Part X of these regulations. However, the requirement that the premises be owned or leased by the employer shall not apply if the asbestos project is located on a ship or other vessel designed for

operation on or underneath, and intended to be operated on or underneath, the water. All exemptions from licensure will be reviewed on at least an annual basis. To aid the director in making a determination of exemption, the employer shall submit to the director the following information regarding the asbestos safety and training program of the employer:

1. Employer's name, address, phone number, and contact person.
 2. A narrative explanation that clearly indicates how the course or training program is structured to meet the training course requirements as set forth in ~~Part IX~~ Part X of these regulations.
- Upon the approval by the director of the request for exemption from licensing requirements, the employer will be notified in writing by the Department of Commerce.
3. A complete list of all prior enforcement actions including any sanctions imposed on the employer by any jurisdiction or any state or federal court. A copy of any reports compiled by an enforcement agency.

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

~~§ 10.4.~~ § 11.4. Fees.

The fee for the evaluation of an employer's training program for exemption from licensure shall be \$2,100. The required fee must be submitted with the information listed in ~~§ 10.3.~~ § 11.3.

~~§ 10.5.~~ § 11.5. Annual reevaluation of exemption status.

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

APPENDIX A FEE SCHEDULE

| Type of Application | Fee Amount |
|---------------------------------|------------|
| Asbestos Contractor License | \$ 500 |
| Renewal | \$ 500 |
| Asbestos RFS Contractor License | \$ 500 |
| Renewal | \$ 500 |
| Asbestos Worker License | \$ 35 |
| Renewal | \$ 35 |

Proposed Regulations

| | |
|---|--------|
| Asbestos Supervisor License | \$ 35 |
| Renewal | \$ 35 |
| Asbestos Inspector License | \$ 35 |
| Renewal | \$ 35 |
| Asbestos Management Planner License | \$ 35 |
| Renewal | \$ 35 |
| Asbestos Project Designer License | \$ 35 |
| Renewal | \$ 35 |
| Asbestos Worker Training Course | \$2100 |
| (24 hours) | |
| Refresher Course (8 hours) | \$ 700 |
| Asbestos Supervisor Training Course | \$2800 |
| (32 hours) | |
| Refresher Course (8 hours) | \$ 700 |
| <i>RFS Worker Basic Module</i> | \$ 350 |
| <i>RFS Specialty Module</i> | \$ 350 |
| <i>RFS Supervisor Module</i> | \$ 350 |
| Asbestos Inspector Training Course | \$2100 |
| (24 hours) | |
| Refresher Course (4 hours) | \$ 700 |
| Asbestos Management Planner Training Course | \$1400 |
| (16 hours) | |
| Refresher Course (8 hours) | \$ 700 |
| Asbestos Project Designer Training Course | \$2800 |
| (32 hours) | |
| Refresher Course (8 hours) | \$ 700 |
| <i>RFS Worker Basic Module</i> | \$ 350 |
| <i>RFS Specialty Module</i> | \$ 350 |
| <i>RFS Supervisor Module</i> | \$ 350 |

For Office Use Only
Lic# _____
Date _____
Code _____



COMMONWEALTH OF VIRGINIA
Department of Commerce
Application for Asbestos Licensing

PLEASE PRINT Date _____ 19__

1. Name _____ Phone No. (____) _____
Mailing _____
Address _____

City _____ State _____ Zip Code _____

2. Date of Birth _____ 3. Social Security Number _____-____-____

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

Date of Training _____ Location _____ State _____

5. TYPE OF LICENSE REQUESTED: (only one type of license per application)
Worker (Reg. 2.3) Fee: \$35.00 _____ Management Planner (Reg. 6.3) Fee: \$35.00 _____
Supervisor (Reg. 4.3) Fee: \$35.00 _____ Project Designer (Reg. 7.3) Fee: \$35.00 _____
Inspector (Reg. 5.3) Fee: \$35.00 _____

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

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

Type _____ License No. _____ Issued by _____

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

Signature _____

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

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

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

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

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

AFFIDAVIT

9. THIS PORTION MUST BE COMPLETED BY APPLICANT.

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

Typewritten or Printed Name _____

Signature _____ Date _____

THIS PORTION MUST BE COMPLETED BY A NOTARY PUBLIC.

STATE OF _____

City/County of _____

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

My commission expires the _____ day of _____ 19__.

Notary Public (Seal)

INDIVIDUAL LICENSE APPLICATION

VIRGINIA ASBESTOS LICENSING
 Department of Commerce
 3600 West Broad Street
 Richmond, Virginia 23230

GENERAL INSTRUCTIONS

1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM. DO NOT DUPLICATE THE APPLICATION FORM.
2. Applications may be filed at any time.
3. **PRINT IN INK OR TYPE.**
4. All application and renewal fees are non-refundable.
5. Acceptance by the Department of Commerce of an application fee does not indicate approval of an application nor connote eligibility for licensure.
6. All applicable items must be properly completed and/or attached or the application will be returned and processing will be delayed.
7. Please keep instructions for future reference, along with a copy of your application and related papers.
8. MAIL THE COMPLETED APPLICATION FORM, FEE AND ALL ATTACHMENTS TO: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF COMMERCE, P. O. Box 11066, RICHMOND, VIRGINIA 23230, IN THE PRE-ADDRESSED ENVELOPE.

INCLUDE THE FOLLOWING TO COMPLETE YOUR APPLICATION

1. A check or money order payable to "Treasurer of Virginia" in the amount of \$35.00.
2. A copy of a certificate indicating successful completion of a Virginia approved asbestos training course. (see sections 2.1, 4.1, 5.1, 6.1 and 7.1 of the regulations.)

OR

A copy of a certificate indicating successful completion of an EPA approved asbestos training course (see sections 2.7, 4.7, 5.7, 6.7 and 7.7 of the regulations.)

ALL APPLICANTS FOR INDIVIDUAL LICENSING MUST SUBMIT ONE OF THE CERTIFICATES MENTIONED ABOVE.

INDIVIDUAL LICENSE APPLICATION

FORM INSTRUCTIONS

1. Complete both sides of the application form.
2. In #1, provide your current address; a street address must be provided unless you have a rural route and box number. All correspondence and your renewal application will be mailed to the address listed on the address line.
3. Indicate the type of license requested in the space provided in #5.
4. In #2, provide date of birth; applicant must be at least 18 years of age.
5. Complete #4 by providing the name of the school, date of training, and location where approved asbestos training course was completed.
6. Complete #7 if your license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction and if no enforcement action by any jurisdiction is pending, sign in the space provided on the bottom of the first page.

OR

- DO NOT complete and sign #7 if enforcement actions by any jurisdiction have been taken or are pending. Provide the information requested in #8 on the back of the application.
7. Complete #9, the affidavit portion of the application, and be sure it is notarized. The affidavit sections that appear at the end of the application must be completed by a Notary Public or the form will be returned.

PLEASE REMEMBER; ALL APPLICATIONS SHOULD BE COMPLETED ACCORDING TO THESE INSTRUCTIONS. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT; HOWEVER; FEES RECEIVED WILL NOT BE REFUNDED.

COMMONWEALTH OF VIRGINIA
Department of Commerce
Application for Asbestos Contractor License

PLEASE PRINT

1. Name _____
Mailing or _____
Business _____
Address _____
Phone No. () _____
City _____ State _____ Zip Code _____

2. Virginia Contractor's License Number: _____ Tax Identification Number: _____

Type of Business: (check one)

Individual _____ Limited partnership _____ Corporation _____ Co-partnership _____ Other _____

3. LICENSE FEE \$500.00 Indicate type of license requested below:
Asbestos Contractor _____ Asbestos RFS Contractor _____
ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA.

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

Type _____ License No. _____ Issued by _____

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

Signature

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

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

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

AS REQUIRED BY CHAPTER 5 Section 54.1-505 OF THE CODE OF VIRGINIA WHICH STATES AN ASBESTOS CONTRACTOR OR RFS CONTRACTOR SHALL;

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

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

AFFIDAVIT

6. THIS PORTION MUST BE COMPLETED BY APPLICANT.

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

Typewritten or
Printed Name _____

Signature _____

Title _____

Date _____

Applicant's Tradename _____

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

STATE OF _____

City/County of _____

Subscribed and sworn to before me the undersigned Notary Public in and for

the City or County aforesaid this _____ day of

_____ 19____.

My commission expires the _____ day of _____ 19____.

(Seal)

Notary Public

ASBESTOS CONTRACTOR LICENSE APPLICATION

ASBESTOS CONTRACTOR LICENSE APPLICATION

VIRGINIA ASBESTOS LICENSING
Department of Commerce
3600 West Broad Street
Richmond, Virginia 23230

GENERAL INSTRUCTIONS

1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM. DO NOT DUPLICATE THE APPLICATION FORM.
2. Applications may be filed at any time.
3. **PRINT IN INK OR TYPE.**
4. All application and renewal fees are non-refundable.
5. Acceptance by the Department of Commerce of an application fee does not indicate approval of an application nor connote eligibility for licensure.
6. All applicable items must be properly completed and/or attached or the application will be returned and processing will be delayed.
7. Please keep instructions for future reference, along with a copy of your application and related papers.
8. Include a check or money order payable to "Treasurer of Virginia" in the amount of \$500.00.
9. MAIL THE COMPLETED APPLICATION FORM, FEE AND ALL ATTACHMENTS TO: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF COMMERCE, P. O. Box 11066, RICHMOND, VIRGINIA 23230, IN THE PRE-ADDRESSED ENVELOPE.

FORM INSTRUCTIONS

1. Complete both sides of the application form.
2. Provide your current address; a street address must be provided unless you have a rural route and box number. All correspondence and your renewal application will be mailed to the address listed on the address line.
3. Provide your Virginia Contractor's License number.
4. If your license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction and it is enforcement action by any jurisdiction is pending, sign in the space provided near the bottom of the first page.

OR

DO NOT sign in the space in the box on the first page if enforcement actions by any jurisdiction have been taken or are pending. Provide the information requested in 1, 2, and 3.

5. Please read the back page of the application carefully and complete the affidavit. The affidavit section that appears at the end of the application must be completed by a Notary Public or the form will be returned.

PLEASE REMEMBER; ALL APPLICATIONS SHOULD BE COMPLETED ACCORDING TO THESE INSTRUCTIONS. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT; HOWEVER; FEES RECEIVED WILL NOT BE REFUNDED.

COMMONWEALTH OF VIRGINIA
ASBESTOS PROJECT 20 DAY NOTIFICATION
DEPARTMENT OF LABOR AND INDUSTRY
ATTN: ASBESTOS CONTROL CLERK
205 N. 4TH STREET, ROOM 1006
RICHMOND, VA 23219

FAX NUMBER (804) 371-7634

(MUST BE DELIVERED 20 DAYS BEFORE COMMENCING WORK)

1. Name & Address of Contractor _____

 Telephone No. () - _____
 VA license # _____
2. Name & Address of owner/operator _____

 Telephone No. () - _____

3. Type: Amended ___ *Emergency ___ Renovation ___ **Demolition ___

*A BRIEF DESCRIPTION OF THE SITUATION IS REQUIRED FOR ALL EMERGENCY NOTIFICATIO

Description for Emergency Project: _____

4. Description of facility, structure, etc.
- a. Present Use _____
- b. Site Address _____
- c. City and State _____
- d. Prior Use _____ Age _____
5. Estimate of the amount of friable asbestos* and estimation method.
- a. Linear feet pipe _____ b. Square feet surface _____
- Estimation method _____
- Type material and estimated volume _____

6. Set-up date / / Removal date / / Finish date / /
- Removal Times: Weekdays (Monday-Friday) _____
- Weekends (Saturday-Sunday) _____
- Work Shift Hours _____

7. Name and VA license # of project supervisor on site _____
8. Name and address of disposal site. _____

Contact Person and Telephone # _____

Landfill Permit # _____

9. Detailed description of Demolition/Removal Methods (wet removal, negative air, glove bag, etc.)

10. Procedures and equipment to control emissions and protect public health.
- a. During removal: _____

- b. During transit: _____

- c. During loading and unloading _____

- d. Monitoring plan: _____

** For renovation involving 160 square feet or 260 linear feet and all demolition a copy of this form must also be sent to U.S. Environmental Protection Agency Region III, Philadelphia, Pennsylvania

Only this form may be used. However it may be reproduced locally. Failure to answer all questions constitute improper notification.

(890901)

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 270-01-0033. Regulations Governing Driver Education.

Public Hearing Date: December 4, 1989 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

The Board of Education proposes to repeal existing regulations and promulgate new regulations.

These proposed regulations set forth requirements for (i) distribution of state funds for driver education; (ii) standardized driver education program for public and nonpublic schools; (iii) requirements for paraprofessional training; (iv) in-car insurance; (v) commercial school program requirements; and (vi) commercial school instructor requirements.

VR 270-01-0033. Regulations Governing Driver Education.

PART I. PUBLIC AND NONPUBLIC SCHOOL PROGRAMS.

§ 1.1. Local school boards may decide whether or not to offer driver education in the public schools and, if offered, whether it will be elective or required. However, only school divisions offering programs that comply with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-334 of the Virginia Code are entitled to participate in the distribution of state funds for driver education.

§ 1.2. The standardized driver education program established by the Board of Education requires:

1. That teachers hold a valid Virginia teaching certificate with an endorsement in driver education or, for in-car instruction only, satisfy the paraprofessional training requirements described below;
2. That the course follow the Curriculum Guide for Driver Education in Virginia and the Alcohol/Drugs and Driving guide;
3. That the program consist of 36 periods of classroom instruction and 14 periods of in-car instruction or the equivalent (see below) or follow the Department of Education's guidelines for a performance-based program;
4. That the periods of in-car instruction for a student be limited to no more than two in any 24-hour period, of which at least one must be actual driving;
5. That the number of persons in a vehicle be limited to no more than five, including the driver and the instructor, or the maximum passenger capacity of the

vehicle (i.e., the number of safety belts), whichever is smaller;

6. That driver education vehicles be equipped with rooftop signs and dual controls;

7. That driver education vehicles be operated off the public highways if practicable or, if that is not practicable, operated on a section of the road designed by the Commonwealth Transportation Board; and

8. That the students offered driver education be limited to those who are in regular attendance at school.

§ 1.3. Paraprofessional training requirements for traditional single car instruction may be satisfied by either of two methods. Prospective paraprofessionals may complete 96 50-minute periods (or the equivalent) of training consistent with the Department of Education's guidelines, or they may satisfactorily complete those courses required for a Virginia teaching certificate endorsement in driver education. Paraprofessionals who will instruct on simulators or multiple-car ranges, or both, are required to complete 15 additional periods of instruction for each method.

§ 1.4. In-car instruction requires 14 periods of instruction or the equivalent. The 14 periods of in-car instruction may be satisfied in either of the following four ways. (Credit for driving simulation toward the required number of instructional periods of car operation is given on a 1:4 ratio. In such cases, credit is also given for an equivalent amount of observation time.)

1. The traditional single car option requires seven periods of actual car operation and seven periods of observation, both in traffic.
2. The multiple-car driving range option requires seven periods of actual car operation, of which at least two must be in traffic and the remainder may be on the range, and seven periods of observation, of which at least two must be in traffic and the remainder on the range.
3. The simulation option requires a minimum of three and one half periods of actual car operation and three and one-half periods of observation, both in traffic, and the remaining periods of instruction may be on driving simulators (e.g., 14 periods of simulation would be equal to three and one-half periods of car operation, as well as three and one-half periods of observation.)
4. The combined multiple-car driving range and simulation option permits a maximum of 14 periods of simulation and requires a minimum of two periods of observation and two periods of actual car operation, both in traffic. The remainder of the instruction may

Proposed Regulations

be on the range.

PART II. COMMERCIAL SCHOOL PROGRAMS.

§ 2.1. Commercial schools providing instruction to students under the age of 19 are required to offer them a course that has been certified by the Department of Education to be of comparable content and quality to that offered in the public schools. Therefore, such courses must meet the requirements of subdivisions 2 through 6 of § 1.2 of the standardized program described under the public and nonpublic school programs section of these regulations. Additionally, for those schools offering classroom instruction, an adequate facility equipped for instruction must be provided, as well as textbooks for each student.

§ 2.2. Commercial school instructors of students under the age of 19 must satisfy the following requirements:

1. Have a valid commercial instructor's license issued by the Virginia Department of Commerce;
2. Have a valid Virginia motor vehicle operator's license with no corrective action by the Department of Motor Vehicles for the preceding three years;
3. Be at least 21 years of age;
4. Have a high school diploma or equivalent;
5. Have at least four years of driving experience; and
6. Either hold a valid Virginia teaching certificate with an endorsement in driver education or satisfactory complete those courses required for a Virginia teaching certificate endorsement in driver education.

VIRGINIA RACING COMMISSION

Title of Regulation: VR 622.01.02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.

Statutory Authority: § 59.1-364 of the Code of Virginia.

Public Hearing Date: December 20, 1989 - 9:30 a.m.
(See Calendar of Events section for additional information)

Summary:

The Virginia Racing Commission is authorized by § 59.1-364 of the Code of Virginia to issue regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. These proposed regulations (i) set forth the requirements for making applications for owner's, owner-operator's and operator's licenses, (ii) establish the criteria the Virginia Racing Commission will use in considering applicants, and (iii) set the fees and deadlines for

payment thereof for applicants and licensees as well as the procedures, facilities and equipment to conduct horse racing with pari-mutuel wagering. Proposed definitions are included for a full understanding of the proposed regulations. Forms will be published when the final regulations are published.

VR 622.01-02. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Act" means Chapter 29, (§§ 59.1-364 et seq.) of Title 59.1 of the Code of Virginia.

"Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of \$.10

"Commission" means the Virginia Racing Commission.

"Enclosure" means all areas of the property of a track to which admission can be obtained only by payment of an admission fee or upon presentation of authorized credentials, and any additional areas designated by the commission.

"Horse owner" means a person owning an interest in a horse.

"Horse racing" means a competition on a set course involving a race among horses on which pari-mutuel wagering is permitted.

"Licensee" includes any person holding an owner's, operator's, limited or unlimited license, or any other license issued by the commission.

"Limited license" means a license issued by the commission allowing the holder to conduct a race meeting or meetings, with pari-mutuel wagering privileges, for a period not exceeding 14 days in any calendar year.

"Member" includes any person designated a member of a nonstock corporation, and any person who by means of a pecuniary or other interest in such corporation exercises the power of a member.

"Owner's license" means a license issued by the commission allowing the holder to construct a horse racing facility for the purpose of conducting a limited or unlimited race meeting with pari-mutuel wagering privileges.

Proposed Regulations

"Operator's license" means a license issued by the commission allowing the holder to conduct a horse race meeting with pari-mutuel wagering privileges.

"Pari-mutuel wagering" means the system of wagering on horse racing in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, less deductions required or permitted by law.

"Permit holder" includes any person holding a permit to participate in horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting where pari-mutuel wagering is offered thereon as provided in the Act.

"Person" includes a natural person, partnership, joint venture, association or corporation.

"Pool" means the amount wagered during a race meeting in straight wagering, in multiple wagering, or during a specified period thereof.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members, owns or controls, directly or indirectly, 5.0% or more of the stock of any person who is a licensee, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of 5.0 % or more of any such stock.

"Race meeting" means the whole consecutive period of time during which horse racing with pari-mutuel wagering is conducted by a licensee.

"Retainage" means the total amount deducted, from the pari-mutuel wagering pool in the percentages designated by statute for the Commonwealth of Virginia, purse money for the participants, Virginia Breeders Fund, and the operators.

"Stock" includes all classes of stock of an applicant or licensee corporation, and any debt or other obligation of such corporation or stockholder thereof or stock of any affiliated corporation if the commission finds that the holder of such obligation or stock derives therefrom such control of or voice in the operation of the applicant or licensee corporation that he should be deemed a stockholder. "Totalizator" means an electronic data processing system for registering wagers placed on the outcomes of horse racing, deducting the retainage, calculating the mutuel pools and returns to ticket holders, and displaying approximate odds and payouts, including machines utilized in the sale and cashing of wagers.

"Unlimited license" means a license issued by the commission allowing the holder to conduct a race meeting or meetings, with pari-mutuel wagering privileges, for periods of 15 days or more in any calendar year.

"Virginia Breeders Fund" means the fund established to

foster the industry of breeding racehorses in the Commonwealth of Virginia.

PART II. LICENSURE.

§ 2.1. Identification of applicant for owner's, owner-operator's, operator's license.

An application shall include, on a form prepared by the commission, the name, address, and telephone number of the applicant and the name, position, address, telephone number, and authorized signature of an individual to whom the commission may make inquiry.

§ 2.2. Applicant's affidavit.

An application shall include, on a form prepared by the commission, an affidavit from the chief executive officer or a major financial participant in the applicant setting forth:

1. That application is made for a license to own, own-operate, or operate a horse racing facility at which pari-mutuel wagering is conducted;
2. That the affiant is the agent of the applicant, its owners, partners, members, directors, officers, and personnel and is duly authorized to make the representations in the application on their behalf. Documentation of the authority shall be attached;
3. That the applicant seeks a grant of a privilege from the Commonwealth of Virginia, and the burden of proving the applicant's qualifications rests at all times with the applicant;
4. That the applicant consents to inquiries by the Commonwealth of Virginia, its employees, the commission members, staff and agents, into the financial, character, and other qualifications of the applicant by contacting individuals and organizations;
5. That the applicant, its owners, partners, members, directors, officers, and personnel accept any risk of adverse public notice, embarrassment, criticism, or other circumstance, including financial loss, which may result from action with respect to the application and expressly waive any claim which otherwise could be made against the Commonwealth of Virginia, its employees, the commission, staff, or agents;
6. That the affiant has read the application and knows the contents; the contents are true to affiant's own knowledge, except matters therein stated as information and belief; as to those matters, affiant believes them to be true;
7. That the applicant recognizes all representations in the application are binding on it, and false or misleading information in the application, omission of

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required information, or substantial deviation from representations in the application may result in denial, revocation, suspension or conditioning of a license or imposition of a fine, or any or all of the foregoing;

8. That the applicant will comply with all applicable state and federal statutes and regulations, all regulations of the commission and all other local ordinances;

9. The affiant's signature, name, organization, position, address, and telephone number; and

10. The date.

§ 2.3. Disclosure of ownership and control.

An applicant must disclose:

1. The type of organizational structure of the applicant, whether individual, business corporation, nonprofit corporation, partnership, joint venture, trust, association, or other;

2. If the applicant is an individual, the applicant's legal name, whether the applicant is a United States citizen, any aliases and business or trade names currently or previously used by the applicant, and copies of all state and federal tax returns for the past five years;

3. If the applicant is a corporation:

a. The applicant's full corporate name and any trade names currently or previously used by the applicant;

b. The jurisdiction and date of incorporation;

c. The date the applicant began doing business in Virginia and a copy of the applicant's certificate of authority to do business in Virginia;

d. Copies of the applicant's articles of incorporation, bylaws, and all state and federal corporate tax returns for the past five years;

e. The general nature of the applicant's business;

f. Whether the applicant is publicly held as defined by the rules and regulations of the Securities and Exchange Commission;

g. The classes of stock of the applicant. As to each class, the number of shares authorized, number of shares subscribed to, number issued, number outstanding, par value per share, issue price, current market price, number of shareholders, terms, position, rights, and privileges must be disclosed;

h. Whether the applicant has any other obligations

or securities authorized or outstanding which bear voting rights either absolutely or upon any contingency, the nature thereof, face or par value, number of units authorized, number outstanding, and conditions under which they may be voted;

i. The names, in alphabetical order, and addresses of the directors and, in a separate list, officers of the applicant. The number of shares held of record directly or indirectly by each director and officer as of the application date of each class of stock, including stock options and subscriptions, and units held of record or beneficially of other obligations or securities which bear voting rights must be disclosed;

j. The names, in alphabetical order, and addresses of each recordholder as of the date of application or beneficial owner of shares, including stock options and subscriptions, of the applicant or units of other obligations or securities which bear voting rights. As to each holder of shares or units, the number and class or type of shares or units shall be disclosed;

k. Whether the requirements of the Securities Act of 1933 and Securities and Exchange Act of 1934, as amended, and Securities and Exchange Commission rules and regulations have been met in connection with issuance of applicant's securities, and copies of the most recent registration statement and annual report filed with the Securities and Exchange Commission;

l. Whether the securities registration and filing requirements of the applicant's jurisdiction of incorporation have been met, and a copy of the most recent registration statement filed with the securities regulator in that jurisdiction; and

m. Whether the securities registration and filing requirements of the Commonwealth of Virginia have been met. If they have not, the applicant must disclose the reasons why. The applicant must provide copies of all securities filings with Virginia's State Corporation Commission during the past five years.

4. If the applicant is an organization other than a corporation:

a. The applicant's full name and any aliases, business, or trade names currently or previously used by the applicant;

b. The jurisdiction of organization of the applicant;

c. The date the applicant began doing business in Virginia;

d. Copies of any agreements creating or governing

the applicant's organization and all of the applicant's state and federal tax returns for the past five years;

e. The general nature of the applicant's business;

f. The names, in alphabetical order, and addresses of any partners and officers of the applicant and other persons who have or share policy-making authority. As to each, the applicant must disclose the nature and extent of any ownership interest, direct or indirect, including options, or other voting interest, whether absolute or contingent, in the applicant; and

g. The names, in alphabetical order, and addresses of any individual or other entity holding a record or beneficial ownership interest, direct or indirect, including options, as of the date of the application, or other voting interest, whether absolute or contingent, in the applicant. As to each, the applicant must disclose the nature and extent of the interest.

5. If a nonindividual record or beneficial holder of an ownership or other voting interest of 5.0 % or more in the applicant is identified pursuant to subdivision 3, i or j or subdivision 4, f and g, the applicant must disclose the information required by those subdivisions as to record or beneficial holders of an ownership or other voting interest of 5.0% or more in that nonindividual holder. The disclosure required by those subdivisions must be repeated, in turn, until all other voting interests of 5.0% or more in the applicant or any nonindividual holder are identified. When an applicant is unable to provide the information required, it shall explain fully and document its inability to do so;

6. Whether the applicant is directly or indirectly controlled to any extent or in any manner by another individual or entity. If so, the applicant must disclose the identity of the controlling entity and a description of the nature and extent of control;

7. Any agreements or understandings which the applicant or any individual or entity identified pursuant to this part has entered into regarding ownership or operation of applicant's horse racing facility, and copies of any such agreements in writing;

8. Any agreements or understandings which the applicant has entered into for the payment of fees, rents, salaries, or other compensation concerning the proposed horse racing facility by the applicant, and copies of any such agreements in writing; and

9. Whether the applicant, any partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of 5.0% or more has held or holds a license or permit issued by a

governmental authority to own or operate a horse racing facility, pari-mutuel wagering facility or any other form of gambling or has a financial interest in such an enterprise or conducts any aspect of horse racing or gambling. If so, the applicant must disclose the identity of the license or permit holder, nature of the license or permit, issuing authority, and dates of issuance and termination.

§ 2.4. Disclosure of character information.

An applicant for a license must disclose and furnish particulars as follows whether the applicant or any individual or other entity identified pursuant to subdivisions 3 and 4 of § 2.3 and subdivisions 2 and 3 of § 2.10 of these regulations:

1. Been charged in any criminal proceeding other than a traffic violation. If so, the applicant must disclose nature of the charge, the date charged, court and disposition;

2. Had a horse racing, gambling, business, professional, or occupational license or permit revoked or suspended or renewal denied or been a party in a proceeding to do so. If so, the applicant must disclose the date of commencement, circumstances and disposition;

3. Been accused in an administrative or judicial proceeding of violating a statute or regulation relating to horse racing or gambling;

4. Been charged in an administrative or judicial proceeding of violating a statute or regulation relating to unfair labor practices or discrimination;

5. Begun an administrative or judicial action against a governmental regulator of horse racing or gambling. If so, the applicant must disclose the date of commencement, forum, circumstances and disposition;

6. Been the subject of voluntary or involuntary bankruptcy proceedings. If so, the applicant must disclose the date of commencement, forum, circumstances, date of decision and disposition;

7. Failed to satisfy any judgment, decree or order of an administrative or judicial tribunal. If so, the applicant must disclose the date and circumstances; and

8. Been delinquent in filing a tax return required or remitting a tax imposed by any government. If so, the applicant must disclose the date and circumstances.

§ 2.5. Disclosure of sites and facilities.

An application for a license must disclose with respect to the pari-mutuel horse racing facility it will own, operate, or own and operate:

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1. The address of the facility, ownership of site for the last five years, legal description, mortgagors, proof of title insurance, its size, and geographical location, including reference to county and municipal boundaries;
2. A site map showing existing highways and streets adjacent to the facility, and separately showing any proposed highways and streets adjacent to the facility, including their scheduled completion dates;
3. The type or types of racing for which the facility is designed, whether thoroughbred, harness, quarterhorse, or other;
4. Racetrack dimensions for each racetrack operated by the facility by:
 - a. Circumference;
 - b. Width;
 - c. Banking;
 - d. Location of chutes;
 - e. Length of stretch;
 - f. Distance from judges' stand to first turn;
 - g. Type of surface; and
 - h. Description of safety rail.
5. A description of the backstretch area, giving:
 - a. Dimensions and number of barns, whether open or enclosed;
 - b. Location and interval of barns;
 - c. Dimensions and number of stalls per barn;
 - d. Location of offices for veterinarians;
 - e. Location of facilities for emergency care for horses;
 - f. Location of facilities for feed, tack, and other vendors;
 - h. Location, description and number of housing units for backstretch employees;
 - i. Location and description of commissary, lavatory and recreational facilities for backstretch employees; and
 - j. Location and description of training track, if any.
6. A description of the grandstand, giving:
 - a. Total seating capacity;
 - b. Total reserved seating capacity;
 - c. Indoor and outdoor seating capacity;
 - d. Configuration of grandstand seating and pari-mutuel and concession facilities within the grandstand;
 - e. The number and location of men's and women's restrooms, drinking fountains and medical facilities available to patrons; and
 - f. Description of public pedestrian traffic patterns throughout the grandstand.
7. A description of the post-race detention barn, giving:
 - a. Distance from the post-race detention barn to track and paddock;
 - b. Number of sampling stalls;
 - c. Placement of viewing ports on each;
 - d. Location of post-mortem floor;
 - e. Number of wash stalls with hot and cold water and drains;
 - f. Availability of video monitors and other security measures; and
 - g. The walking ring.
8. A description of the paddock and saddling area, giving:
 - a. Number of stalls in the paddock;
 - b. Height from the floor to lowest point of the stall ceiling and entrance;
 - c. Paddock public address and telephone services; and
 - d. Public viewing area.
9. A description of the jockeys' and drivers' quarters, giving:
 - a. Changing areas;
 - b. A listing of equipment to be installed in each; and
 - c. The location of the jockeys' or drivers' quarters in relation to the paddock.
10. A description of the pari-mutuel totalizator, giving:

- a. Approximate location of bettors' windows and cash security areas; and
 - b. A description of the equipment, including vendor and manufacturer if known.
11. A description of the parking, giving:
- a. Detailed attention to access to parking from surrounding streets and highways;
 - b. Number of parking spaces available, distinguishing between public and other;
 - c. A description of the road surface on parking areas and the distance between parking and grandstand; and
 - d. A road map of the area showing the relationship of parking to surrounding, existing and proposed streets and highways.
12. A description of the height, type of construction and materials of perimeter fence;
13. A description of improvements and equipment at the racetrack for security purposes in addition to perimeter fence, including the vendor and manufacturer of equipment if known;
14. A description of starting, timing, photo finish, and photo-patrol or video equipment, including the vendor and manufacturer if known;
15. A description of work areas for the commission members, officers, employees, stewards, and agents;
16. A description of the facility's access to public transportation, the types of public transportation and schedules and road maps of area which show pick-up and drop-off points; and
17. A description of manure and other refuse containers and plans for their prompt and proper removal.
- § 2.6. Disclosure of development process.
- An applicant for a license must disclose with regard to development of its horse racing facility:
1. The total cost of construction of the facility, distinguishing between known costs and projected costs;
 2. Separate identification of the following costs, distinguishing between known costs and projected costs:
 - a. Facility design;
 - b. Land acquisition;
 - c. Site preparation;
 - d. Improvements and equipment, separately identifying the costs of section 5, subsections D to O, and other categories of improvements and equipment; and
 - e. Organization, administrative, accounting, and legal.)
 3. Documentation of the nature of interim financing and the nature of permanent financing;
 4. Documentation of fixed costs;
 5. The schedule for construction of the facility, giving:
 - a. Acquiring land;
 - b. Soliciting bids;
 - c. Zoning and construction permit approval;
 - d. Awarding construction contracts;
 - e. Beginning construction;
 - f. Completing construction;
 - g. Training staff; and
 - h. Beginning of racing.
 6. Schematic drawings;
 7. Copies of any contracts with and performance bonds from the:
 - a. Architect or other design professional;
 - b. Project engineer;
 - c. Construction engineer;
 - d. Contractors and subcontractors; and
 - e. Equipment procurement personnel.
 8. Whether the site has been acquired or leased by applicant. If so, the applicant must provide the documentation. If not, the applicant must state which actions must be taken in order to obtain the site; and
 9. Whether present construction planning envisions future expansion of the facilities and, if so, a general description of the nature of such expansion.
- § 2.7. Disclosure of financial resources.

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An applicant for license must provide the following with regard to financial resources:

1. The most recent independently audited financial statement showing:

a. The applicant's current assets, including investments in affiliated entities, loans and accounts receivable;

b. Fixed assets;

c. Current liabilities, including loans and accounts payable; and

d. Long-term debt and equity; and

e. Statement of income and expenses, and statement of cash flow;

2. Equity and debt sources of funds to develop, own and operate the horse racing facility:

a. With respect to each source of equity:

(1) Contribution;

(2) Identification of the source;

(3) Amount;

(4) Form;

(5) Method of payment;

(6) Nature and amount of present commitment; and

(7) Documentation, copies of agreements and actions which the applicant will take to obtain commitments for additional amounts;

b. With respect to each source of debt:

(1) Contribution;

(2) Identification of the source;

(3) Amount;

(4) Terms of debt;

(5) Collateral;

(6) Identity of guarantors;

(7) Nature and amount of commitments; and

(8) Documentation, copies of agreements and actions which the applicant will take to obtain commitments for additional amounts; and

3. Identification and description of sources of additional funds if needed due to cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other cause.

§ 2.8. Disclosure of financial plan.

An applicant for a license must disclose with regard to its financial plan the financial projections for the development period and for each of the first five racing years, with separate schedules based upon the number of racing days, types of racing, and types of pari-mutuel wagering the applicant requires to break even and the optimum number of racing days and types of wagering the applicant seeks each year. The commission will utilize financial projections in deciding whether to issue licenses.

Neither acceptance of a license application nor issuance of a license shall bind the commission as to matters within its discretion, including, but not limited to, assignment of racing days and approval of types of permissible pari-mutuel pools.

The disclosure must include:

1. The following assumptions and support for them:

a. Average daily attendance;

b. Average daily per capita handle and average bet;

c. Retainage;

d. Admissions to track, including ticket prices and free admissions;

e. Parking volume, fees and revenues;

f. Concessions, gift shop and program sales;

g. Cost of purses;

h. Pari-mutuel expenses;

i. State taxes;

j. Local taxes;

k. Federal taxes;

l. Virginia Breeders' Fund;

m. Payroll;

n. Operating supplies and services;

o. Utilities;

p. Repairs and maintenance;

q. Insurance;

r. Travel expenses;

s. Membership expenses;

t. Security expenses;

u. Legal and audit expenses; and

v. Debt service;

2. The following profit and loss elements:

a. Total revenue, including projected revenues from retainage, breakage, uncashed tickets, admissions, parking, and concessions, gift and program operations;

b. Total operating expenses, including anticipated expenses for:

(1) Purses;

(2) Pari-mutuel;

(3) Sales tax;

(4) Local taxes;

(5) Admissions tax;

(6) Virginia Breeders' Fund;

(7) Special assessments;

(8) Cost of concession goods, gifts and programs;

(9) Advertising and promotion;

(10) Payroll;

(11) Operating supplies and service;

(12) Maintenance and repairs;

(13) Insurance;

(14) Security;

(15) Legal and audit; and

(16) Federal and state taxes.

c. Nonoperating expenses, including anticipated expenses for debt service, facility depreciation and identification of method used, and equipment depreciation and identification of method used;

3. Projected cash flow, including assessment of:

a. Income, including equity contributions, debt contributions, interest income and operating revenue;

and

b. Disbursements, including land, improvements, equipment, debt service, operating expense and organizational expense.

4. Projected balance sheets as of the end of the development period and of each of the first five racing years setting forth:

a. Current, fixed and other noncurrent assets;

b. Current and long-term liabilities; and

c. Capital accounts.

5. The applicant must also disclose an accountant's review report of the financial projections.

§ 2.9. Disclosure of governmental actions.

An applicant for a license must disclose with regard to actions of government agencies:

1. The street and highway improvements necessary to ensure adequate access to applicant's horse racing facility, and the cost of improvements, status, likelihood of completion and estimated date of completion;

2. The sewer, water and other public utility improvements necessary to serve applicant's facility, and the cost of improvements, status, likelihood of completion and estimated date of completion;

3. The status of any required government approvals for development, ownership and operation of its horse racing facility:

a. A description of the approval, unit of government, date and documentation;

b. Whether public hearings were held. If they were, the applicant must disclose when and where the hearings were conducted. If they were not held, the applicant must disclose why they were not held; and

c. Whether the unit of government attached any conditions to approval. If so, the applicant must disclose these conditions, including documentation. In addition, the applicant must summarize its plans to meet these conditions.

4. Whether any required governmental approvals remain to be obtained, as well as a description of the approval, unit of government, status, likelihood of approval and estimated date of approval;

5. Whether an environmental assessment or environmental impact statement of the facility has been or will be prepared. If so, the applicant must

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disclose its status and the governmental unit with jurisdiction, and provide a copy of any statement; and

6. Whether the applicant is in compliance with all state statutes, local charter provisions, local ordinances, and state and local regulations pertaining to the development, ownership and operation of its horse racing facility. If the applicant is not in compliance, the applicant must disclose the reasons why the applicant is not in compliance and summarize plans to obtain compliance.

§ 2.10. Disclosure of management.

An applicant for a license must disclose with regard to the development, ownership and operation of its pari-mutuel horse racing facility:

1. A description of the applicant's management plan, with budget and identification of management personnel by function, job descriptions and qualifications for each management position, and a copy of the organization chart;

2. Management personnel to the extent known and with respect to each:

a. Legal name, alias(es) and previous name(s);

b. Current residence and business addresses and telephone numbers;

c. Qualifications and experience in the following areas:

(1) General business;

(2) Marketing, promotion and advertising;

(3) Finance and accounting;

(4) Horse racing;

(5) Pari-mutuel wagering;

(6) Security; and

(7) Human and animal health and safety.

d. Description of the terms and conditions of employment and a copy of each type of agreement;

3. Consultants and other contractors who have provided or will provide management-related services to applicant with respect to each:

a. Full name;

b. Current address and telephone number;

c. Nature of services;

d. Qualifications and experience; and

e. Description of terms and conditions of each contractor's agreement and a copy of the agreement.

4. Memberships of the applicant, management personnel and consultants in horse racing organizations.

5. Description of the applicant's marketing, promotion and advertising plans;

6. A description of the applicant's plan for concessions, including whether the licensee will operate concessions and, if not, who will;

7. A description of training of the applicant's personnel; and

8. A description of plans for compliance with all laws pertaining to discrimination, equal employment and affirmative action; policies regarding recruitment, use and advancement of minorities; policies with respect to minority contracting; and a copy of Equal Employment Opportunity Statement.

§ 2.11. Disclosure of safety and security plans.

An application for a license must disclose with regard to the development of its horse racing facility:

1. A description of the local emergency services available to the racetrack, including fire fighting, law enforcement and medical emergency services;

2. A description of the security equipment, such as fences, locks, alarms and monitoring equipment, for the facility, including:

a. Perimeter fence and its construction;

b. Stables;

c. Paddock;

d. Cash room and the vault;

e. Pari-mutuel ticket windows;

f. Totalizator room;

g. Post-race detention barn; and

h. Parking lot.

3. A description of the security procedures to be used:

a. To admit individuals to restricted areas of the racetrack;

b. To secure areas where money and mutuel tickets are vaulted, and daily transfers of cash via armored trucks;

c. To provide security for patrons and employees; and

d. Specific plans to discover persons at the facility who have been convicted of a felony, had a license suspended, revoked, or denied by the commission or by the horse racing authority of another jurisdiction or are a threat to the integrity of racing in Virginia.

4. A description of the security personnel to be employed at the facility, giving:

a. Whether personnel will be employees of the licensee or employees of an independent contractor;

b. If the personnel are employed by an independent contractor, describe the organization and qualifications of the contractor as well as meeting applicable state licensing requirements;

c. State the number of individuals to be employed and the area of the racetrack where each will serve;

d. Provide an organizational chart of the security force with a job description of each level; and

e. State whether or not the security personnel are bonded and if so, state amount and conditions of the bond and the name and address of the surety company that issued the bond.

5. A description of the fire safety and emergency procedures, giving:

a. Evacuating the patrons and controlling traffic in an emergency;

b. Inspecting the facility for fire and safety hazards;

c. Restricted smoking areas; and

d. Coordinating the facility's security, fire and safety procedures with the state police, the commission and other local agencies.

6. A description of the first aid facilities available at the racetrack during racing hours and the facilities available to employees during non-racing hours;

7. Whether the applicant will be a member of the Thoroughbred Racing Protective Bureau or other security organization; and

8. A description of the internal accounting controls to create cross checks and balances in order to safeguard assets and detect fraud and embezzlement.

§ 2.12. Disclosure of public service.

An applicant for a license must disclose its plans for promotion of the orderly growth of horse racing in Virginia and education of the public with respect to horse racing and pari-mutuel wagering.

§ 2.13. Disclosure of impact of facilities.

An applicant for a license must disclose and document the projected impact of its horse racing facility, including:

1. Economic impact, giving:

a. Number of jobs created, whether permanent or temporary, type of work, compensation, employer and how created;

b. Purchases of goods and services, types of purchases and projected expenditures;

c. Public and private investment; and

d. State and local tax revenues generated.

2. Environmental impact;

3. Impact on energy conservation and development of alternative energy sources; and

4. Social impact on the community in which the race track would be located.

§ 2.14. Effects on competition.

An applicant must disclose the anticipated short- and long-range effects of its ownership and operation of its horse racing facility on competition within the horse racing industry.

§ 2.15. Disclosure of assistance in preparation of application.

An applicant must disclose the names, addresses and telephone numbers of individuals and businesses who assisted the applicant in the writing of its application and supply copies of all studies completed for the applicant.

§ 2.16. Personal information and authorization for release.

In an application for a license, the applicant shall include the following with respect to each individual identified as an applicant, partner, director, officer, other policymaker, or holder of a direct or indirect record or beneficial ownership interest or other voting interest or control of five percent or more in the applicant and each individual identified pursuant to subdivisions 2 and 3 of § 2.10:

1. Full name, business and residence addresses and telephone numbers, residence addresses for past five

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years, date of birth, place of birth, Social Security number, if the individual is willing to provide it, and two references; and

2. An authorization for release of personal information, on a form prepared by the commission, signed by the individual and providing that he:

a. Authorizes a review by, and full disclosure to, an agent of the Virginia State Police, of all records concerning the individual;

b. Recognizes the information reviewed or disclosed may be used by the Commonwealth of Virginia, its employers, the commission, members, staff and agents to determine the signer's qualifications for a license; and

c. Releases authorized providers and users of the information from any liability under state or federal data privacy statutes.

§ 2.17. License criteria.

A. The commission may issue a license if it determines on the basis of all the facts before it that:

1. The applicant is financially able to operate a racetrack;

2. Issuance of a license will not adversely affect competition within the horse racing industry and the public interest;

3. The racetrack will be operated in accordance with all applicable state and federal statutes and regulations, regulations of the commission and all local ordinances; and

4. The issuance of the license will not adversely affect the public health, safety and welfare.

B. In making the required determinations, the commission must consider the following factors:

1. The integrity of the applicant, including:

a. Criminal record;

b. Involvement in litigation over business practices;

c. Involvement in disciplinary actions over a business license or permit or refusal to renew a license or permit;

d. Involvement in proceedings in which unfair labor practices, discrimination or government regulation of horse racing or gambling was an issue;

e. Involvement in bankruptcy proceedings;

f. Failure to satisfy judgments, orders or decrees;

g. Delinquency in filing of tax reports or remitting taxes; and

h. Any other factors related to integrity which the commission deems crucial to its decision making, as long as the same factors are considered with regard to all applicants.

2. The types and variety of pari-mutuel horse racing, pari-mutuel wagering, and other uses of the facility when racing or wagering is not offered;

3. The quality of physical improvements and equipment in applicant's facility, including:

a. Racetrack or tracks and provisions, if any, for a turf course;

b. Stabling, including fire control measures;

c. Grandstand;

d. Detention barn;

e. Paddock;

f. Jockeys', drivers' and backstretch employees' quarters;

g. Pari-mutuel totalizator;

h. Parking;

i. Access by road and public transportation;

j. Perimeter fence;

k. Other security improvements and equipment;

l. Starting, timing, photo finish and photo-patrol or video equipment;

m. Commission work areas; and

n. Any other factors related to quality which the commission deems crucial to its decision making, as long as the same factors are considered with regard to all applicants;

4. Imminence of completion of facility and commencement of pari-mutuel horse racing;

5. Financial ability to develop, own and operate a pari-mutuel horse racing facility successfully, including:

a. Ownership and control structure;

b. Amounts and reliability of development costs;

- c. Certainty of site acquisition or lease;
 - d. Current financial condition;
 - e. Sources of equity and debt funds, amounts, terms and conditions and certainty of commitment;
 - f. Provision for cost overruns, nonreceipt of expected equity or debt funds, failure to achieve projected revenues or other financial adversity;
 - g. Feasibility of financial plan; and
 - h. Any other factors related to financial ability which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.
6. Status of governmental actions required for the applicant's facility, including:
- a. Necessary road improvements;
 - b. Necessary public utility improvements;
 - c. Required governmental approvals for development, ownership and operation of the facility;
 - d. Acceptance of any required environmental assessment and preparation of any required environmental impact statement; and
 - e. Any other factors related to status of governmental actions which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.
7. Management ability of the applicant, including:
- a. Qualifications of managers, consultants and other contractors to develop, own and operate a pari-mutuel horse racing facility;
 - b. Security plan;
 - c. Plans for human and animal health and safety;
 - d. Marketing, promotion and advertising plans;
 - e. Concessions plan;
 - f. Plan for training personnel;
 - g. Equal employment and affirmative action plans; and
 - h. Any other factors related to management ability which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.
8. Compliance with applicable statutes, charters, ordinances or regulations;
9. Efforts to promote orderly growth of horse racing in Virginia and educate public with respect to horse racing and pari-mutuel wagering;
10. Impact of facility, including:
- a. Economic impact, including employment created, purchases of goods and services, public and private investment and taxes generated;
 - b. Environmental impact;
 - c. Impact on energy conservation and development of alternative energy sources;
 - d. Social impact;
 - e. Costs of public improvements;
 - f. Impact on the highway network; and
 - g. Any other factors related to impact which the commission deems crucial to its decision making as long as the same factors are considered with regard to all applicants.
11. Extent of public support and opposition;
12. Effects on competition, including:
- a. Number, nature and relative location of other licenses;
 - b. Minimum and optimum number of racing days sought by the applicant; and
 - c. Any other factors of the impact of competition which the commission deems crucial to decision making as long as the same factors are considered with regard to all applicants.
13. The commission shall also consider any other information which the applicant discloses and is relevant and helpful to a proper determination by the commission.
- § 2.18. Criteria for unlimited horse racing facilities.
- A. Generally.
- Every license to conduct a horse race meeting with pari-mutuel wagering privileges, of 15 days or more in any calendar year is granted by the commission upon the condition that the licensee will conduct horse racing at its facility or meeting for the promotion, sustenance, and growth of a native industry in a manner consistent with the health, safety, and welfare of the people. The adequacy and sufficiency with which the licensee meets

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the criteria for the procedures, facilities, and equipment for conducting a horse race meeting of such duration shall rest with the commission.

1. Each licensee shall accept, observe, and enforce all federal and state laws, regulations of the commission, and local ordinances.

2. Each licensee shall at all time maintain its grounds and facilities so as to be neat and clean, painted and in good repair, with special consideration for the comfort and safety of the public, employees, other persons whose business requires their attendance, and for the health and safety of the horses there stabled.

3. Each licensee shall honor commission exclusions from the enclosure and eject immediately any person found within the enclosure who has been excluded by the commission and report the ejection to the commission. Whenever any licensee ejects a person from the enclosure, it shall furnish a written notice to the person ejected and shall report the ejection to the commission.

4. No later than 30 days before the first day of any race meeting, each licensee shall submit to the commission the most recent inspection reports issued by governmental authorities regarding the condition of facilities, sanitation, and fire prevention, detection, and suppression.

5. Each licensee shall provide the commission daily attendance reports showing a turnstile count of all persons admitted to the enclosure and the reports shall indicate the daily number of paid admissions, taxed complimentary admissions, and tax exempt admissions.

6. Each licensee shall furnish to the commission within three months of the closing of its fiscal year, three copies of its balance sheet and of its operating statement for the previous fiscal year with comparison to the prior fiscal year, the same duly sworn to by the treasurer of the association, and certified by an independent certified public accountant. The financial report shall be in the form as may be prescribed from time to time by the commission.

7. Each licensee shall maintain a separate bank account to be known as the "horsemen's account," with the amount of purse money statutorily mandated to be deposited in the account within 48 hours of the running of the race. Withdrawals from this account shall at all times be subject to audit by the commission, and the horsemen's bookkeeper in charge of the account shall be bonded:

a. All portions of purse money shall be made available when the stewards have authorized payment to the earners; and

b. No portion of purse money other than jockey fees shall be deducted by the licensee for itself or for another, unless so requested in writing by the person to whom such purse moneys are payable, or his duly authorized representative. Irrespective of whether requested, the horsemen's bookkeeper shall mail to each owner a duplicate of each record of a deposit, withdrawal, or transfer of funds affecting such owner's racing at the close of each race meeting.

8. Each licensee shall remit to the commission within five days of the day on which the revenue for pari-mutuel taxes, admission taxes, and breeders' funds were collected. The remittance shall be accomplished by a direct deposit in a financial institution designated by the commission. On those days when the fifth day is a holiday or a weekend day, the payment must be made by the succeeding business day. At the close of each month in which racing is conducted, the licensee must report to the commission all deposits of taxes and breeders' funds for that month.

9. On each day that deposits are made by the licensee, a report must be filed with the commission containing the following recapitulation: total retainage, pari-mutuel tax; state and local admissions taxes; purse moneys; total breakage; and breeders' fund taxes.

10. Each licensee shall provide areas within the enclosure where publications, other informational materials, and tip sheets, may be sold to the public. All persons holding a tip sheet concession at the facility must be licensed by the commission as vendors.

a. Each handicapper shall post in a conspicuous place the previous day's tip sheet and the outcome of the races. Each handicapper shall deliver one copy of the tip sheet to a commission representative at least one hour before post time.

11. Each licensee shall supervise the practice and procedures of all vendors of food, horse feed, medication, and tack, who are licensed and have access to the stabling area. No licensee by virtue of this regulation shall attempt to control or monopolize proper selling to owners, trainers, or stable employees; nor shall a licensee grant a sole concession to any vendor of feed, racing supplies, or racing services.

12. Each licensee shall provide to the commission copies of all subordinate contracts, in the amount of \$15,000 annual gross and above, entered into by the owner, owner-operator, or operator, and such contracts shall be subject to approval of the commission:

B. Facilities for conducting horse racing.

Each licensee shall provide all of the facilities for the conduct of horse racing so as to maintain horse racing of

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the highest quality and free of any corrupt, incompetent, or dishonest practices and to maintain in horse racing complete honesty and integrity.

1. Each licensee shall provide for flat racing a main racing surface of at least one mile in circumference; for flat or jump racing on the turf a racing surface of at least seven-eighths of a mile in circumference; for harness racing a main racing surface of at least five-eighths of a mile in circumference; and for other types of racing a racing surface of generally accepted standards.

2. Each licensee shall provide a safety rail on the inside of each racing surface and such other fencing that is appropriate to safely enclose the racing surface for horses and riders.

3. Each licensee shall provide distance poles marking off the racing surface and the poles shall be painted in the following colors: quarter poles, red and white; eighth poles, green and white; and sixteenth poles, black and white.

4. Each licensee shall provide racing surfaces whose construction, elevation, and surfaces have received scientific approval as safe and humane, adequate and proper equipment to maintain the racing surface, and sufficient trained personnel to properly operate the equipment. Daily records of maintenance shall be open for inspection.

5. Each licensee shall provide stabling in a sufficient amount to conduct a successful horse race meeting. The horses shall be quartered in individual stalls with separate feeding and watering facilities.

6. Each licensee shall provide a stabling area that is maintained in approved sanitary condition with satisfactory drainage, manure, and other refuse kept in separate boxes or containers distant from living quarters, and the boxes or containers promptly and properly removed.

7. Each licensee shall provide a systematic and effective insect control program and programs to eliminate hazards to public health and comfort in the stabling area and throughout the enclosure.

8. Each licensee shall provide satisfactory living quarters for persons employed in the stabling area as well as satisfactory commissary, recreation, and lavatory facilities, and maintain the facilities in a clean and sanitary manner. No employee shall be permitted to sleep in any stall or barn loft.

9. Each licensee shall provide on every racing day satisfactory sanitary toilets and wash rooms, and furnish free drinking water for patrons and persons having business within the enclosure.

10. Each licensee shall provide satisfactory first aid facilities with not less than two beds and attendance of a competent physician and registered nurse during racing hours who will be available to treat both patrons and permittees.

11. Each licensee shall provide a paddock where the horses are assembled prior to the post parade. Each licensee shall provide a public viewing area where patrons may watch the activities in the paddock. Each licensee shall also provide a sufficient number of roofed stalls so that horses may be housed during inclement weather.

12. Each licensee shall provide satisfactory facilities for jockeys or drivers who are participating in the day's program. The facilities shall include accommodations for rest and recreation, showers, toilets, wash basins, arrangements for safe keeping of apparel and personal effects, snack bar, and other accommodations as requested by the clerk of scales, during thoroughbred meetings.

13. Each licensee shall maintain an information desk where the public may make complaints regarding the facilities, operations of the licensee, or rulings of the commission. The licensee shall respond promptly to complaints, and inform the commission regarding any alleged violation of its regulations.

14. Each licensee shall maintain a detention barn for use by commission employees in securing from horses which have run a race, samples of urine, saliva, blood, or other bodily substances for chemical analysis. The detention barn shall include a wash rack, commission veterinarian office, a walking ring, and a sufficient number of stalls each equipped with a window sufficiently large to allow the taking of samples to be witnessed from outside the stall. The detention barn shall be located convenient to the racing surface and shall be enclosed by a fence so that unauthorized persons shall be excluded. Space shall be provided for signing in and signing out of permittees whose attendance is required in the detention barn.

15. Each licensee shall maintain a receiving barn conveniently located for use by horses arriving for races that are not quartered in the stabling area. The licensee shall have a sufficient number of stalls to accommodate the anticipated number of horses, hot and cold running water, and stall bedding. The licensee shall maintain the receiving barn in a clean and sanitary manner.

16. Each licensee shall provide and maintain lights so as to ensure adequate illumination in the stabling area and parking area. Adequacy of track lighting for night racing shall be determined by the commission.

17. Each licensee shall provide and maintain stands

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commanding an uninterrupted view of the entire racing surface for the stewards with the location to be approved by the commission. The licensee shall provide patrol judge stands so that the floor shall be at least six feet higher than the track rail. For harness racing, each licensee shall provide space in the mobile starting gate which will accompany the horses during the race.

18. Each licensee shall furnish office space, approved by the commission, for the commission's use within the enclosure and an appropriate number of parking spaces so that its members and staff may carry out their duties.

19. Each licensee shall submit to the commission, at least 30 days prior to the opening day of a meeting, a complete list of its racing officials, as set forth elsewhere in these regulations, and department heads. No person shall hold any appointment for a horse race meeting unless approved by the commission after determination that the appointee is qualified for his duties, not prohibited by any law of the Commonwealth of Virginia or regulation of the commission, and eligible to be licensed by the commission.

20. Each licensee shall provide a condition book, or for harness racing, a condition sheet, listing the proposed races for the upcoming racing days and prepared by the racing secretary, to the commission at least one week prior to opening day. Additional condition books or condition sheets shall be provided to the commission as soon as published.

21. No licensee shall allow any person to exercise any horse within the enclosure unless that person is wearing a protective helmet of a type approved by the stewards and the chin strap is buckled. For flat racing, the term "exercising" is defined to include breezing, galloping, or ponying horses.

22. Each licensee shall employ at least two outriders for flat racing, at least four outriders for jump races, and at least one outrider for harness racing, to escort starters to the post and to assist in the returning of all horses to the unsaddling area for flat races. No outrider shall lead any horse that has not demonstrated unruliness, but shall assist in the control of any horse which might cause injury to a jockey or driver or others. During racing hours, outriders will wear traditional attire. For flat race meetings, outriders shall be required to be present on the racing strip, mounted, and ready to assist in the control of any unruly horse or to recapture any loose horse, at all times when the track is open for exercising.

23. Each licensee shall employ for flat meets a sufficient number of valets to attend each jockey on a day's program. Valets will be under the immediate supervision and control of the clerk of scales. No

valet shall be assigned to the same jockey for more than two consecutive racing days. Valets shall be responsible for the care and cleaning up of his assigned rider's apparel and equipment; shall ensure his rider has the proper equipment and attend the saddling of his rider's mount; and shall attend the weighing out of his rider. No valet or other jockey room attendant may place a wager for himself or another, directly or indirectly, on races run while he is serving as a valet. Each licensee shall provide uniform attire for valets who shall wear the uniform attire at all times while performing their duties within public view.

C. Equipment for conducting horse racing.

Each licensee shall provide all of the equipment for the conduct of horse racing so as to maintain horse racing of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled practices, and to maintain in horse racing complete honesty and integrity.

1. Each licensee shall maintain at least two operable starting gates for flat meetings and two operable mobile starting gates for harness racing. The licensee shall have in attendance one or more persons qualified to keep the starting gates in good working order and provide for periodic inspection. For flat meetings, the licensee shall also make at least one starting gate along with adequate personnel available for schooling for two hours each day during training hours, exclusive of nonrace days. For harness racing meetings, a mobile starting gate shall be made available for qualifying races and schooling.

2. Each licensee shall maintain photo-finish equipment to assist the stewards and placing judges, where employed for flat race meetings, in determining the order of finish of each race. The licensee shall provide at the finish line two photo-finish cameras for photographing the finish of races; one camera to be held in reserve. The standards and operations of the photo-finish camera as well as the methodology of the personnel shall be subject to the approval of the stewards:

a. The photo-finish photographer shall promptly furnish the stewards and placing judges prints as they are requested, and the photographer will promptly inform the stewards and placing judges of any malfunction of his equipment;

b. A print of a photo finish where the placing of horse is a half of length or less shall be displayed either by posting copies of the print or video means to the public promptly after the race has been declared "official"; and

c. Each licensee shall be responsible for maintaining a file of photo finishes of all races for one year after the closing of the horse race meeting.

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3. Each licensee shall provide color video tape recordings of the running of each race clearly showing the position and actions of the horse and jockeys or drivers at close range. Each licensee shall provide at least three cameras to record panoramic and head-on views of the race. One camera shall be located on the finish line:

a. Promptly after a race has been declared "official," video tape recordings shall be replayed for the benefit of the public. In those races where there was a disqualification, video tapes of the head-on views may also be shown with an explanation by the public address announcer; and

b. The licensee shall safeguard the tapes of all videotapes for one year after the close of the horse race meeting and promptly deliver to the commission copies of videotapes of those races where there has been an objection, inquiry, protest, or disqualification.

4. Each licensee shall provide an electronic timing system. Each licensee shall also provide a qualified person to manually time each race, including splits of each quarter of a mile, in the event of a malfunction of the electronic system.

5. Each licensee shall provide an internal communication system which links the steward's stand, racing secretary's office, pari-mutuel department, jockeys' or drivers' room, paddock, detention barn, commission veterinarian's office, starting gate, film patrol office, ambulances, public address announcer, patrol judges, and any other personnel designated by the commission.

6. Each licensee shall provide a public address system whereby calls of the races and other pertinent information may be communicated to the public. This system shall be utilized by a qualified person, and the system shall have the capability of transmitting throughout the stabling area.

7. Each licensee shall restrict the use of all external communication devices for a period of time beginning 30 minutes before post time of the first race and ending when the last race is declared "official":

a. The licensee shall render inoperable each telephone or other instrument of communication located in the enclosure, other than those designated for the exclusive use of the commission;

b. The licensee may not permit an individual within the enclosure to receive a telephone call, telegram, or message from outside the enclosure without the approval of the stewards;

c. Each licensee shall confiscate until the end of the restricted time period a portable telephone,

transmitter, or other instrument of external communication, including a car phone, located within the enclosure; and

d. The licensee may have telephone or telegraph systems within the enclosure for the benefit of the media, but no information regarding the results shall be transmitted out of the enclosure until the results are official except for races that are broadcast or televised live.

8. Each licensee shall provide a totalizator and employ qualified personnel to operate the system, provide maintenance of the hardware, software, and ancillary wagering devices, and be able to perform emergency repairs in case of emergencies. The licensee shall also provide a mutuel board in the infield where approximate odds, amounts wagered in the win, place, and show pools on each betting interest, and other pertinent information may be prominently displayed to the public:

a. The totalizator shall maintain at least two independent sets of pool totals and compare them at least once every 60 seconds. The totalizator shall record in a system log file any difference in the final pool totals;

b. The totalizator shall have the capability of calculating the mutuel pools, approximate odds, probable payoffs and display them to the public at intervals of not more than 60 seconds;

c. The totalizator shall have the capability of being locked and wagering terminated automatically at the command of a steward. Any failure of the system to lock at the start of the race shall be reported immediately by the mutuel manager to the stewards;

d. The totalizator shall have the capability of displaying the probable payoffs on various combinations in the daily double, perfecta, and quinella wagering, and displaying the payoffs to the public;

e. The totalizator shall have the capability of recording the wagering by individual wagers, including the amount wagered, the betting interest, and the mutuel window where the wager was placed. The records of the wagering shall be promptly made available to the commission upon request. The licensee shall preserve the records of the wagering for 30 days after closing of the horse race meeting. The records shall not be destroyed without permission of the commission;

f. The personnel operating the totalizator shall report immediately to the stewards any malfunction in the system, or what they perceive to be any unusual patterns in the wagering;

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g. The totalizator personnel shall make available to the commission any special reports or requests that may assist the commission in carrying out its statutory duties and responsibilities for the conduct of horse racing; and

h. The commission may require an independent certified audit of the totalizator's software attesting to the accuracy of its calculations and the integrity of its accounting processes.

9. Each licensee shall provide at least one human ambulance and at least one horse ambulance within the enclosure at all times during those hours when the racing and training surface is open for racing and training. The ambulances shall be manned and equipped to render immediate assistance, and shall be stationed at a location approved by the stewards.

D. Provisions for safety, security and fire prevention.

Each licensee shall employ sufficient trained personnel to provide for the safety and security of the public and others who have business within the enclosure. Each licensee shall also take all measures to prevent the outbreak of fires within the enclosure and develop plans for the quick extinguishing of any fires that should occur.

1. Each licensee shall provide sufficient trained security personnel under the supervision of a qualified director of security. If the licensee contracts with a private security service, the security service must be bonded and meet all applicable licensing requirements. If the licensee establishes its own security force, then director of security shall forward to the commission detailed plans for the screening, hiring, and training of its own personnel.

2. The director of security of each licensee shall cooperate fully with the commission and its staff, federal and state law enforcement agencies, local police and fire departments, and industry security services to enforce all laws and regulations to ensure that horse racing in the Commonwealth of Virginia is of the highest integrity.

3. Each licensee shall develop a detailed security plan describing the equipment, i.e., fences, locks, alarms, and monitoring devices; the procedures to admit persons to restricted areas, i.e., stabling area, paddock, jockeys' or drivers' room, vault, mutuel lines, totalizator room, and post-race detention barn; and the trained personnel in sufficient numbers to provide for the safety and security of all persons during racing and nonracing hours.

4. Each licensee may provide a perimeter fence around the entire enclosure, but shall fence off the stabling area. The entrance to the stabling area shall be guarded on a 24-hour basis by uniformed security personnel so that unauthorized persons shall be denied

access to the restricted stabling area. The licensee shall also provide for routine patrolling by uniformed security personnel on a 24-hour basis within the stabling area.

5. During racing hours, the licensee shall provide uniformed security personnel to guard the entrances to the paddock, jockeys' or drivers' room, stewards' stand, and other restricted areas as may be deemed appropriate by the commission so that unauthorized persons shall be denied access to them.

6. The licensee's director of security shall submit to the commission and Virginia State Police a written report describing every arrest or completed incident of security investigation or rule violation including the person charged, the charges against the person, the present whereabouts of the person, and disposition of the charges, if any.

7. The licensee's director of security shall submit to the commission a detailed plan describing the procedures to be followed in case of fire or any other emergency within the enclosure. The plan shall contain the resources immediately available within the surrounding communities to cope with fire or other emergencies, route of evacuation for the public, controlling traffic, and those resources available from the surrounding communities for police, fire, ambulance, and rescue services.

8. Each licensee shall observe and enforce all state and local building codes and regulations pertaining to fire prevention, and shall prohibit the following:

a. Smoking in horse stalls, feed rooms, or under the shedrow;

b. Open fires and oil or gasoline burning lanterns or lamps in the stable area;

c. The unsafe use of electrical appliances or other devices which would pose a hazard to structures, horses, permittees, or the public; and

d. Keeping flammable materials including cleaning fluids or solvents in the stabling area.

§ 2.19. Reserved.

§ 2.20. Owner, owner-operator, or operator unlimited license application fee.

An applicant for an owner's, owner-operator's, or operator's license under § 59.1-375 of the Act must submit a nonrefundable application s license: A nonrefundable fee of \$100 times the plication by a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of \$10,000 to cover the cost of the background investigations mandated by § 59.1-371 of the Code of Virginia. In the event the cost of the investigation exceeds

the \$10,000 application fee, the applicant must remit the amount of the difference by certified check or bank draft within 10 days after receipt of a bill from the commission.

§ 2.21. Reserved.

§ 2.22. Payment of owner and operator license fee.

An owner's or operator's license becomes effective upon the receipt by the commission of a certified check or bank draft to the order of the Commonwealth of Virginia in the amount of license fees and is suspended if the license fee is not received on or before the specified dates:

1. Owner's license: A nonrefundable fee of \$5,000 per year due and payable within 10 days of the original license being issued and on or before January 1 of each succeeding year.

2. Operator number of racing days awarded in the annual application for racing days due and payable on or before January 1 of each year.

§ 2.23. Reserved.

§ 2.24. Reserved.

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 AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

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

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

Effective Date: December 20, 1989

Summary:

The amendments to the regulation establish health requirements for swine entering Virginia to provide control measures in conjunction with VR 115-02-16, Rules and Regulations Governing Pseudorabies in Virginia, to eradicate pseudorabies from swine that is particularly fatal for young pigs. The regulation requires the testing for pseudorabies in breeder swine, feeder pigs and swine for exhibition to qualify for entry into Virginia. This regulation will allow slaughter swine to enter Virginia only if consigned to an approved slaughter establishment or to an approved livestock market and then to slaughter. Individual identification of swine is a requirement of the regulation.

A second amendment to this regulation eliminates the requirement for animals entering Virginia from other states to be accompanied by health certificates bearing the endorsement of the chief livestock health official of the state of origin. Such a requirement burdens commerce unduly. The fact that an animal has been examined by a licensed, accredited veterinarian who issues the health certificate is sufficient to allow the animal to enter the Commonwealth. Virginia receives an endorsed copy from the chief livestock health official in a matter of days by mail, and the endorsement is merely an opportunity for that official to assure that the veterinarian has indeed tested the animal's health according to Virginia's standards. It is rare that veterinarians responsible for checking the health of animals entering Virginia fail to meet Virginia's standards, and when they do, there are adequate means, such as the issuance of a quarantine on the animal, to assure that any disease it may harbor does not spread.

In adopting amendments to VR 115-02-12, Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or

Birds Into Virginia, the Board of Agriculture and Consumer Services made no changes from the regulations proposed.

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

§ 1. Definitions.

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

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

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

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

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

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

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

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

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

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

"Official pseudorabies serologic test" means an official

pseudorabies test conducted on swine serum to detect the presence or absence of pseudorabies antibodies.

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

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

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

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

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

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

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

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

§ 2. Official health certificates.

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

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

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

of all required tests.

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

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

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

§ 3. Entry by permit only.

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

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

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

§ 4. Common carriers, trucks.

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

B. All railway cars, trucks, and other conveyances used for transportation of livestock or poultry shall be kept in a sanitary condition. The State Veterinarian may require the

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cleaning and disinfecting of any such conveyance at any time to prevent the spread of infectious or contagious diseases.

§ 5. Cattle.

A. Tuberculosis.

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

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

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

B. Brucellosis.

1. Permit.

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

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

c. Permits expire 15 days after date of issuance.

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

2. Brucellosis testing.

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

origin. Nonvaccinates (male or female) are exempt from testing if under eight months of age.

3. Classification of states.

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

a. Class: Free states.

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

b. Class: A states.

- (1) Negative herd status, or
- (2) Individual tested within 30 days
- (3) No permit.

c. Class: B states.

- (1) Originate from negative herd or certified herd, and
- (2) Individual tested within 30 days, and
- (3) Permit, and
- (4) Quarantine and retest 45 to 120 days post-movement.

d. Class: C states.

- (1) Originate from certified herd, and
- (2) Individual tested within 30 days, and
- (3) Permit, and
- (4) Quarantine and retest 45 to 120 days post-movement.

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

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

a. Recording.

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

b. Exceptions.

These vaccination requirements shall not apply to:

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

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

(3) Spayed female bovine animals;

(4) Unvaccinated feeder female bovine animals brought to Virginia if negative to a brucellosis test performed not more than 30 days prior to importation into Virginia, not originating from a Class B or Class C state and not originating from a quarantined herd; or

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

C. Scabies.

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

D. Feeder cattle.

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

§ 6. Sheep.

A. Scabies.

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

B. Slaughter.

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

§ 7. Swine.

A. Brucellosis.

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

B. Pseudorabies.

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

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

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

1. Feeder pigs.

a. Any feeder pig imported into Virginia shall:

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

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

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

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b. Identification of swine.

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

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

2. Breeder swine.

a. No breeder swine may enter Virginia unless it:

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

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

b. Identification of breeder swine.

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

3. Slaughter swine.

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

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

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

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

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

(1) A recognized slaughter establishment;

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

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

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

(b) A recognized slaughter establishment.

c. Identification of slaughter swine.

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

4. Exhibition swine.

a. Swine imported into Virginia for exhibition purposes shall:

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

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

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

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

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

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

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

§ 8. Horses.

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

B. The State Veterinarian may by proclamation prohibit or restrict the entry of any horses into Virginia which, in

his opinion, presents a disease threat to Virginia horses or other animals. The proclamation shall be only for the duration of the potential threat, and shall be officially withdrawn when it has served its purpose.

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

D. No male horse (stallion) or mare over 731 days of age, which either originates in or has passed through a country where the disease contagious equine metritis is known to exist, may enter the Commonwealth of Virginia except by special permit issued by the State Veterinarian. Those male horses or mares which are issued a special entry permit immediately will be placed under quarantine until the State Veterinarian is satisfied that they pose no danger to the Commonwealth of Virginia's equine population.

§ 9. Poultry.

A. Pullorum-typhoid.

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

B. Mycoplasma Gallisepticum.

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

C. Approval numbers.

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

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

- a. The name and address of each flockowner;
- b. The species (i.e., chickens or turkeys) and the number of birds in each flock;
- c. The date of the most recent Pullorum-typhoid test;
- d. The total number, or the percentage, of positive reactions to the most recent Pullorum-typhoid test;
- e. The Pullorum-typhoid status attained; and
- f. Such additional information as the State Veterinarian may require.

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

D. Exceptions.

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

§ 10. Goats.

A. General.

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

B. Tuberculosis.

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

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

C. Brucellosis.

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

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

D. Caseous lymphadenitis.

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

§ 11. Dogs.

A. General.

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

B. Rabies.

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

C. Exceptions.

1. The requirement for rabies vaccination specified in subsection B of this section shall not apply to puppies less than four months of age.

2. None of the provisions, requirements, or restrictions of this section shall apply to:

a. Any dog passing directly through the Commonwealth of Virginia in interstate commerce; or

b. Any dog consigned directly to a laboratory or institution authorized by law to conduct research, teaching, or clinical studies within the Commonwealth of Virginia; or

c. Any dog brought into the Commonwealth of Virginia by a person who intends to reside in Virginia.

§ 12. Monkeys.

A. General.

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

B. Tuberculosis.

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

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

C. Exceptions.

The provisions, requirements, or restrictions of this

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

§ 13. Psittacine birds.

A. Isolation.

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

B. Approval numbers.

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

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

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

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

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

and

d. Any additional information the State Veterinarian may require.

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

C. Exceptions.

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

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

§ 14. Llamas.

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

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

2. Be negative to approved tests for:

a. Brucellosis;

b. Tuberculosis; and

c. Bluetongue.

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

* * * * *

Final Regulations

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

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

Effective Date: December 20, 1989

Summary:

The regulation establishes a program in Virginia for the eradication of pseudorabies in swine. Pseudorabies is a viral disease of swine that is particularly fatal for young pigs. The regulation requires the testing for pseudorabies of breeder swine, feeder pigs and swine for exhibition to qualify for movement in intrastate commerce and restricts the sale of nontested swine to slaughter. Individual identification of swine is a requirement of the regulation. The regulation also provides for the registration of all swine dealers. The regulation will provide a means toward which Virginia may attain the status of "pseudorabies free" in conjunction with the national program and will enhance the marketability of Virginia swine. To achieve pseudorabies free status under the national program, Virginia will need to revise this regulation to conform to all of the national program standards.

In adopting VR 115-02-16, Rules and Regulations Governing Pseudorabies in Virginia, the Board of Agriculture and Consumer Services made no changes from the regulations proposed.

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

§ 1. Definitions.

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

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

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

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

"Boar" means any male swine used for or intended to

be used for producing offspring.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2. Feeder pigs.

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

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

B. Identification of swine.

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

2. All feeder pig producers shall individually identify their swine by metal eartag or by any other method approved by the State Veterinarian.

C. Pseudorabies monitored herd procedures.

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

- a. In herds of 10 sows or fewer, all sows shall be

tested;

b. In herds of 11 to 35 sows, 10 sows shall be tested; and

c. In herds of 36 sows or more, 30% of sows or 30 sows, whichever is fewer, shall be tested.

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

D. Qualified pseudorabies negative herd procedures.

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

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

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

E. Proof of herd-health status.

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

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

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

§ 3. Breeder swine.

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

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

B. Identification of breeder swine.

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

§ 4. Slaughter swine.

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

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

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

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

C. Identification of slaughter swine.

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

§ 5. Exhibition swine.

Any person exhibiting swine shall assure that they:

- A. Originate directly from a qualified pseudorabies negative herd;
- B. Are individually tested and found negative for pseudorabies within 30 days prior to the exhibition; or

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

§ 6. Surveillance.

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

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

1. In herds of fewer than 100 head, 25 shall be tested;
2. In herds of 100 to 200 head, 27 shall be tested;
3. In herds of 201 to 999 head, 28 shall be tested; and
4. In herds of 1,000 head or more, 29 shall be tested.

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

§ 7. Swine owner notification.

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

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

§ 8. Mandatory herd cleanup.

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

A. Test and removal of infected swine.

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

B. Offspring segregation.

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

C. Depopulation - Repopulation

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

D. Other herd cleanup plans.

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

§ 9. Transportation and disposal of dead swine.

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

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

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

§ 10. Vaccination.

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

Veterinarian.

§ 11. Reporting of pseudorabies.

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

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

A. Registration.

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

B. Records requirement.

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

C. Contents of records.

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

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

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d. Exhibition.

D. Retention of records.

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

E. Inspection of records.

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

F. Out-of-state swine.

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

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

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

- a. Violated state or federal statutes or regulations governing the interstate or intrastate movement, shipment or transportation of swine;*
- b. Made false or misleading statements in his application for registration;*
- c. Sold swine that he knew or should have known were sick or exposed to infectious or contagious disease;*
- d. Knowingly made false or misleading entries in the records required by these regulations;*
- e. Failed to comply with any provision of these regulations; or*
- f. Directed or authorized any agent to engage in any conduct described in subdivisions a through e, above, or knew or should have known that the agent is engaging in such conduct, but has failed to prohibit it.*

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

registration, when the State Veterinarian has determined that the agent has:

- a. Violated state or federal statutes or regulations governing the interstate or intrastate movement, shipment, or transportation of swine;*
- b. Made false or misleading statements in his application for registration;*
- c. Sold swine that he knew or should have known were sick or exposed to infectious or contagious disease;*
- d. Knowingly made false or misleading entries in the records required by these regulations;*
- e. Failed to comply with any provision of these regulations; or*
- f. Ceased to be an agent of a registered swine dealer.*

not transferable

DACS-0000-9

Virginia Department of Agriculture and Consumer Services
P. O. Box 1163, Richmond, Virginia 23209

ISSUED _____

EXPIRES _____

PERMIT

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

COMMISSIONER BY _____ AUTHORIZED REPRESENTATIVE

not transferable

DACS-0000-9

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
P. O. Box 1163, Richmond, Virginia 23209

ISSUED _____

EXPIRES _____

PERMIT

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

COMMISSIONER BY _____ AUTHORIZED REPRESENTATIVE

| | |
|---|---|
| <p style="text-align: center;">Commonwealth of Virginia Department of Agriculture & Consumer Services SWINE HERD HEALTH CARD--PSEUDORABIES</p> <p>Owner: _____</p> <p>Address: _____</p> <p>_____</p> <p>County where herd is located: _____</p> <p>Herd number _____ Qualified _____ Monitored _____</p> <p>Issue date _____ Expire date _____</p> | <p style="text-align: center;">SHOW THIS CARD AS PROOF OF HEALTH STATUS OF FEEDER PIGS.</p> <p>The herd identified on this card has been health certified for pseudorabies and is entitled to the benefits accorded such status.</p> <p style="text-align: right;">State Veterinarian</p> <p>Warning: Unlawful use of card may result in a fine of up to \$1,000 or up to one year in jail or both.</p> <p style="text-align: right;">VDACS-03074</p> |
|---|---|

Final Regulations

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

NAME, ADDRESS AND PHONE NO. OF ASSISTANT: _____
 BUSINESS ADDRESS & PHONE: _____
 HOME ADDRESS & PHONE: _____
 TYPE OF LIVESTOCK HANDLED: Cattle _____ Sheep _____ Swine _____ Equine _____ Goats _____ Other _____
 NAME & ADDRESS OF EMPLOYER(S): _____
 NAME & ADDRESS OF EMPLOYER(S): _____
 DO YOU BUY, SELL, OR TRANSPORT IN COMMERCE ANY DING, DISHORN OR BANGLED LIVESTOCK? YES _____ NO _____
 DO YOU BUY OR SELL LIVESTOCK INTERNATELY? YES _____ NO _____
 BRIEFLY DESCRIBE THE GENERAL NATURE OF YOUR DEALERSHIP (attach additional sheet if necessary): _____
 NAME & LOCATION OF ALL ASSEMBLY BANS OR YARDS OWNED OR USED BY APPLICANT: _____
 OTHER AGENTS) UNDER WHIC BUSINESS IS TRANSACTED: _____
 NAME, ADDRESS, ZIP & PHONE WHERE LIVESTOCK IS SOLD FOR SLAUGHTER: _____
 PACKERS & STOCKYARDS ADMINISTRATION REGISTRATION NO.: _____ OTHER STATE DEALER REGISTRATION NO.: _____
 HAVE YOU OR ANY INDIVIDUAL CONNECTED WITH YOUR OPERATIONS VIOLATED ANY STATE OR FEDERAL LAWS OR REGULATIONS GOVERNING THE INTERSTATE OR INTRASTATE MOVEMENT, SHIPMENT OR TRANSPORTATION OF LIVESTOCK? YES _____ NO _____
 YES _____ NO _____
 I certify that all entries are true and correct to the best of my knowledge, and I certify that I have read the requirements of the regulations governing the interstate or intrastate movement, shipment or transportation of livestock in the State of Virginia and I understand and agree to comply with all requirements required by the regulations. I certify that I will comply with all required Virginia and federal animal health laws, regulations and directives.

DATE _____ TITLE _____ SIGNATURE _____ TYPE/PRINTED NAME _____
 FOR OFFICE USE ONLY: CATEGORY CODE _____ PERMIT NUMBER _____ FIPS CODE _____ REGION CODE _____
 VDACS-01214

GENERAL INFORMATION

REGISTRANTS in the top portion of this form shall be filled in by each registrant with the information requested.
 Permit numbers shall be assigned by the Compliance Enforcement Supervisor, Division of Animal Health as the completed form are received.
 Any changes in company/individual name, agents, or address shall be reported to the Division of Animal Health, Compliance Supervisor, IVOR Regional Laboratory, P. O. Box 190, IVOR, Virginia 23941, telephone 804-689-4221.

FIPS COMPLIANCE OFFICERS
 CATEGORY, FIPS CODE and Region Code shall be filled in by the Field Compliance Officer when appropriate. If this information is not available, it shall be completed by the Compliance Enforcement Supervisor.

| CATEGORY CODES | REGION CODES |
|-------------------------|----------------------------------|
| 10 - Cattle Dealer | 01 - Wytheville-Lynchburg Region |
| 11 - Poultry Dealer | 02 - Harrisonburg Region |
| 21 - Swine Dealer (I-D) | 03 - Charlottesville Region |
| 26 - Swine Dealer | 04 - Richmond-IVOR Region |

(Continuation space for items on reverse of form)

DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD)

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Effective Date: January 1, 1990

Summary:

The regulation amendments concern provisions covering documents incorporated by reference. The amendments update Appendix M which lists all of the nonstatutory documents (those other than federal and state laws and regulations) and the primary federal regulations incorporated by reference. This list includes the name, reference number and edition for each document. The edition is being updated to reflect the latest available. Also included for each document is the name and address of the organization from which it may be obtained. The amendments also update Rule 5-5 which contains the list of federally promulgated New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) being incorporated by reference.

VR 120-01. Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.

PART V. ENVIRONMENTAL PROTECTION AGENCY STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (RULE 5-5).

§ 120-05-0501. General.

The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (40 CFR Part 60) designated in § 120-05-0502 are incorporated by reference into these regulations amended by the word or phrase substitutions given in § 120-05-0503. The complete text of the subparts in § 120-05-0502 incorporated herein by reference is contained in 40 CFR Part 60 (see Appendix M). The 40 CFR section numbers appearing under each subpart in § 120-05-0502 identify the specific provisions of the subpart incorporated by reference.

§ 120-05-0502. Designated standards of performance.

Subpart A - General Provisions.

40 CFR 60.1, 40 CFR 60.2, 40 CFR 60.7, 40 CFR 60.8, 40 CFR 60.11, 40 CFR 60.13 through 40 CFR 60.15, 40 CFR 60.18

(applicability, definitions, notification and record

keeping performance tests, compliance, monitoring requirements, modification, and reconstruction, and general control device requirements)

Subpart D - Fossil-Fuel Fired Steam Generators for which Construction is Commenced after August 17, 1971.

40 CFR 60.40 through 40 CFR 60.46

(fossil-fuel fired steam generating units of more than 250 million Btu per hour heat input rate and fossil-fuel fired and wood-residue fired steam generating units capable of firing fossil fuel at a heat input rate of more than 250 million Btu per hour)

Subpart Da - Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978.

40 CFR 60.40a through 40 CFR 60.49a

(electric utility steam generating units capable of combusting more than 250 million Btu per hour heat input of fossil fuel (either alone or in combination with any other fuel); electric utility combined cycle gas turbines capable of combusting more than 250 million Btu per hour heat input in the steam generator)

Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

40 CFR 60.40b through 40 CFR 60.49b

(industrial-commercial-institutional steam generating units which have a heat input capacity from combusted fuels of more than 100 million Btu per hour)

Subpart E - Incinerators.

40 CFR 60.50 through 40 CFR 60.54

(units of more than 50 tons per day charging rate)

Subpart F - Portland Cement Plants.

40 CFR 60.60 through 40 CFR 60.64

(kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems)

Subpart G - Nitric Acid Plants.

40 CFR 60.70 through 40 CFR 60.74 (nitric acid

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production units)

Subpart H - Sulfuric Acid Plants.

40 CFR 60.80 through 40 CFR 60.85

(sulfuric acid production units)

Subpart I - Hot Mix Asphalt Facilities.

40 CFR 60.90 through 40 CFR 60.93

(dryers; systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer and storage systems associated with emission control systems)

Subpart J - Petroleum Refineries.

40 CFR 60.100 through 40 CFR 60.106

(fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers and fuel gas combustion devices)

Subpart K - Storage Vessels for Petroleum Liquids Constructed after June 11, 1973 and Prior to May 19, 1978.

40 CFR 60.110 through 40 CFR 60.113

(storage vessels with a capacity greater than 40,000 gallons)

Subpart Ka - Storage Vessels for Petroleum Liquids Constructed after May 18, 1978.

(storage vessels with a capacity greater than 40,000 gallons)

Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

40 CFR 60.110b through 40 CFR 60.117b

(storage vessels with capacity greater than or equal to 8,790 gallons)

Subpart L - Secondary Lead Smelters.

40 CFR 60.120 through 40 CFR 60.123

(pot furnaces of more than 550 lb charging capacity, blast (cupola) furnaces and reverberatory furnaces)

Subpart M - Secondary Brass and Bronze Production Plants.

40 CFR 60.130 through 40 CFR 60.133

(reverberatory and electric furnaces of 2,205 lb or greater production capacity and blast (cupola) furnaces of 550 lb per hr or greater production capacity)

Subpart N - Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973: Primary Emissions.

40 CFR 60.140 through 40 CFR 60.144

(basic oxygen process furnace)

Subpart Na - Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983: Secondary Emissions.

40 CFR 60.140a through 40 CFR 60.145a

(facilities in an iron and steel plant: top-blown BOPFs and hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPFs.)

Subpart O - Sewage Treatment Plants.

40 CFR 60.150 through 40 CFR 60.154

(incinerators that combust wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants or incinerators that charge more than 2,205 lb per day municipal sewage sludge (dry basis))

Subpart P - Primary Copper Smelters.

40 CFR 60.160 through 40 CFR 60.166

(dryer, roaster, smelting furnace and copper converter)

Subpart Q - Primary Zinc Smelters.

40 CFR 60.170 through 40 CFR 60.176

(roaster and sintering machine)

Subpart R - Primary Lead Smelters.

40 CFR 60.180 through 40 CFR 60.186

(sintering machine, sintering machine discharge end, blast furnace, dross reverberatory furnace, electric smelting furnace and converter)

Subpart S - Primary Aluminum Reduction Plants.

40 CFR 60.190 through 40 CFR 60.195

(potroom groups and anode bake plants)

Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

40 CFR 60.200 through 40 CFR 60.204

(reactors, filters, evaporators and hotwells)

Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

40 CFR 60.210 through 40 CFR 60.214

(evaporators, hotwells, acid sumps and cooling tanks)

Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

40 CFR 60.220 through 40 CFR 60.224

(reactor, granulators, dryers, coolers, screens and mills)

Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.

40 CFR 60.230 through 40 CFR 60.234

(mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills and facilities which store run-of-pile triple superphosphate)

Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

40 CFR 60.240 through 40 CFR 60.244

(storage or curing piles, conveyors, elevators, screens and mills)

Subpart Y - Coal Preparation Plants.

40 CFR 60.250 through 40 CFR 60.254

(plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems and coal transfer and loading systems)

Subpart Z - Ferroalloy Production Facilities.

40 CFR 60.260 through 40 CFR 60.266

(electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon,

silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon or calcium carbide; and dust-handling equipment)

Subpart AA - Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974 and on or before August 17, 1983.

40 CFR 60.270 through 40 CFR 60.276

(electric arc furnaces and dust-handling equipment)

Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.

40 CFR 60.270a through 40 CFR 60.276a

(facilities in steel plants that produce carbon, alloy, or specialty steels: electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems)

Subpart BB - Kraft Pulp Mills.

40 CFR 60.280 through 40 CFR 60.285

(digester system, brown stock washer system, multiple effect evaporator system, black liquor oxidation system, recovery furnace, smelt dissolving tank, lime kilns, condensate stripper and kraft pulping operations)

Subpart CC - Glass Manufacturing Plants.

40 CFR 60.290 through 40 CFR 60.296

(glass melting furnace)

Subpart DD - Grain Elevators.

40 CFR 60.300 through 40 CFR 60.304

(grain terminal elevators/grain storage elevators: truck unloading stations, truck loading stations, barge and ship unloading stations, barge and ship loading stations, railcar unloading stations, railcar loading stations, grain dryers and all grain handling operations)

Subpart EE - Metal Furniture Surface Coating Operations.

40 CFR 60.310 through 40 CFR 60.316

(metal furniture surface coating operations in which organic coatings are applied)

Subpart FF - (Reserved)

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Subpart GG - Stationary Gas Turbines.

40 CFR 60.330 through 40 CFR 60.335

(stationary gas turbines with a heat input at peak load equal to or greater than 10 million Btu per hour, based on the lower heating value of the fuel fired)

Subpart HH - Lime Manufacturing Plants.

40 CFR 60.340 through 40 CFR 60.344

(each rotary lime kiln)

Subparts II through JJ - (Reserved)

Subpart KK - Lead-Acid Battery Manufacturing Plants.

40 CFR 60.370 through 40 CFR 60.374

(lead-acid battery manufacturing plants that produce or have the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 6.5 tons: grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and other lead-emitting operations)

Subpart LL - Metallic Mineral Processing Plants.

40 CFR 60.380 through 40 CFR 60.386

(each crusher and screen in open-pit mines; each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator with the following exceptions. All facilities located in underground mines are exempted from the provisions of this subpart. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempted from the provisions of this subpart)

Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.

40 CFR 60.390 through 40 CFR 60.397

(prime coat operations, guide coat operations, and top-coat operations)

Subpart NN - Phosphate Rock Plants.

40 CFR 60.400 through 40 CFR 60.404

(phosphate rock plants which have a maximum

plant production capacity greater than 4 tons per hour: dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorous production)

Subpart OO - (Reserved)

Subpart PP - Ammonium Sulfate Manufacture.

40 CFR 60.420 through 40 CFR 60.424

(ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactum by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry)

Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

40 CFR 60.430 through 40 CFR 60.435

(publication rotogravure printing presses, except proof presses)

Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.

40 CFR 60.440 through 40 CFR 60.447

(pressure sensitive tape and label material coating lines)

Subpart SS - Industrial Surface Coating: Large Appliances.

40 CFR 60.450 through 40 CFR 60.456

(surface coating operations in large appliance coating lines)

Subpart TT - Metal Coil Surface Coating Operations.

40 CFR 60.460 through 40 CFR 60.466

(metal coil surface coating operations: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously)

Subpart UU - Asphalt Processing and Asphalt Roofing Manufacturing.

40 CFR 60.470 through 40 CFR 60.474

(each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants)

Subpart VV - Equipment Leaks of Volatile Organic Compounds in the Synthetic Organic Chemicals Manufacturing Industry.

40 CFR 60.480 through 40 CFR 60.489

(all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

Subpart WW - Beverage Can Surface Coating Industry.

40 CFR 60.490 through 40 CFR 60.496

(beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation)

Subpart XX - Bulk Gasoline Terminals.

40 CFR 60.500 through 40 CFR 60.506

(total of all loading racks at a bulk gasoline terminal which deliver product into gasoline tank trucks)

Subparts YY through ~~EEE~~ ZZ - (Reserved)

Subpart AAA - New Residential Wood Heaters.

40 CFR 60.530 through 40 CFR 60.539b

(each wood heater manufactured on or after July 1, 1988, or sold at retail on or after July 1, 1990)

Subpart BBB - Rubber Tire Manufacturing Industry.

40 CFR 60.540 through 40 CFR 60.548

(each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation)

Subparts CCC through EEE - (Reserved)

Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

40 CFR 60.580 through 40 CFR 60.585

(each rotogravure printing line used to print or coat flexible vinyl or urethane products)

Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.

40 CFR 60.590 through 40 CFR 60.593

(each compressor, valve, pump pressure relief

device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

Subpart HHH - Synthetic Fiber Production Facilities

40 CFR 60.600 through 40 CFR 60.604

(each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year)

Subpart III - (Reserved)

Subpart JJJ - Petroleum Dry Cleaners.

40 CFR 60.620 through 40 CFR 60.625

(facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 84 pounds: petroleum solvent dry cleaning, dryers, washers, filters, stills, and settling tanks)

Subpart KKK - Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

40 CFR 60.630 through 40 CFR 60.636

(each compressor in VOC service or in wet gas service; each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by this subpart)

Subpart LLL - Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

40 CFR 60.640 through 40 CFR 60.648

(facilities that process natural gas: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit)

Subpart MMM through NNN - (Reserved)

Subpart OOO - Nonmetallic Mineral Processing Plants.

40 CFR 60.670 through 40 CFR 60.676

(facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station)

Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

40 CFR 60.680 through 40 CFR 60.685

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(each rotary spin wool fiberglass insulation manufacturing line)

Subparts QQQ through SSS - (Reserved)

Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

40 CFR 60.720 through 40 CFR 60.726

(each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats)

Appendix A - Reference Methods.

Method 1 - Sample and velocity traverses for stationary sources.

Method 2 - Determination of stack gas velocity and volumetric flow rate (type S pitot tube).

Method 2A - Direct measurement of gas volume through pipes and small ducts.

Method 2B - Determination of exhaust gas volume flow rate from gasoline vapor incinerators.

Method 3 - Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.

Method 3A - Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

Method 4 - Determination of moisture content in stack gases.

Method 5 - Determination of particulate emissions from stationary sources.

Method 5A - Determination of particulate emissions from the asphalt processing and asphalt roofing industry.

Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.

Method 5E - Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.

Method 5G - Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.

Method 5H - Determination of particulate emissions from wood heaters from a stack location.

Method 6 - Determination of sulfur dioxide emissions from stationary sources.

Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.

Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.

Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).

Method 7 - Determination of nitrogen oxide emissions from stationary sources.

Method 7A - Determination of nitrogen oxide emissions from stationary sources - ion chromatographic method.

Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).

Method 7C - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/colorimetric method.

Method 7D - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/ion colorimetric method.

Method 7E - Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure).

Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.

Method 9 - Visual determination of the opacity of emissions from stationary sources.

Alternate Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.

Method 10 - Determination of carbon monoxide emissions from stationary sources.

Method 10A - Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries.

Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.

Method 12 - Determination of inorganic lead emissions from stationary sources.

Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.

Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.

Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.

Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.

Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.

Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).

Method 16B - Determination of total reduced sulfur emissions from stationary sources.

Method 17 - Determination of particulate emissions from stationary sources (instack filtration method).

Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.

Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates and electric utility steam generators.

Method 20 - Determination of nitrogen oxides, sulfur dioxide, and oxygen emissions from stationary gas turbines.

Method 21 - Determination of volatile organic compounds leaks.

Method 22 - Visual determination of fugitive emissions from material processing sources and smoke emissions from flares.

Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.

Method 24A - Determination of volatile matter content and density of printing inks and related coatings.

Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.

Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.

Method 25B - Determination of total gaseous organic concentration using a nondispersive infrared analyzer.

Method 27 - Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.

Method 28 - Certification and auditing of wood heaters.

Method 28A - Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.

Appendix B - Performance specification.

Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

Performance Specification 2 - Specifications and test procedures for sulfur dioxide and nitric oxides continuous emission monitoring systems in stationary sources.

Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring system in stationary sources.

Performance Specification 6 - Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.

Appendix C - Determination of Emission Rate Change.

Appendix F - Quality Assurance Procedures.

Procedure 1 - quality assurance requirements for gas continuous emission monitoring systems used for compliance determination.

Appendix I - Removable label and owner's manual.

§ 120-05-0503. Word or phrase substitutions.

In all the standards designated in § 120-05-0502 substitute:

- A. Owner or other person for owner or operator.
- B. Board for Administrator.
- C. Board for U.S. Environmental Protection Agency (except in references).
- D. § 120-05-03 for § 60.8.

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E. § 120-05-05 C of § 60.7(c).

**PART VI.
ENVIRONMENTAL PROTECTION AGENCY
NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS (RULE 6-1).**

§ 120-06-0101. General.

The Environmental Protection Agency (EPA) Regulations on National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61) designated in § 120-06-0102 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in § 120-06-0103. The complete text of the subparts in § 120-06-0102 incorporated herein by reference is contained in 40 CFR Part 61 (see Appendix M). The 40 CFR section numbers appearing under each subpart in § 120-06-0102 identify the specific provisions of the subpart incorporated by reference.

§ 120-06-0102. Designated emission standards.

Subpart A - General Provisions.

40 CFR 61.01 through 40 CFR 61.02 and 40 CFR 61.12 through 40 CFR 61.15

(applicability, definitions, compliance, emission tests, monitoring, modification)

Subpart B - Radon-222 Emissions from Underground Uranium Mines.

40 CFR 61.20 through 40 CFR 61.28

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart C - Beryllium.

40 CFR 61.30 through 40 CFR 61.34

Subpart D - Beryllium Rocket Motor Firing.

40 CFR 61.40 through 40 CFR 61.44

Subpart E - Mercury.

40 CFR 61.50 through 40 CFR 61.55

Subpart F - Vinyl Chloride.

40 CFR 61.60 through 40 CFR 61.71

Subpart G - (Reserved)

Subpart H - Radionuclide Emissions From Department of Energy (DOE) Facilities.

40 CFR 61.90 through 40 CFR 61.98

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart I - Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission (NRC) and Federal Facilities Not Covered by Subpart H.

40 CFR 61.100 through 40 CFR 61.108

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.

40 CFR 61.110 through 40 CFR 61.112

Subpart K - Radionuclide Emissions From Elemental Phosphorus Plants.

40 CFR 61.120 through 40 CFR 61.126

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart L - (Reserved)

Subpart M - Asbestos.

40 CFR 61.140 through 40 CFR 61.156

Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.

40 CFR 61.160 through 40 CFR 61.165

Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.

40 CFR 61.170 through 40 CFR 61.177

Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

40 CFR 61.180 through 40 CFR 61.186

Subparts Q through U (Reserved)

Subpart V - Equipment Leaks (Fugitive Emission Sources).

40 CFR 61.240 through 40 CFR 61.247

Subpart W - Radon-222 Emissions from Licensed Uranium Mill Tailings.

40 CFR 61.250 through 40 CFR 61.252

Appendix B - Test Methods.

Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - air streams.

Method 101A - Determination of particulate and gaseous mercury emissions from sewage sludge incinerators.

Method 102 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - hydrogen streams.

Method 103 - Beryllium screening method.

Method 104 - Determination of beryllium emissions from stationary sources.

Method 105 - Determination of mercury in wastewater treatment plant sewage sludges.

Method 106 - Determination of vinyl chloride from stationary sources.

Method 107 - Determination of vinyl chloride content of inprocess wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

Method 111 - Determination of polonium-210 emissions from stationary sources.

(NOTE: Authority to enforce the above test method is being retained by EPA and it is not incorporated by reference into these regulations.)

Appendix C - Quality assurance procedures.

Procedure 1 - Determination of adequate chromatographic peak resolution.

Procedure 2 - Procedure for field auditing gas cylinder analysis.

§ 120-06-0103 Word or phrase substitutions.

In all of the standards designated in § 120-06-0102 substitute:

A. Owner or other person for owner or operator.

B. Board for Administrator.

C. Board for U.S. Environmental Protection Agency (except in references).

D. Part VIII and § 120-06-05 A for §§ 61.05(a), 61.07 and 61.09.

E. § 120-06-03 for § 61.14.

APPENDIX M. DOCUMENTS INCORPORATED BY REFERENCE.

I. General.

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

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and non-statutory documents incorporated by reference and their availability may be found in Section II.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR ~~(1987)~~ (1988) in effect July 1, ~~1987~~ 1988. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR Part 35.20 means Section 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

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

D. Copies of materials incorporated by reference in this appendix may be examined by the public at the headquarters office of the State Air Pollution Control Board, in Room 825, Ninth Street Office Building, Richmond, Virginia between 8:30 a.m. and 4:30 p.m. of each business day.

II. Specific documents.

A. Code of Federal Regulations.

1. The provisions specified below from the Code of Federal Regulations (CFR) in effect as of July 1, 1987

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1988 are incorporated herein by reference.

a. 40 CFR Part 40 - National Primary and Secondary Ambient Air Quality Standards.

(1) Appendix A - Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(2) Appendix B - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(3) Appendix C - Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(4) Appendix D - Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(5) Appendix E - Reference Method for Determination of Hydrocarbons Corrected for Methane.

(6) Appendix F - Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(7) Appendix G - Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(8) Appendix H - Interpretation of the National Ambient Air Quality Standards for Ozone.

(9) Appendix J - Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere.

(10) Appendix K - Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

b. 40 CFR Part 58 - Ambient Air Quality Surveillance.

Appendix B - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

c. 40 CFR Part 60 - Standards of Performance for New Stationary Sources.

(1) Subpart A - General Provisions.

(a) § 60.1 - Applicability.

(b) § 60.2 - Definitions.

(c) § 60.7 - Notification and record keeping.

(d) § 60.8 - Performance tests.

(e) § 60.11 - Compliance with standards and maintenance requirements.

(f) § 60.13 - Monitoring requirements.

(g) § 60.14 - Modification.

(h) § 60.15 - Reconstruction.

(i) § 60.18 - General control device requirements.

(2) Subpart D - Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.

(3) Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.

(4) Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.

(5) Subpart E - Standards of Performance for Incinerators.

(6) Subpart F - Standards of Performance for Portland Cement Plants.

(7) Subpart G - Standards of Performance for Nitric Acid Plants.

(8) Subpart H - Standards of Performance for Sulfuric Acid Plants.

(9) Subpart I - Standards of Performance for Hot Mix Asphalt Facilities.

(10) Subpart J - Standards of Performance for Petroleum Refineries.

(11) Subpart K - Standards of Performance for Storage Vessels for Petroleum Liquids Constructed After June 11, 1973 and Prior to May 19, 1978.

(12) Subpart Ka - Standards of Performance for Storage Vessels for Petroleum Liquids Constructed After May 18, 1978.

(13) Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

(14) Subpart L - Standards of Performance for

Secondary Lead Smelters.

(15) Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.

(16) Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973.

(17) Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983.

(18) Subpart O - Standards of Performance for Sewage Treatment Plants.

(19) Subpart P - Standards of Performance for Primary Copper Smelters.

(20) Subpart Q - Standards of Performance for Primary Zinc Smelters.

(21) Subpart R - Standards of Performance for Primary Lead Smelters.

(22) Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.

(23) Subpart T - Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

(24) Subpart U - Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

(25) Subpart V - Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

(26) Subpart W - Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.

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(28) Subpart Y - Standards of Performance for Coal Preparation Plants.

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(32) Subpart BB - Standards of Performance for Kraft Pulp Mills.

(33) Subpart CC - Standards of Performance for Glass Manufacturing Plants.

(34) Subpart DD - Standards of Performance for Grain Elevators.

(35) Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.

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(42) Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.

(43) Subpart QQ - Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.

(44) Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.

(45) Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.

(46) Subpart TT - Standards of Performance for Metal Coil Surface Coating.

(47) Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.

(48) Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.

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(49) Subpart WW - Standards of Performance for the Beverage Can Surface Coating Industry.

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~~(53)~~ (55) Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.

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(1) Subpart A - General Provisions.

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(b) § 61.02 - Definitions.

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(d) § 61.13 - Emission tests and waiver of emission tests.

(e) § 61.14 - Monitoring requirements.

(f) § 61.15 - Modification.

(2) Subpart C - National Emission Standard for Beryllium.

(3) Subpart D - National Emission Standard for Beryllium Rocket Motor Firing.

(4) Subpart E - National Emission Standard for Mercury.

(5) Subpart F - National Emission Standard for Vinyl Chloride.

(6) Subpart J - National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.

(7) Subpart M - National Emission Standard for Asbestos.

(8) Subpart N - National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

(9) Subpart O - National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.

(10) Subpart P - National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

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~~(9)~~ (13) Appendix B - Test Methods.

(a) Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - air streams.

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(d) Method 103 - Beryllium screening method.

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(f) Method 105 - Determination of mercury in wastewater treatment plant sewage sludge.

(g) Method 106 - Determination of vinyl chloride from stationary sources.

(h) Method 107 - Determination of vinyl chloride content of inprocess wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

(i) Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

~~(10)~~ (14) Appendix C - Quality Assurance Procedures.

(a) Procedure 1 - Determination of adequate chromatographic peak resolution.

(b) Procedure 2 - Procedure for field auditing GC

analysis.

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

B. U.S. Environmental Protection Agency.

1. The documents specified below from the U.S. Environmental Protection Agency are incorporated herein by reference.

a. Guideline on Air Quality Models (revised), EPA-450/2-78-027R, OAQPS No. 1.2-080, July 1986, as amended by Supplement A, July 1987.

b. Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. 999-AP-13, PB190235, 1965.

2. Copies may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone (703) 487-4650.

C. U.S. government.

1. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1972 1987, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-006 and 002-005-00176-0, respectively 041-001-00-314-2).

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

D. American Society for Testing and Materials (ASTM).

1. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

a. D323-82, "Test Method for Vapor Pressure of Petroleum Products (Reid Method)" from Section 5, Volume 05.01 of the 1985 Annual Book of ASTM Standards.

b. ~~D97-66 (reapproved 1978)~~ D97-87, "Test Method for Pour Point of Petroleum Oils" from Section 5, Volume 05.01 of the 1985 1989 Annual Book of ASTM Standards.

2. Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; phone (215) 299-5400.

E. American Petroleum Institute (API).

1. The following document from the American

Petroleum Institute is incorporated herein by reference: API Publication 2517, Evaporation Loss from External Floating Roof Tanks, ~~Second Edition, February 1980~~ Third Edition, 1989.

2. Copies may be obtained from: American Petroleum Institute, 2101 L Street, Northwest, Washington, D.C. 20037; phone (202) 682-8000.

F. American Conference of Governmental Industrial Hygienists (ACGIH).

1. The following document from the ACGIH is incorporated herein by reference: ACGIH Handbook - Threshold Limit Values® for Chemical Substances in the Work Environment Adopted by ACGIH with Intended Changes for 1987-1988 1988-1989.

2. Copies may be obtained from: ACGIH, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211; phone (513) 661-7881.

G. National Fire Prevention Association (NFPA).

1. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

a. NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 1985 Edition.

b. NFPA 30, Flammable and Combustible Liquids Code, 1984 1987 Edition.

c. NFPA 30A, Automotive and Marine Service Station Code, 1984 1987 Edition.

2. Copies may be obtained from the National Fire Prevention Association, Batterymarch Park, Quincy, Massachusetts 02269; phone (617) 770-3000.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

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

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

Effective Date: January 1, 1990

Summary:

The amendments to the regulation, as adopted, provide criminal justice agencies with clear, detailed record keeping procedures regarding the proper

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collection, dissemination and expungement of criminal history record information. Further, the amended regulations provide for administrative sanctions for noncompliance with procedures outlined in the regulations.

The final regulations reflect one substantive change from the proposed draft. This change is reflected in the section regarding the "access and review" and "challenge" of a criminal history record. Language from § 9-192 of the Code of Virginia was extracted to replace ambiguous language in the proposed regulations. The final draft clearly delineates procedures for the review or challenge of a criminal history record.

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

PART I. GENERAL.

Pursuant to the provisions of §§ 9-170(1), 9-170(15), 9-170(16), 9-170(17) and , 9-170 [~~(20)~~ 21] and § ~~9-186~~ through ~~9-192~~ §§ 9-184 through 9-196 of the Code of Virginia, the Criminal Justice Services Board hereby promulgates the following regulations : relating to Criminal History Record Information Use and Security.

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

§ 1.1. Definitions.

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

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

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

"Central Criminal Records Exchange (CCRE)" means that the repository in this Commonwealth which receives, identifies , and maintains , and disseminates individual criminal history records , in accordance with § 9-170 [~~(21)~~ 22] of the Code of Virginia .

"Conviction data" means information in the custody of any criminal justice agency relating to a judgement of

conviction, and the consequences arising therefrom, in any court.

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

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

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

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

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

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

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

"Department" means the Department of Criminal Justice Services.

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

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

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

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

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

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

PART II.

CRIMINAL HISTORY RECORD INFORMATION USE.

§ 1-2. § 2.1. Applicability.

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

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

The provisions of these regulations do not apply to the:
(i) original or copied records of entry, such as police

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

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

§ 1-2. § 2.2. Collection and storage.

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

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

A. Responsibility.

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

1. State officials and [criminal justice] agencies having the power to arrest, detain, or hold convicted persons in correctional facilities;

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

B. Reportable offenses.

The above officials and their representatives are required to submit to the Central Criminal Records Exchange, on forms provided by the Central Criminal Records Exchange, a report on every arrest they complete for:

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

[In addition to those offenses enumerated above, the Central Criminal Records Exchange may receive, classify and file any other fingerprints and records of arrest or confinement submitted to it by any law-enforcement agency or correctional institution.]

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

C. Timelines of submission.

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

court (a copy of the form is provided for the courts) at the same time.

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

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

3. Convictions.

a. For persons arrested and released on summonses under § 19.2-74 of the Code of Virginia, the chief law-enforcement officer or his designee, who may be the arresting officer, shall furnish fingerprint cards and a completed copy of the Central Criminal Records Exchange form to the Central Criminal Records Exchange. The form shall be completed immediately upon conviction unless an appeal is noted. In the case of an appeal, officials responsible for reporting the disposition of charges shall report the conviction within 30 days after final action of the case.

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

4. Final disposition. State correctional officials shall submit to the Central Criminal Records Exchange the release status of an inmate of the state correctional system within [10 20] days of the release.

D. Updating and accuracy.

Arresting officers and court clerks noted above are responsible for notifying the Central Criminal Records Exchange in a timely fashion, and always within 30 days, of changes or errors and necessary corrections in arrests, convictions, or other dispositions, concerning arrests and dispositions that [their the criminal justice] agency originated. In the case of correctional status or release information, correctional officials are responsible for notifying the Central Criminal Records Exchange within

the same time limits of updates or changes in correctional status information. Forms for updating and correcting information are provided by the Central Criminal Records Exchange.

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

E. Locally maintained and nonreportable offenses.

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

§ 1-4. § 2.3. Dissemination.

All criminal history record information shall be disseminated directly or through an intermediary only in accordance with the provisions of §§ 9-184 and 19.2-389 of the Code of Virginia.

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

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

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

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

19.2-389(D) of the Code of Virginia.

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

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

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

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

A. Authorization.

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

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

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

Criminal justice agencies shall determine what positions in their agency require regular access to criminal history record information as part of their job responsibilities. These positions will be exempt from the dissemination rules below. Use of criminal history record information by

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a member of [~~an~~ a criminal justice] agency not occupying a position authorized to receive criminal history record information, or for a purpose or activity other than one for which the person is authorized to receive criminal history record information, will be considered a dissemination and shall meet the provisions of this section. If the user of criminal history record information does not meet the procedures in subsection B, the use of the information will be considered an unauthorized dissemination.

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

B. Procedures for responding to requests.

[~~An~~ A criminal justice] agency disseminating criminal history record information shall adhere to the following regulations:

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

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

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

indicating that the record may not be complete.

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

2. Prior to dissemination. Prior to disseminating criminal history record information [~~an~~ a criminal justice] agency shall:

a. Verify requester identity.

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

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

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

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

(1) Individual requesters. The verification requirements for individuals requesting their own records and for individual requesters with sworn requests from the subject of the information shall be the same as the requirements for noncriminal justice agencies as described below. Only when

information supplied and information in the Central Criminal Records Exchange or local files satisfactorily match shall information be disseminated.

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

(3) Noncriminal justice agencies. Full name, date of birth, race, and sex of the record subject must be provided by the requester for a criminal history record to be disseminated. Fingerprint identification may be required prior to dissemination if there is any doubt as to the match. If [~~an~~ a criminal justice] agency does not have the capability to classify fingerprints, it may submit them by mail to the Central Criminal Records Exchange. Information supplied by the requester and available through the Central Criminal Records Exchange (or in the local files where the request is for criminal history record information maintained only locally) must match to the satisfaction of the disseminator, or the dissemination shall not be made.

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

3. Locating and disseminating information requested. Once a request for a criminal history record has been made, and the responsible official is satisfied as to the legitimacy of the request and the identity of the subject and has informed the requester of costs and restrictions, the responsible official conducting the search for the record shall supply the information after querying the Central Criminal Records Exchange. However, if time is of the essence, or the offenses in

a criminal history record are not required to be reported to Central Criminal Records Exchange, the responsible official may directly supply the information (see § 19.2-389 of the Code of Virginia).

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

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

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

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

"UNAUTHORIZED [OR FURTHER] DISSEMINATION WILL SUBJECT THE DISSEMINATOR TO CRIMINAL AND CIVIL PENALTIES."

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

"UNAUTHORIZED [OR FURTHER] DISSEMINATION WILL SUBJECT THE DISSEMINATOR TO CRIMINAL AND CIVIL PENALTIES."

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

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the date of the dissemination.

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

Records will include the following information on each dissemination:

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

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

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

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

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

§ 1-5. § 2.4. Access and review.

A. Who can review.

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

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

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

B. Review at local [law-enforcement] agency or central criminal records exchange.

Any An individual or his attorney may inspect his review the individual's criminal history record information arising from arrests for felonies and Class 1 and 2 misdemeanors maintained on him in the Central Criminal Records Exchange by applying at any law enforcement agency with terminal capabilities on the Virginia Criminal Information Network or to the Central Criminal Records Exchange of the Virginia Department of State Police, directly, during normal working hours. [An individual or his attorney may review the individual's criminal history record regarding offenses not required to be reported to the Central Criminal Records Exchange at the arresting law-enforcement agency.]

The agency to which the request is directed shall provide reasonable assistance to the individual or his attorney to help understand the record. The [law-enforcement] agency to which the request is directed shall inform the individual or his attorney of the procedures associated with the review.

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

C. Timeliness and completeness.

An individual requesting his own record shall be advised when the record will be available. In no case shall the time between request and availability of the

record exceed one week, except where fingerprint identification is required; then it shall not exceed 30 days. [Criminal justice] agencies should seek to provide the record as soon as reasonably possible unless there are questions of identification.

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

D. Assistance.

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

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

§ 1-6. § 2.5. Challenge.

Individuals who desire to challenge their own criminal history record information must execute complete [the appropriate challenge form as required documentation provided by the criminal justice agency maintaining the record] and forward it to the Central Criminal Records Exchange or the criminal justice agency maintaining the record. A duplicate copy of the form and the challenged record may be maintained by the individual initiating the challenge or review. [The individual's record concerning arrests for felonies and Class 1 and 2 misdemeanors may be challenged at the Central Criminal Records Exchange or the criminal justice agency maintaining the record. For offenses not required to be reported to the Exchange, the challenge shall be made at the arresting law-enforcement agency or the criminal justice agency maintaining the records.] A copy of the challenged record may be furnished to the requesting individual. This copy shall be prominently marked or stamped "NOT TO BE DISSEMINATED FURTHER EXCEPT AS PROVIDED BY LAW."

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

§ 1-7. Challenge of criminal history A. Record maintained by the Central Criminal Records Exchange.

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

2. *Review at exchange.* The Central Criminal Records Exchange shall compare the original input form and

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

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

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

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

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

[7. *Appeal.* The record subject or his attorney, upon being told of the results of his record review, shall also be informed of his right to review and appeal those results.]

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

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

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

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

§ 1.9. Administrative review.

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

§ 1.10. Administrative appeal.

After the administrative review, the individual or his

attorney may in writing within 30 days of notification of the decision of the administrative review, request that the director of the department review the challenge and conduct an informal hearing before the director or a designated hearing officer. The decision of the hearing officer shall be communicated to the individual or his attorney.

§ 1.11. Correction.

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

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

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

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

C. Administrative review of challenge results.

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

2. *Thirty-day review.* The [*criminal justice*] agency head or his designated official shall review the challenge by reviewing the action taken by the agency, the Central Criminal Records Exchange, and other [*criminal justice*] agencies, and shall notify the

individual or his attorney in writing of the decision within 30 days of the receipt of the written request to review the challenge. The [criminal justice] agency head shall also notify the individual of the option to request an administrative appeal through the department within 30 days of the postmarked date of the notification of the decision. This notification of the appeal shall include the address of the Department of Criminal Justice Services.

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

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

D. Administrative appeal.

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

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

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

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

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

E. Department notification following corrections.

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

§ 1.12. Audit.

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

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

§ 1.13. Expunging and sealing.

A. Court order.

The director, upon receipt of a court order for the expungement of criminal history record, pursuant to § 19.2-302.2 of the Code of Virginia, shall by letter with an enclosed copy of the order, direct the Central Criminal Records Exchange and those agencies and individuals known to maintain or to have obtained such a record, to remove the manual record from its repository and place it in a sealed, separate file identified by the Central Criminal Records Exchange number or other identifying number and mark "EXPUNGED RECORD TO BE UNSEALED ONLY BY COURT ORDER."

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

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

B. Sealed record.

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

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C. Procedure.

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

§ 2.6. Expungement and sealing.

A. Responsibility of the director.

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

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

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

C. Procedure for expungement and sealing of hard copy records.

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

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

or copied form, and shall be accessible only to the manager of records.

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

D. Procedure for expunging automated records.

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

E. Department to be notified following expungement.

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

F. Expungement order not received by department.

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

§ 2.7. Audit.

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

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

§ 2.8. Administrative sanctions.

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

A. Law-enforcement agencies.

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

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

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

B. Courts.

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

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

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

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

~~§ 2.1.~~ § 3.1. Applicability.

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

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

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

~~§ 2.2.~~ § 3.2. Responsibilities.

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

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

~~§ 2.3.~~ § 3.3. Physical access.

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

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

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

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

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

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

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

§ 2.4. § 3.4. Personnel.

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

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

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

C. Ensure that each ~~employee~~ *employees* working with or having access to criminal history record information shall be made familiar with the substance and intent of these regulations. ~~All~~ Designated employees shall be briefed on their roles and responsibilities in protecting the information resources in the [*criminal justice*] agency. Special procedures connected with security shall be

documented and disseminated to all those with a need to know. These procedures shall be reviewed periodically to ensure their relevance and continuing effectiveness.

§ 2.5. § 3.5. Telecommunications.

In those systems where terminal access of criminal history record information is permitted, ~~all~~ terminal devices must be secure. ~~Any terminal device~~ *Terminal devices* capable of receiving or transmitting criminal history record information shall be attended during ~~all~~ periods of its operation. In ~~all~~ cases in which the terminal is unattended, the device *shall*, through ~~some~~ security means, ~~shall~~ be made inoperable.

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

§ 2.6. § 3.6. Computer operations.

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

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

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

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

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

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

Programs designed for the purpose of prohibiting unauthorized inquiries, unauthorized record updates,

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

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

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

§ 2-7. § 3.7. Effective date.

These rules and regulations shall be effective on and after January 1, 1990, and until amended or rescinded. [These rules and regulations are amended pursuant to § 9-6.14:7.1 of the Code of Virginia and the Criminal Justice Services Board will receive, consider, and respond to petitions by any interested person at any time for the reconsideration or revision thereof.]

§ 2-8. § 3.8. Adopted:

July 27, 1977

§ 2-9. § 3.9. Amended:

April 20, 1978

April 10, 1981

September 6, 1983

January 8, 1986

October 4, 1989

* * * * *

Title of Regulation: VR 240-03-01. Rules Relating to Compulsory Minimum Training for Private Security Services Business Personnel.

Statutory Authority: § 9-182 of the Code of Virginia.

Effective Date: January 1, 1990

Summary:

The amended rules increase the minimum training hours for guards from 12 to 16 hours, increase firearms classroom training from 6 to 8 hours and

increase private investigator's training from 48 to 61 hours. Additionally, the amended rules require armed private security services personnel to attend an enhanced firearms qualification course. This change increases the number of rounds fired for qualification from 25 rounds to 60. The rules also revise the operational procedures and the administrative requirements for schools conducting private security services training.

Further amendments to the regulation since it was published in its proposed form are (i) firearms retraining will be required annually, and (ii) a provision was added to permit the school director to request modification of the firearms range requirements to accommodate indoor range configurations.

The regulation as adopted, including the amendments, did not significantly alter the intent of the regulation as submitted in its proposed form. A complete record of the public hearing may be examined in the office of the Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia.

VR 240-03-01. Rules Relating to Compulsory Minimum Training for Private Security Services Business Personnel.

PART I. GENERAL.

Pursuant to the provisions of § 9-182 of the Code of Virginia, the Criminal Justice Services Board hereby promulgates the following rules for compulsory minimum training standards for private security services business personnel.

§ 1.1. Definitions.

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

"Approved training school" means a training school which provides instruction of at least the minimum training standards mandated and approved by the department for the specific purpose of training private security services business personnel.

"Board" means the Criminal Justice Services Board.

"Class" means a minimum of 50 minutes of instruction on a particular subject.

"Department" means the Department of Criminal Justice Services.

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

"Private security services business" means any person

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engaged in the business of providing, or who undertakes to provide, armored car personnel, guards, private detectives/private investigators, couriers or guard dog handlers, to another person under contract, expressed or implied.

"Private security services business personnel" means any employee of a private security services business who is employed as an unarmed guard, armed guard/courier, armored car personnel, guard dog handler or private detective/private investigator.

"School director" means the chief administrative officer of an approved training school.

"Session" means a group of classes comprising the total hours of mandated training in a category (unarmed guards, armed guards/couriers, armored car personnel, guard dog handlers, private detectives/private investigators). Sessions are approved on the basis of schedules submitted by approved training schools in accordance with rules established herein.

PART II. COMPULSORY MINIMUM TRAINING STANDARDS FOR PRIVATE SECURITY SERVICES BUSINESS PERSONNEL.

§ 2.1. Compulsory minimum training standards unarmed guards.

A. Pursuant to the provisions of § 9-182 of the Code of Virginia, the board establishes the following as compulsory minimum training standards for unarmed guards:

§ 2.1. Guards.

| Core Subjects | Hours |
|--|--------------|
| 1. Administration and security orientation | 3 2 |
| 2. Legal authority | 4 6 |
| 3. Emergency and defensive procedures | 5 8 |
| 4. Written Examination (refer to §§ 4.10 through 4.10,A,2 [§ 4.0 K 4.1 K]) | |
| Total Hours (excluding written examination) | 12 16 |

§ 2.2. Compulsory minimum training standards armed guards/couriers.

A. Pursuant to the provisions of § 9-182 of the Code of Virginia, the board establishes the following compulsory minimum training standards for armed guards/couriers:

| Core Subjects | Hours |
|--|-------|
| 1. Administration and security orientation | 3 |

| | |
|--|---|
| 2. Legal authority | 4 |
| 3. Emergency and defensive procedures | 5 |
| 4. Core subjects written examination: (refer to §§ 4.10 through 4.10,A,2) | |
| 5. Firearms | 6 |
| a. Classroom - 6 hours (Refer to § 5.1,A.) | |
| b. Shotgun classroom (if applicable) (refer to § 5.1,B,1) | 1 |
| c. Firearms written examination: (refer to §§ 4.10,A; 4.10,A,3; and 4.10,A,4). | |
| d. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber and/or type and gauge of firearm that is immediately accessible or carried in the performance of duty. (refer to §§ 5.1,A and 5.1,B.) | |

Total (excluding written examinations, shotgun classroom and all firearms range training) 18 hours

§ 2.3. Compulsory minimum training standards armored car personnel.

A. Pursuant to the provisions of § 9-182 of the Code of Virginia, the board establishes the following as compulsory minimum training standards for armored car personnel:

| Core Subjects | Hours |
|---|----------|
| 1. Firearms | 6 |
| a. Classroom (refer to § 5.1,A.) | 6 hours |
| b. Shotgun classroom (if applicable) (refer to § 5.1,B,1). | 1 |
| c. Firearms written examination: (refer to §§ 4.10,A; 4.10,A,3; and 4.10,A,4) | |
| d. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber and/or type and gauge of firearm that is immediately accessible or carried in the performance of duty. (refer to §§ 5.1,A and 5.1,B) | |
| Total (Excluding written examination, shotgun classroom and all firearms range training) | 6 |

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§ 2.4. § 2.2. Compulsory minimum training standards guard dog handlers: *Guard dog handlers.*

A. Pursuant to the provisions of § 9-182 of the Code of Virginia, the board establishes the following as compulsory minimum training standards for guard dog handlers:

Core Subjects Hours

- 1. Administration and security orientation 3
- 2. Legal authority 4
- 3. Emergency and defensive procedures 5
- 4. Core subjects written examination. (refer to §§ 4.10 through 4.10,A,2)

 - 1. *Guard training (See § 2.1)* 16
 - 5. 2. Basic obedience retraining 6
 - 6. 3. Canine attack patrol techniques 6
 - 7. 4. Written examination. (refer to §§ 4.10 and 4.10,A,1,2 [§ 4.0(K) 4.1 K])

- Total Hours 28
- 8. Firearms 6
 - a. Classroom 6 hours - (refer to § 5.1, A.)
 - b. Shotgun classroom (if applicable) 1 (refer to § 5.1,B,1)
 - c. Firearms written examination. (refer to §§ 4.10,A; 4.10,A,3; and 4.10,A,4)
 - d. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber and/or type and gauge of firearm - that is immediately accessible or carried in the performance of duty. (refer to §§ 5.1,A and 5.1,B.)
- Total (excluding written examinations, shotgun classroom and all firearms range training) 30 hours.

§ 2.5. § 2.3. Compulsory minimum training standards Private detectives/private investigators.

A. Pursuant to the provisions of § 9-182 of the Code of Virginia, the board establishes the following as compulsory minimum training standards for private detectives/private investigators:

- 1. Private detectives/private investigators orientation

- 4 8
- 2. General investigative techniques 11 20
- 3. Interview and interrogation *Interviewing techniques* 4 8
- 4. Criminal law and procedure & rules of evidence 6 8
- 5. Civil law and procedure & rules of evidence . 8 10
- 6. Civil and criminal rules of evidence [Repealed] ... 4
- 7. Collecting and reporting information 4 6
- 8. Written comprehensive examination. 1
- 9. Firearms (if carried in the performance of duty) - 6
 - a. Classroom 6 (refer to § 5.1,A)
 - b. Shotgun classroom (if applicable) - 1 hour. (refer to § 5.1,B,1)
 - c. Firearms written examination. (refer to §§ 4.10,A; 4.10,A,3; and 4.10,A,4)
 - d. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber and/or type and gauge of firearm that is immediately accessible or carried in the performance of duty. (refer to §§ 5.1,A and 5.1,B)
- Total Hours (Excluding shotgun classroom and all firearms range training) 48 61

§ 2.4. Firearms/training (required for all armored car personnel and other armed private security services business personnel).

- 1. Classroom - 8 hours (Refer to § 5.1 A.)
- 2. Shotgun Classroom (if applicable) - 1 hour (refer to § 5.1 B.)
- 3. Firearms Written Examination (refer to § 4.1 K)
- 4. Range - No minimum hours required. Each person who carries or has immediate access to a firearm in the performance of duty shall satisfactorily complete the prescribed firearms course with the type and caliber or type and gauge of weapon that is immediately accessible or carried in the performance of duty. (Refer to §§ 5.1 A. and 5.1 B.)

Total Hours (excluding written examinations, shotgun classroom and all firearms range training. 8

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PART III. APPLICABILITY.

§ 3.1. Applicability.

§ 3.1. A. Every person employed by a private security services business as a guard, courier, armored car personnel, guard dog handler, private detective/private investigator as defined by § ~~54-720.27~~ 54.1-1900 of the Code of Virginia who has not met the compulsory minimum training standards prior to the effective date of these regulations, must meet the compulsory minimum training standards herein established unless provided otherwise in accordance with §§ ~~3-2~~ or ~~3-3~~ § 3.1 B or § 3.1 C.

§ 3.2. B. Persons who meet the statutory requirements as set forth in § 9-182 of the Code of Virginia, may apply for an exemption from the mandatory training. The director may issue such exemption or partial exemption on the basis of individual qualifications as supported by required documentation. The director shall not issue more than a partial exemption to those persons who have remained out of law-enforcement employment in excess of 24 months. Those applying for and receiving exemptions must also comply with ~~the~~ *all firearms requirements, where applicable, and all regulations promulgated by the Department of Commerce.*

1. Persons receiving exemptions for the categories of armed guard and guard dog handler must attend the [~~two six~~] hour class entitled legal authority.

2. Persons receiving exemption for the category of private detective/private investigator must attend the ten-hour class entitled Civil Law and Procedures and Rules of Evidence.

§ 3.3. C. The director may authorize credit for training received at a department approved school which meets or exceeds the compulsory minimum training standards required for private security services business personnel provided that such training has been successfully completed within 12 months of the date of application.

PART IV. APPROVED TRAINING SCHOOLS OPERATIONS.

§ 4.1. Approved training schools operations.

A. Private security services business personnel training schools must be approved annually by the department prior to the first scheduled session. Approval is requested by making application to the director on forms provided by the department. The director, in accordance with § 9-6.14:11 of the Administrative Process Act, may approve those schools which on the basis of curricula, instructors and facilities provide training that meets the compulsory minimum training standards. *Renewal applications must shall be submitted by no later than February 1st of each calendar year. A disapproval may be appealed to the*

board in accordance with § 9-6.14:11 of the Administrative Process Act.

§ 4.2. B. Approved training schools desiring to conduct firearms training classes only must request approval in accordance with § ~~4-3~~ 4.1 C.

§ 4.3. C. Approved training schools must submit a proposed training schedule *on a form provided by or approved by* the department postmarked no less than 10 days prior to the beginning of each session. The training schedule must include the date, time, subject location and the name of the instructor for each class to be conducted during the training session. Any changes in an approved session ~~must shall~~ be reported to the department immediately, followed by written notification postmarked the next working day. Approved training sessions will be conducted as scheduled.

§ 4.4. D. Instruction shall be provided in no less than 50-minute classes.

§ 4.5. E. Approved training may not exceed eight hours per day [*excluding testing*].

§ 4.6. F. Instructor qualifications.

A. 1. Instructors teaching in an approved training school must be approved by the department. Instructor qualifications shall be based upon previous work experience, instructional experience, training, and education. As a minimum, instructors should meet the following requirements:

1. a. Have a minimum of ~~two three~~ years supervisory experience with a ~~contract security company~~, private security services business or with any federal, U.S. military police, state, county or municipal law-enforcement agency, or

2. b. Have a minimum of one year experience as an instructor or teacher at an accredited educational institution or agency in the subject matter for which approval is requested or in a related field.

c. *Must have completed an instructor development program which meets or exceeds standards established by the department.*

d. *Firearms instructors must have completed a firearms instructors school, specifically designed for law-enforcement or private security personnel.*

§ 4.7. G. Approved training schools will be subject to inspection and review by the director ~~and~~ or his staff. Out-of-state approved training schools which require inspection may be required to pay for actual expenses of inspection.

H. *Compliance agents are responsible for ensuring that unarmed guards comply with compulsory minimum*

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training standards herein established for unarmed guards and training records of such personnel may be subject to inspection and review by the director and/or his staff.

§ 4-8. I. Mandated training conducted without prior approval from the department is null and void.

§ 4-9. J. The department may suspend or revoke the approval status of an approved training school upon written notification to the school's director. Such notification shall contain the reasons for revocation or suspension. The school's director may appeal the revocation or suspension by requesting a hearing before the board or its designee. The request shall be in writing and must be received at the department within 15 days of the date of the revocation or suspension notification.

§ 4-10. K. Written examinations: ~~grading.~~

A written comprehensive examination is required at the conclusion of training of the core subjects. When additional training in excess of the core subjects is necessary to meet the requirements set forth for armed guards/couriers, armored car personnel, or guard dog handlers, an additional examination will be administered specifically for that portion of training. Schools conducting training for private detectives/private investigators are required to administer a comprehensive examination at the conclusion of training.

A. 1. All written examinations shall include at least three questions for each class of instruction in a particular area of mandatory training.

1. a. Each core subject shall be separately tested and graded. Individuals must attain a minimum score of 70% in each core subject. Any individual who fails to attain a minimum score of 70% in each core subject will be required to repeat the training in the core subject(s) in which the individual is deficient and attain a minimum score of 70% on the retest in order to satisfactorily complete this section of the training.

2. b. Mandated training in excess of the core subjects shall be tested and graded. A minimum score of 70% must be attained on the examination(s) covering those mandated subjects in excess of the core subjects. If an individual does not achieve a minimum score of 70% on the examination, the individual will be required to retake such training and must attain a minimum score of 70% on the retest in order to satisfactorily complete this section of the training.

3. c. Firearms classroom training shall be separately tested and graded. Individuals must achieve a minimum score of 70% on the firearms classroom training examination. Any individual who fails to achieve a minimum score of 70% will be required to retake such training and must attain a minimum

score of 70% on the retest in order to satisfactorily complete this section of the training.

4. d. Failure to achieve a minimum score of 70% on the firearms classroom written examination will exclude the individual from the firearms range training.

5. e. Firearms range training will be graded on a satisfactory/unsatisfactory basis. All armed private security services business personnel must achieve a score of at least 70% ~~(88 points out of a possible 125 points on the course prescribed in § 5-1, A.)~~.

PART V. FIREARMS TRAINING

§ 5.1. Firearms course requirements .

Private security services business personnel who carry or have a firearm available for immediate use in the performance of duty will be required to meet the provisions of § 5.1 A ~~and~~ or § 5.1 B ,or both .

A. Handgun.

1. Classroom training - classroom training will emphasize but not be limited to:

- a. The proper care of the weapon,
- b. Civil liability of use of firearms,
- c. Criminal liability of use of firearms,
- d. Deadly force,
- e. Justifiable deadly force,
- f. Range safety.

2. Range firing - (no minimum hours required) - The purpose of this course is to provide practical firearms training to individuals desiring to become armed private security services business personnel.

a. Prior to the date of range training it will be the responsibility of the school director to ensure that all students are informed of the proper attire and equipment to be worn for the firing range portion of the training.

b. Course - ~~Modified private security double action.~~
Virginia Modified Double Action Course

c. Ammunition - ~~25 60~~ - rounds - *factory loaded* Wadcutter or duty ammunition may be used for practice ~~and~~ or range qualifications ,or both .

d. Target - Silhouette (full-size B21-B21x or B-27) - Alternate targets may be utilized with prior approval

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by the director.

[e. With prior approval of the director, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges.]

[3. Course: Modified private security firearms course.]

| Stage | Distance | Position | Number of Rounds | Time |
|-------|----------|----------------|------------------|------------|
| a. | 3 yds. | Point Shoulder | 5 | 15 seconds |
| b. | 7 yds. | Point Shoulder | 10 | 42 seconds |
| c. | 15 yds. | Point Shoulder | 10 | 45 seconds |

[3.] Virginia Modified Double Action

Handgun

[a.] Virginia Modified Double Action Course for all handguns carried in the performance of duty.
Target - Silhouette (B21, B21x, B27)
60 rounds
Double action only
Minimum qualifying score - 70% or 42 rounds within Silhouette

Phase 1 - 7 [yards] , point shoulder position, 24 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat
Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat
Load 6 rounds, fire 12 rounds on whistle (30 seconds), repeat

Phase 2 - 15 yards, point shoulder position, 18 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat
Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat
Load 6 rounds, fire 6 rounds on whistle (12 seconds)

Phase 3 - 25 yards, 90 seconds, 18 rounds

Load 6 rounds, on whistle:
fire 6 rounds, kneeling, strong hand; reload
fire 6 rounds, standing behind barricade, weak hand;
reload, fire 6 rounds, standing behind barricade, strong hand (kneeling position may be fired using barricade)

4. Scoring: Point value indicated on training key located on the B-27 target. An individual must score at least 70% (88 points out of a possible total of 125 points) to satisfactorily complete the course.

5. 4. An approved firearms instructor must be on the range during all phases of firearms range training. There shall be one firearms instructor or assistant per four shooters on the line.

B. Shotgun training.

1. Classroom training - classroom instruction will be emphasized but not be limited to:

- a. Safe and proper use and handling of shotgun,
- b. Nomenclature,

2. Range firing (no minimum hours required) - The purpose of this course is to provide practical shotgun training to those individuals who carry or have immediate access to a shotgun in the performance of their duty.

3. Ammunition - 5 rounds - Ammunition must be of same type as carried in the performance of duty.

4. Course: Modified shotgun range

| Distance | Position | No. Rounds | Target |
|----------|-----------------------|------------|------------|
| 25 Yds. | Standing/ Shoulder | 5 | Silhouette |

5. An approved firearms instructor must be on the range during all phases of firearms range training. There shall be one firearms instructor or assistant per four shooters on the line.

§ 5.2. C. Firearms retraining.

1. All armed private security services business personnel must satisfactorily complete firearms classroom and range training as prescribed in subsections A and B of § 5.1, if applicable, within every other calendar year as set forth below. Approved schools providing firearms retraining must meet the requirements of § 4.1.

A. All persons who were registered as armed private security services business personnel during the period of March 17, 1977, through December 31, 1984, shall comply with this provision by December 31, 1986, and thereafter by December 31 of every other calendar year.

B. All persons who were registered as armed private security services business personnel during the period of January 1, 1985, through December 31, 1986, shall comply with this provision by December 31, 1987, and thereafter by December 31 of every other calendar year.

C. 2. All persons who are registered as armed private security services business personnel on or after the effective date of this regulation and who have complied with the basic firearms training requirement

shall comply with this provision by December 31 of [~~the second~~ each] calendar year after receipt of armed registration and thereafter by December 31 of every other calendar year.

PART VI. ATTENDANCE AND ADMINISTRATIVE REQUIREMENTS.

§ 6.1. Attendance and administrative requirements.

§ 6.1. A. The compulsory minimum training standards shall be attained by attending and satisfactorily completing an approved training school.

§ 6.2. B. Private security services business personnel enrolled in an approved training school are required to attend all prescribed mandatory training classes.

§ 6.3. C. Tardiness and absenteeism will not be permitted. Individuals violating these provisions will be required to make up any training missed.

§ 6.4. D. Each training school director will be required to maintain a current file of attendance records, examination scores, and firearms familiarization scores, on each individual for three years from the date of the training session in which the individual attendee was enrolled.

§ 6.5. E. Any changes in an approved school curriculum schedule, instructors, dates, times and location and training schedules, shall be reported to the department in advance of any such change immediately.

§ 6.6. F. The school director of each approved training school shall submit a certification of completion of training form which must be postmarked within seven days of the conclusion date of an approved training session, for each student who has satisfactorily completed all classes comprising an approved training session with the exception of unarmed guards training sessions. The certification form will be prepared in triplicate; the original is to be submitted to the Department of Commerce, one copy provided to the student and one copy to be retained on file with the approved training school for three years. The training certification forms will be provided by the Department of Commerce. Certification of satisfactory completion of unarmed guard training sessions shall be reported to the department on forms provided by or approved by the department. Such certification of satisfactory completion of unarmed guard training shall be submitted to the department within seven days of the ending date of each approved training session. A copy of the training certification shall be maintained by the approved training school for a minimum of three years.

§ 6.7. G. The resumes and objectives as approved by the department must shall be adhered to and all subject matter must shall be presented in its entirety.

§ 6.8. H. Failure to comply with rules and regulations.

All individuals attending an approved training school shall comply with the rules promulgated by the board and any other rules within the authority of the school director. The school director shall be responsible for enforcement of all rules established to govern the conduct of attendees. If the school director considers the violation of the rules detrimental to the welfare of the school, the school director may expel the individual from the school. Notification of such action shall immediately be reported to the employing agency and the director.

PART VII. CERTIFICATION EFFECTIVE DATE

§ 7.1. Certification Effective date.

These rules shall be effective ~~January 1, 1986~~ January 1, 1990, and until amended or rescinded.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: VR 270-01-0006. Regulations Governing Pupil Transportation Including Minimum Standards For School Buses in Virginia.

Statutory Authority: §§ 22.1-16 and 22.1-176 of the Code of Virginia.

Effective Date: January 1, 1990

Summary:

These regulations are summarized as follows:

Part I. Definitions - Clarification of "School Activity Vehicle."

Part II. General regulations - Increased minimum property damage liability and uninsured motorist insurance limits from \$10,000 to \$20,000 in § 2.11. Increased the maximum mileage limit between school vehicle inspections from 1,500 miles to 2,500 miles for vehicles manufactured since April 1, 1977 in § 2.12.

Part III. Distribution of Pupil Transportation Funds - The four articles in Part III have been amended to conform to provisions of the appropriations act and guidelines provided by the Joint Legislative Audit and Review Commission (JLARC). Article 3. "Special Transit Fund" was amended to clarify the eligibility for funding of pupils transported on public transit systems.

Part IV. Requirements for School Bus Drivers - There are no substantive changes in this part.

Part V. Minimum Standards for School Buses in Virginia - Article 1. "General Requirements" was

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amended to include school activity vehicles, Article 3. "The Bus Body" was amended to allow the use of plywood sub-floor and a strobe light on an optional basis. The standards on "Joint Strength" and "Seat Barriers" were amended to include Type A school buses.

Part VI. Lift-Gate School Buses - The capacity for rear heaters was adjusted to meet the various prevailing circumstances. Seat barriers were improved to provide greater safety in the special buses.

Part VII. Activity Vehicles - There are no substantive changes in this part.

VR 270-01-0006. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia.

PART I. DEFINITIONS.

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

"Color-black" means federal standard No. 595, black enamel No. 17038.

"Color-yellow" means national school bus yellow SBMI color standard 008.

"Emergency equipment compartment" means an approved compartment which is labeled to indicate what is contained therein. If equipped with a lock, a buzzer shall be activated when locked. Lock shall be capable of holding plunger of buzzer in when unlocked. The compartment shall be boxed in and have suitable rear panel for mounting of emergency equipment.

"School bus" means any motor vehicle described herein as "Type A," "Type B," "Type C," or "Type D," which is designed and used [primarily] for the transportation of pupils, which is painted yellow with the words "School Bus" in black letters of specified size on front and rear, and which is equipped with the required warning devices.

[*Note: This definition includes school buses owned and operated by school boards, private contractors, local governments, and transit systems which are used for the transportation of public school pupils.]*

"School bus Type A" means a conversion or body constructed upon a van-type compact truck or a front-section vehicle, with a gross vehicle weight rating of 10,000 pounds or less, designed for carrying more than four persons. Range from four to 20 passenger capacity.

"School bus Type B" means a conversion or body constructed and installed upon a van or front-section vehicle chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for

carrying more than 10 persons. Part of the engine is beneath or behind the windshield, or both, and beside the driver's seat. The entrance door is behind the front wheels. Range from 16 to 25 passenger capacity.

"School bus Type C" means a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels. Range from 34 to 64 passenger capacity.

"School bus Type D" means a body installed upon a chassis, with the engine mounted in the front, midship, or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. The engine may be behind the windshield and beside the driver's seat; it may be at the rear of the bus behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels. Range from 72 to 84 passenger capacity.

"School activity vehicle" means any school bus as defined in this section [~~except those buses~~] with [~~variances the modifications~~] authorized in Part VII of these regulations. Type A, B, C, D school buses are recommended for transporting pupils to and from school activity events; however, a school activity vehicle may be used [solely for extra-curricular activities,] when deemed necessary and appropriate by the local school board.

Note: A standard or mini-size passenger van which has not been reconstructed to meet Virginia state and federal school vehicle construction standards does not meet this definition.

"Undercoating modified test procedure" means test panels are to be prepared in accordance with paragraph 4.6.12 of TT-C-520a of the Federal Code, incorporated by reference, with modified procedure requiring that test be made on a 48-hour air cured film at thickness recommended by compound manufacturer.

PART II. GENERAL REGULATIONS.

§ 2.1. The greatest care shall be exercised at all times in the transportation of school children.

§ 2.2. A school bus transporting school pupils shall be operated at a safe speed not in excess of 35 miles per hour, or minimum legal speed allowable; except, on interstate highways and when no stops are made to pick up or discharge pupils between the point of origin and the point of destination the speed shall not be in excess of 45 miles per hour.

§ 2.3. The number of pupils who may ride a school bus shall be determined by the total number who can be seated. During the first 30 instructional days of the school year standees may be permitted for short distances in the

aisle back of the driver's seat. Pupils may not be permitted to stand after the first 30 instructional days, except under unforeseen emergency conditions as identified by the local school board.

§ 2.4. Written contracts shall be made by the school board, on a form to be prescribed by the Superintendent of Public Instruction, with all regular school bus drivers before they begin their duties. Such contracts shall be signed in duplicate, each party holding a copy thereof. Substitute drivers shall meet the requirements prescribed for regular bus drivers and shall be approved and paid by the local school board.

§ 2.5. The school bus driver shall open and close the entrance door and keep it securely closed while the bus is in motion. This responsibility shall not be delegated to any other person.

§ 2.6. Every school bus operated at public expense for the purpose of transporting school children shall be equipped with traffic warning devices of the type prescribed in the standards and specifications of the Board of Education. The warning lights shall indicate when the bus is about to stop, is stopped, and when it is loading or discharging children. The warning lights shall be in operation for a distance of not less than 100 feet before the bus stops, if the lawful speed limit is less than 35 miles per hour, and for a distance of at least 200 feet before the bus stops if the lawful speed limit is 35 miles per hour or more. When the school bus is equipped with a warning sign or crossing control arm or both, these devices shall be extended when, and only when, the bus is stopped to load or discharge children.

§ 2.7. When loading or discharging pupils on the highway, stops shall be made in the right-hand lane and shall be made only at designated points where the bus can be clearly seen for a safe distance from both directions. While stopped, the driver shall keep the school bus warning devices in operation to warn approaching traffic to stop and allow pupils to cross the highway safely. Pupils who must cross the road shall be required to cross in front of the bus. They shall be required to walk to a point 10 feet or more in front of the bus, stop before reaching a position in line with the left side of the bus, and [~~await~~ wait for] a signal from the bus driver [~~to start before starting~~] across the highway.

On dual highways divided by a physical barrier or unpaved area, buses shall be routed so that pupils will be picked up and discharged on the side of the road on which they live.

§ 2.8. Persons operating a school bus equipped with a safety belt assembly shall wear it while school children are being transported. (§ 46.1-287.2 of the Code of Virginia)

§ 2.9. Pupils riding in Type A school buses equipped with passenger restraint belts shall wear them while the bus is

in motion.

§ 2.10. Pupil rider safety instruction shall be included in the school curriculum, including demonstration and practices of safety procedures.

1. At the K-1 grade levels, initial safety training shall occur during the first week of school and additional training on a periodic basis during the year.

2. Emergency exit drills shall be practiced by all pupil riders at least twice a year, the first occurring during the first 30 instructional days.

3. A copy of bus rider safety rules shall be sent to parents at the beginning of the school year with an acknowledgement to be returned to the school principal. The information shall include a request that parents or their designee accompany their young children to and from the bus stop.

§ 2.11. Every vehicle used in transporting school pupils and personnel at public expense shall be covered by insurance that will provide financial assistance to pupils and personnel in case of injuries or deaths resulting from an accident. Insurance is required by law in the following minimum amounts:

1. Public liability or bodily injury, including death:
 - a. per person, or lower limit \$50,000
 - b. per accident, or upper limit \$200,000
2. Property damage liability [~~\$10,000~~]
..... \$20,000]
3. Uninsured motorists coverage - equal to aforesaid limits of liability
4. Medical payment-per person \$1,000

(§§ 22.1-188 to 22.1-198 of the Code of Virginia)

§ 2.12. All school [*buses and school activity*] vehicles, [*including school buses operated by city or county transit systems; manufactured since April 1, 1977,*] used [*primarily*] to transport public school pupils to and from school and school activity events shall be inspected and maintained by competent mechanics immediately before being used in the fall and at least once every 30 operating days or every ~~1,500~~ 2,500 miles traveled, whichever occurs first. [*All school buses and school vehicles manufactured prior to April 1, 1977, shall be inspected at least every 30 days or every 1,500 miles travelled, whichever occurs first.*] The inspections and maintenance shall be conducted in accordance with provisions of the "Preventive Maintenance Manual for Virginia School Buses" and recorded on the prescribed inspection forms. If the inspection and maintenance are not made in a shop operated by the school board or the local governing body, the school board shall designate one or more inspection centers to make

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the inspections and require a copy of the results of the inspections to be furnished to the division superintendent.

§ 2.13. A written report, on forms furnished by the Department of Education, of any accidents involving school buses, pupils, and personnel who ride school buses (including injury or death while crossing the road, waiting at bus stops, etc.) shall be sent to the Pupil Transportation Service, Department of Education by the division superintendent within five days from the date of the accident. The report shall give the apparent cause of the accident, the extent of injuries to pupils or others, and the amount of property damage.

§ 2.14. All school buses in operation shall be carefully scheduled on routes to schools. The schedule shall show the time the bus starts in the morning, the time it leaves each point at which pupils are taken on, and the time of arrival at school. It shall also show the bus's odometer reading at the beginning of the route where the first pupil is picked up, where other stops are made, and the reading upon arrival at school. One copy of such schedule shall be kept in the bus and one copy shall be kept in the office of the division superintendent of schools.

§ 2.15. School bus routes, school sites, and safety of pupils at bus stops shall be reviewed at least once each year. Bus routes shall be reviewed for safety hazards, fuel conservation, and to assure maximum use of buses. Local school administrators shall evaluate the safety of pupils at bus stops periodically and report the results annually to the school board. A written vehicular and pedestrian traffic control plan for each existing school site shall be developed and reviewed annually for safety hazards. All new school site plans shall include provisions which promote vehicular and pedestrian safety.

§ 2.16. School buses shall stop, as required by law, at railway grade crossings. The bus driver shall open the entrance door of the bus and determine when it is safe for the vehicle to cross the railroad tracks. The entrance door shall be closed when the bus is in motion. No stop need be made at any grade crossing where traffic is directed by a police officer or a green traffic-control signal.

§ 2.17. School boards shall require that a report on the number of pupils transported and miles traveled be made by all school bus drivers to principals or other designated school officials.

§ 2.18. Local school boards shall adopt policies, consistent with provisions of Virginia School Laws, before establishing a practice of collecting transportation fees from pupils or receiving contributions from other sources for activities sponsored by schools under their authority. No pupil whose parent or guardian is financially unable to pay the pro rata cost of the trip may be denied the opportunity to participate. [See § 22.1-176 of the Code of Virginia.]

§ 2.19. The lettered identification and traffic warning lights

on the front and rear of school buses shall be covered with opaque detachable material when they are used for purposes other than to transport pupils on regular routes to and from school, or on special trips to participate in contests of various kinds, and for supplementary education purposes. This does not apply when the bus is being used to transport elderly or mentally or physically handicapped persons. (See § 22.1-183 of the Code of Virginia)

§ 2.20. The use of posters, stickers, or advertising material of any kind is prohibited in or on school buses.

§ 2.21. No object shall be placed in the bus that will restrict the passage to the entrance or emergency doors.

PART III. DISTRIBUTION OF PUPIL TRANSPORTATION FUNDS.

Article 1.

Regular Approved Bus Fund.

§ 3.1. The regular approved school bus fund shall be distributed to local school divisions *allocated for pupils transported on the following bases approved school buses* to the extent that these provisions are consistent with the annual Appropriation Act:

A. Forty percent of the fund shall be distributed on the basis of an equal amount for each mile traveled during the regular school session for transporting pupils to and from the public schools in school buses meeting the standards and specifications of the Board of Education. Average daily mileage is computed for each bus from the point where the first pupil is picked up in the morning to the point where the last pupil is discharged in the afternoon, including regularly scheduled trips between schools, but excluding all special trips and excursions. If the length of a bus route is changed during the year, the average of the daily mileage shall be used.

B. Forty percent of the fund shall be distributed on the basis of an equal amount for each pupil transported in average daily attendance (average number transported daily) in school buses meeting the standards and specifications of the Board of Education.

C. Twenty percent of the fund shall be distributed on the basis of an equal amount for each school bus, in daily use on home to school routes which meets the standards and specifications of the Board of Education and which is operated in the transportation of pupils a minimum of 12 miles per school day; provided, that the minimum of 12 miles shall not be applicable to small buses with a pupil capacity of 20 or fewer pupils.

[A. School divisions shall be eligible for reimbursement for transportation of pupils in kindergarten through grade 12 and for handicapped children age two to 21 as defined in § 22.1-213 of the Code of Virginia, paragraph 1.]

D. [~~A. B.~~] No reimbursement shall be made for *pupils transported on any bus or for any bus* which does not meet the provisions of the annual inspections required by the Department of State Police, the fleet assessment by the Department of Education and regulations of the Board of Education.

[*NOTE: Any required reduction in the fund will be based on a pro-rata share of the total "Regular Approved Bus Fund" allocation.*]

E. No reimbursement shall be made for buses or miles traveled unless the bus transports pupils both from home to school and from school to home.

F. [~~B.~~] School divisions shall be eligible for reimbursement for transportation of pupils in kindergarten through grade 12 and for handicapped children age 2 to 21 as defined in § 22.1-213 of the Code of Virginia, paragraph 1.]

[*C. No reimbursement shall be made for pupils or buses unless the pupils are transported and the bus is used both from home to school and from school to home.*]

G. [~~C. D.~~] No reimbursement shall be made [*from this fund*] for pupils or miles traveled [*or buses*] if transportation assistance is received from other state or federal sources. [*Fares/fees shall not be collected from the pupil/parent, except as provided for in §§ 22.1-6 and 22.1-176 of the Code of Virginia, and Board of Education Regulations.*]

H. No school division shall receive reimbursement in excess of the amount actually expended for transportation of pupils to and from the public school, exclusive of capital outlay, replacement of buses, special trips, and the gas tax refund during the preceding year except as provided in 2 below.

1. In making the distribution, calculations shall be based on the number of pupils, miles, and buses for the preceding school year

[~~D. E.~~] *The computation for reimbursement shall be based on the number of pupils transported in average daily attendance (average number transported daily) and the prevailing number of buses for [preceding a prior] years.*

2. [~~E. F.~~] The computation for reimbursement of school divisions during their first year of school bus operation shall be based on the number of pupils, miles and buses for the current year.

I. [~~F. G.~~] Before [*any final*] reimbursement for the transportation of pupils to and from public schools is made to a school division, a report shall be submitted by the division superintendent to the Superintendent of Public Instruction certifying [*the number of pupils transported,*]

the correct net operating cost of transporting pupils (actual expenditure, less gas tax refunds), [*and*] the *average daily mileage of each bus* meeting the standards and specifications of the Board of Education used in transporting pupils for the preceding school year. Such report shall include information covering the type of bus, make and model of the body and chassis, and the number of bus inspections. Information for the review of pupil transportation programs shall be furnished annually on forms provided by the Department of Education. Records of vehicle inspections and maintenance shall be presented for review at the time of the annual fleet assessment conducted by the Department of Education or at other times necessary to ensure compliance with §§ 2.12 and 4.11 of these regulations.

Article 2.

Supplemental Fund for Exclusive Transportation of Handicapped Pupils on Approved School Buses.

§ 3.2. The Supplemental Fund for Exclusive Transportation of Handicapped Pupils shall be ~~distributed~~ *allocated* on the following bases to the extent that these provisions are consistent with the annual Appropriations Act:

1. ~~A.~~ All provisions in § 3.1 "Regular Approved Bus Fund" shall apply to the ~~distribution~~ *computation* of supplemental funds *the reimbursement from this fund* .

2. ~~B.~~ Reimbursement shall be allowed only for transportation of handicapped pupils who have been classified as such in Public Law 94-142, the Code of Virginia, and regulations of the Board of Education, and for those pupils who have not been identified but whose handicapping condition dictate exclusive transportation.

3. ~~C.~~ No supplemental reimbursement [*authorized by this article*] shall be made when both nonhandicapped pupils and handicapped pupils are transported on the same trip.

4. ~~D.~~ Supplemental Reimbursement for exclusive transportation shall be based on approximately the same funding percentage as that provided in the regular approved bus fund program. Funding shall be subject to the availability of state funds appropriated for this purpose.

Article 3.

Special Transit Fund.

§ 3.3. The special transit fund shall be ~~distributed~~ *allocated* for pupils transported on public transportation ~~transit~~ *transit* systems on the following bases to the extent that these provisions are consistent with the annual Appropriations Act: .

A. For counties or towns: The amount of reimbursement shall not exceed the average per pupil reimbursement for the previous school year for each pupil transported by county or town school divisions that operate a school bus

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system be based on the number of pupils riding public transit buses multiplied by the comparable prevailing regular program per pupil cost consistent with the Annual Appropriations Act .

B. For cities: The amount of reimbursement shall not exceed the average per pupil reimbursement for the previous school year for each pupil transported by city school divisions that operate a school bus system.

C. The average per pupil reimbursement shall be determined by dividing the total reimbursement paid to all divisions in the county-town category or the city category by the total average daily attendance of pupils transported in each respective category.

D. *B. Transit* funds shall be available to school divisions for eligible pupils transported in transit buses through contracts with public transportation transit systems (~~transit~~), [*registered with listed and recognized as public transit systems by*] the Virginia Department of Transportation. School divisions will not be eligible to include pupils transported in vehicles commonly referred to or licensed as passenger cars, cabs, vans, taxis, school activity vehicles, and school buses [, except that Radford City Public Schools, the only school division currently receiving special transit funds for transporting students on school buses, may continue to qualify for special transit funds for transportation of such students on any school bus, which is currently in operation, until that bus becomes 12 years of age (see note, § 5.8 of these regulations)] .

[Note: A two year transitional period which ends June 30, 1990, is approved for the city school boards of Colonial Heights and Radford to receive "special transit funds" for the transportation of public school children who pay a fare/fee to ride approved yellow school buses operated by or for city council.]

E. [*G.*] Reimbursement shall be available for pupils who are transported to and from public schools for the regular school session and will not be available for special trips and extra-curricular activities. [Local school boards shall be eligible for the same percentage or reimbursement of their expenditure for the transportation of eligible public school pupils on public transit type buses when part of the expense is borne by the pupil or parent.]

F. Transportation of pupils eligible for reimbursement under contracts with public transit transportation systems shall be provided in accordance with those regulations established for commercial vehicles by the State Corporation Commission and other applicable state and federal regulations. School divisions will not be eligible to include pupils transported in vehicles commonly referred to or licensed as passenger cars, cabs, vans and taxis.

G. [*D. C.*] The local school board shall make provisions when such transportation is provided that each

vehicle be operated and maintained so as to insure ensure safe service to the pupils. Insurance shall be provided by the owner of such vehicle(s) in amount not less than those provided for in § 22.1-190 of the Code of Virginia. Evidence of such insurance shall be on file in the school board office.

H. [*E. D.*] Reimbursement shall be available for pupils who are transported to and from public schools for the regular school session and will not be available for special trips and extracurricular activities.

I. [*F. E.*] In no case, shall reimbursement exceed local school board expenditures for transporting such pupils.

J. [*G. F.*] In the event sufficient funds are not available to reimburse [*local school divisions*] for the total number of pupils eligible, this fund shall be ~~distributed~~ allocated on a pro rata basis.

Article 4.

Special Arrangements Fund for Transportation of Handicapped Pupils.

§ 3.4. The special arrangements fund for transportation of handicapped pupils shall be ~~distributed~~ allocated on the following bases to the extent that these provisions are consistent with the annual Appropriations Act:

1. A. Funds shall be available to school divisions for eligible handicapped pupils, ages 2 to 21 inclusive, transported by contract with approved private schools, taxicabs, airlines, intercity/interstate passenger buses, school board owned cars, or for the [~~payment of money to parents transportation by parents~~] in lieu of [*the school board*] providing transportation services.

2. B. No reimbursement shall be ~~distributed~~ allocated for pupils transported on vehicles which are not in compliance with all applicable federal school vehicle regulations.

3. C. Data on attendance, actual cost, and type of vehicles related to the special arrangement transportation to public, approved private, and regional schools shall be submitted each semester on forms provided by the Department of Education.

4. D. Reimbursement for eligible handicapped pupils shall be based on 60% of the actual cost up to an established maximum amount.

5. E. Pupils eligible for or claimed in reimbursement from any other transportation fund, state or federal, shall not be eligible for reimbursement from the special arrangements fund.

6. F. In the event sufficient funds are not available, reimbursement shall be ~~distributed~~ allocated on a pro rata basis.

PART IV. REQUIREMENTS FOR SCHOOL BUS DRIVERS.

§ 4.1. No school board shall hire, employ, or enter into any agreement with any person for the purposes of operating a school bus transporting pupils unless the person shall:

A. Have a physical examination of a scope prescribed by the Board of Education with the advice of the Medical Society of Virginia and furnish a form prescribed by the Board of Education showing the results of such examination.

1. No person shall drive a school bus unless [*he that person*] is physically qualified to do so and has submitted a School Bus Driver's Application For Physician's Certificate signed by the applicant and the doctor for the applicable employment period.

2. A person is physically qualified to drive a school bus if [*he the individual*]:

a. Has no loss of a foot, a leg, a hand, or an arm which interferes with the ability to control and safely drive a school bus;

b. Has no impairment of the use of a foot, a leg, a hand, fingers, or an arm, and no other structural defect or limitation likely to interfere with [*his the*] ability to control and safely drive a school bus;

c. Has no known medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control likely to interfere with [*his the*] ability to control and safely drive a school bus;

d. Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;

e. Has no known medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with [*his the*] ability to control and drive a school bus safely;

f. Has no known current clinical diagnosis of high blood pressure likely to interfere with [*his the*] ability to operate a school bus safely;

g. Has no known medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which would interfere with [*his the*] ability to control and operate a school bus safely;

h. Has no known medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of

ability to control a school bus;

i. Has no known mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with [*his the*] ability to drive a school bus safely;

j. Has both distant and near visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses, and field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;

k. First perceives a forced-whispered voice in the better ear at not less than five feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951; and

l. Does not use an amphetamine, narcotic, or any habit-forming drug without appropriate physician supervision.

B. Furnish a statement or copy of records from the Department of Motor Vehicles showing that the person, within the preceding five years, has not been convicted of a charge of driving under the influence of intoxicating liquors or drugs, convicted of a felony, or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to § 18.2-271.1 of the Code of Virginia or, within the preceding 12 months, has [*not*] been convicted of two or more moving traffic violations or has [*not*] been required to attend a driver improvement clinic by the Commissioner of the Department of Motor Vehicles pursuant to [~~§ 46.1-514.11~~ § 46.2-497] of the Code of Virginia.

C. Furnish a statement signed by two reputable residents of the school division that the person is of good moral character.

D. Exhibit a license showing the person has successfully undertaken the examination prescribed by [~~§ 46.1-370~~ § 46.2-339] of the Code of Virginia.

E. Has reached the age of 18.

§ 4.2. Any school board may require successful completion of the American Red Cross first-aid course as a condition to employment to operate a school bus transporting pupils.

§ 4.3. The documents required pursuant to §§ 4.1 A and 4.1 B of these regulations shall be furnished annually within 30 days prior to the anniversary date of the employment to operate a school bus. A school board may

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require the statement set forth in § 4.1 C to be furnished periodically.

§ 4.4. The documents required pursuant to this section shall be filed with, and made a part of, the records of the school board employing such person as a school bus operator.

§ 4.5. The Department of Education shall furnish to the division superintendents the necessary forms for applicants to use to provide the information required by this section. Insofar as practicable, such forms shall be designed to limit paperwork, avoid the possibility of mistakes, and furnish all parties involved with a complete and accurate record of the information required. (§ 22.1-178 of the Code of Virginia)

§ 4.6. As a condition to employment, every school bus driver shall submit a certificate signed by a licensed physician stating that the employee appears free of communicable tuberculosis. The school board may require the submission of such certificates annually, or at such intervals as it deems appropriate, as a condition to continued employment. (§ 22.1-300 of the Code of Virginia)

§ 4.7. No person shall drive a school bus upon a highway in the Commonwealth unless such person has had a reasonable amount of experience in driving motor vehicles, and shall have passed a special examination indicating the ability to operate a school bus without endangering the safety of pupil passengers and persons using the highway. To prepare for the examination required by this section, any person holding a valid operator's license issued under the provisions of § 46.1-369 of the Code of Virginia, may operate, under the direct supervision of a person holding a valid school bus license endorsement, a school bus which contains no pupil passengers. The Department of Motor Vehicles [~~shall is required to~~] adopt such rules and regulations [*as may be necessary*] to provide for the examination of persons desiring to qualify to drive such buses in this Commonwealth and for the granting of permits to qualified applicants. ([~~§ 46.1-370~~ § 46.2-339] of the Code of Virginia)

§ 4.8. No person shall operate a school bus transporting pupils unless the person shall have:

1. Received classroom, demonstration, and behind-the-wheel instruction in accordance with the minimum provisions of the "Virginia School Bus Driver Training Curriculum Guide."
2. Completed a minimum of 12 classroom hours and 12 hours of behind-the-wheel training. A minimum of six of the 12 hours of behind-the-wheel time shall involve the operation of a bus with pupils on board while under the [*direct*] supervision of a designated bus driver trainer.

The superintendent or his designee shall maintain a record showing that the applicant has completed the

training and has been approved to operate a school bus.

§ 4.9. In-service training, (at least two hours before opening of schools and at least two hours during the second half of the school year) devoted to improving the skills, attitudes, and knowledge including orientation to maximize benefits of using safety programs and safety components shall be provided to all school bus drivers.

§ 4.10. The driver of a school bus shall be under the general direction and control of the superintendent and school board or the supervisor of transportation, and shall also be accountable to the principal of the school to which transportation is provided.

§ 4.11. The driver of a school bus shall perform a daily pretrip safety inspection of the vehicle immediately prior to transporting children. The items checked and recorded shall be at least equal to the pretrip inspection procedure contained in the "Preventive Maintenance Manual for Virginia School Buses, November 1983."

§ 4.12. The driver of a school bus shall report to the principal [*the*] misconduct of pupils on the school bus or at waiting stations or stops on the way to or from school and shall be guided by the principal's advice and direction, subject to the regulations of the school board. When it becomes necessary for the driver to correct pupils, the driver shall stop at the nearest and safest place and restore order before proceeding. In no case shall a driver put a pupil off the bus between [*the*] home and school as a disciplinary measure.

§ 4.13. The performance of each school bus driver shall be evaluated by the transportation director or [~~their~~] designee at least once each year. The results of the evaluation shall be discussed with the driver and included in the driver's personnel file.

§ 4.14. The driver of activity or extracurricular trip buses shall advise the pupils and sponsors of the location of the required emergency equipment prior to the beginning of any such trip.

§ 4.15. Local school bus driver training instructors shall hold a certificate for completion of an instructor course conducted or sponsored by the Department of Education.

§ 4.16. The name and driver license number of [~~all~~] persons operating a school bus used to transport pupils shall be submitted to the Department of Education annually. [*These data for*] each new driver employed during the school year shall be submitted by the 10th of each month.

PART V. MINIMUM STANDARDS FOR SCHOOL BUSES IN VIRGINIA.

Article 1. General Requirements.

§ 5.1. The responsibility for compliance with these school bus [*and activity vehicle*] specifications rests with dealers and manufacturers. If any dealer or manufacturer sells school [*bus buses or school activity*] vehicles which do not conform to any or all of these specifications, a general notice will be sent to all school divisions advising that equipment supplied by such dealer or manufacturer will be disapproved for school transportation until further notice. A copy of the notice will be sent to the dealer or manufacturer and will remain in effect until full compliance by the dealer or manufacturer is assured.

Dealers and manufacturers shall be given at least 30 days' notice of any changes in the specifications.

§ 5.2. Minimum standards are applicable to all [*purchases or lease of*] school [*bus buses*] and school [*vehicle equipment activity vehicles*], new or used [*, procured by purchase, lease or operational contract from another person or entity*].

§ 5.3. Buses [*and school activity vehicles*] must conform to the specifications relative to construction and design effective [*at on*] the date of [*purchase procurement*]. Any variation from the specifications, in the form of additional equipment or changes in style of equipment, without prior approval of the Pupil Transportation Service, Department of Education, is prohibited.

§ 5.4. The Superintendent of Pupil Instruction is authorized to make such adjustments from time to time in technical specifications as are deemed necessary in the interest of safety and efficiency in school bus operation. This includes the issuance of chassis specifications by size, type and model year. Authority is also granted for conducting investigations and field tests of certain pertinent vehicle components.

§ 5.5. All publicly owned, part publicly owned, or contract school buses, transporting pupils to and from public school, shall be painted a uniform color, national school bus yellow, and shall be identified and equipped as outlined in the standards and specifications.

§ 5.6. Each school bus shall be given a number starting at one and continuing consecutively to the highest number which will be the total number of buses used. The number shall conform with that contained in the school bus inventory and record report. When a bus is sold or discarded, the number assigned to it should be given to a new bus. The numbers should remain consecutive with as few unassigned numbers as possible.

§ 5.7. The responsibility for purchasing school buses and school [*activity*] vehicles which meet state and federal requirements rests with division superintendents and local school boards.

§ 5.8. All school buses [*, including spare buses and school activity vehicles,*] manufactured prior to April 1, 1977, the effective date of the Federal School Vehicle Regulations

(referred to as "Pre-DOT" buses), shall be replaced by June 30, 1991. A plan providing for the replacement of these Pre-DOT buses by June 30, 1991, [*shall was required to*] be submitted to the Department of Education by August 1, 1988. In addition, a schedule for the replacement of buses on a continuing basis shall be developed and implemented by each school division.

NOTE: For purposes of costing the Standards of Quality, the Board of Education assumes a 12-year [*school*] bus replacement cycle.

§ 5.9. Sale of surplus school buses.

A. Before a surplus school bus is sold or released for nonschool transportation purposes, the bus shall have the traffic warning signal removed and all school bus lettering shall be covered by an opaque paint. A written notice shall be attached to the Certificate of Title [*stating*] that the vehicle does not meet the requirements of §§ [*46.1-1(37) 46.2-100*] and [*46.1-286.1 46.2-1089*] and that its operation on the highway would be in violation of § [*46.1-160.1 46.2-917*] of the Code of Virginia.

B. In the event [*that*] the bus is sold to a private school or a licensed dealer, the written notice shall contain a reminder that the bus shall be painted a different color, and shall have the bus signal systems and lettering removed before release for nonschool transportation purposes.

Article 2. The Bus Chassis.

§ 5.10. Air cleaner.

Bus shall be equipped with adequate oil-bath, dry element, or equivalent air cleaner mounted outside the passenger compartment.

§ 5.11. Alternator.

Alternator of heavy duty design with rectifier shall have minimum output of at least 90 amperes with charge at idle type (12-volt system), and shall be ventilated, voltage-controlled, and current-controlled. Dual belt drive or a single serpentine belt of equal or greater transmission capacity shall be used. Actual required amperage to be specified on annual chassis specifications.

Exception Type A vehicles.

Alternator with rectifier shall have minimum output of at least amperes with 12-volt system and shall be ventilated, voltage-controlled, and current controlled. Dual belt drive is not required.

§ 5.12. Axles (See table 1)

A. Front axle or suspension shall be of sufficient capacity at ground to support a load which would be 10%

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in excess of actual gross axle weight.

B. Rear axle shall be single speed, full-floating type. Rear axle or other type of suspension assembly shall have gross weight rating at ground equal to or exceeding that portion of total weight which is supported by rear-suspension assembly.

1. Exception Type A vehicles.

Requirement for full-floating rear axle does not apply to small vehicles (conversion type) approved as school buses.

2. Exception Type D vehicles.

a. Front axle shall be wide-track, heavy-duty, bus type and shall have gross weight rating at ground equal to or exceeding that portion of total load which is supported by front axle.

b. Rear axle shall be single speed, full-floating, heavy-duty, bus type and shall have gross weight rating at ground equal to or exceeding that portion of total load which is supported by rear axle.

§ 5.13. Battery.

A. Storage battery, as established by manufacturer's rating, shall be of sufficient capacity to handle starting, lights, signal devices, heating, and other electrical equipment.

B. No bus shall be equipped with a battery of less than 535 amperes cold cranking current at 0°F with 120 minutes reserve capacity at 80°F.

C. Battery shall be mounted in the engine compartment or in a body compartment in an adequate carrier and be readily accessible for servicing or removal. Annual chassis requirements will specify battery location for different types of chassis.

D. When battery is to be mounted outside of engine compartment, it may be temporarily mounted to chassis. Body company will permanently mount battery on sliding tray located in the left side of body skirt. Battery shall be connected with one-piece cables of sufficient length to allow tray to be pulled out for servicing. Cables shall be at least one gauge color coded, red positive-black ground. Chassis manufacturers to supply proper length cables for body skirt mounting.

§ 5.14. Brakes.

A. Four-wheel brakes, adequate at all times to control bus when fully loaded, shall be provided in accordance with Federal Motor Vehicle Safety Standards. (See table 1.)

B. Foot or service brakes shall meet Federal Motor

Vehicle Safety Standard 105 for hydraulic brakes, and Standard 121 for air brakes except for deletion of anti-skid system on air brake models.

C. Chassis shall be equipped with auxiliary brakes capable of locking rear wheels, and capable of holding vehicle on any grade on which it is operated under any conditions of loading on a surface free from snow or ice. Operating controls of such auxiliary brakes shall be independent of operating controls of service brakes.

D. Chassis designed for any bus body shall be equipped with full compressed air brakes, split hydraulic vacuum actuated power, or assistor-type brakes.

1. Such installation shall be made by authorized representative of chassis or brake manufacturer and shall conform to recommendation of that manufacturer.

2. Hydraulic line pressure shall not exceed recommendation of chassis or brake manufacturer.

3. Reservoir capacity shall be at least 1,650 cubic inches for full compressed air systems, and at least 1,000 cubic inches, or equivalent, for vacuum actuated systems.

4. Buses having full compressed air systems shall be equipped with:

a. At least two reservoirs for the service brake (or one vessel divided into two compartments connected in series) and one 1,000 inch reservoir for the auxiliary braking system;

b. Safety valve mounted on the first reservoir to protect air brake system against excessive air pressure, and check valve mounted in optional location;

c. Air gauge mounted on instrument panel to register air pressure in air brake system; (See § 5.27 A 8 of these regulations) and

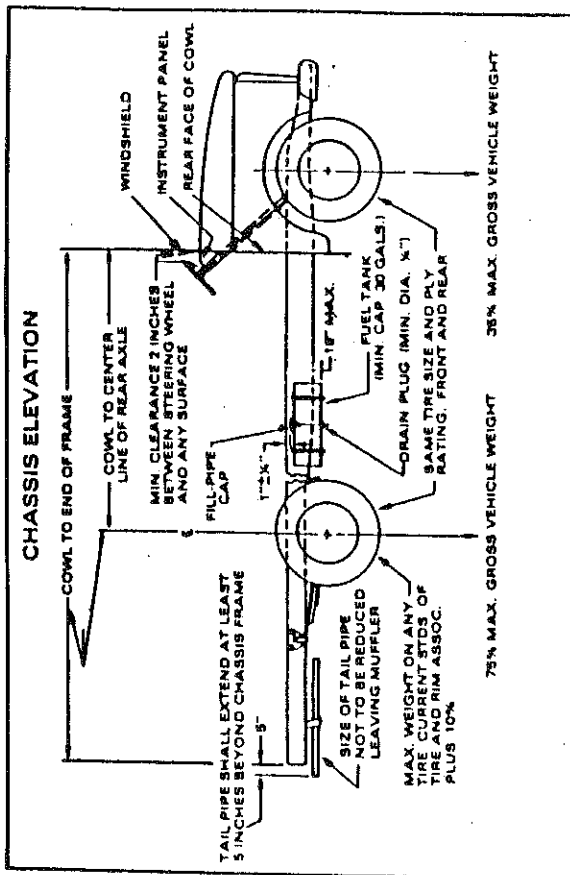
d. Audible low pressure indicator to warn driver if air pressure in air brake system falls below 60 pounds per square inch.

5. Buses having vacuum actuated systems shall be equipped with check valve located between source of supply and reservoir.

6. Exception Type A vehicles.

Reserve vacuum tank not required.

Diagram 1.



§ 5.15. Bumper, front.

A. Front bumper shall be heavy-duty, channel steel at least seven inches in width with 3/16-inch thickness, painted black, and shall be furnished by chassis manufacturer as part of chassis.

B. Front bumper shall extend to outer edges of fenders at bumper top line (to assure maximum fender protection) and be of sufficient strength to permit pushing vehicle of equal gross weight without permanent distortion to bumper, chassis, or body.

C. Exception Type A vehicles.

Bumper shall be manufacturer's standard painted black.

D. Exception Type D vehicles.

Same as above, except that front bumper shall be furnished by body manufacturer.

§ 5.16. Clutch.

Torque capacity shall be equal to or greater than the engine torque output.

§ 5.17. Color.

A. Chassis, including wheels, and front bumper shall be black.

B. Hood, cowl, and fenders shall be national school bus yellow.

C. Grill shall be national school bus yellow, if painted; otherwise, it shall be chrome or anodized aluminum.

§ 5.18. Drive shaft.

A. Drive shaft shall be protected by metal guard or guards to prevent it from whipping through floor or dropping to ground if broken.

B. Exception Type A conversion van.

Standard does not apply.

§ 5.19. Electrical system.

1. Battery - see § 5.13.

2. Alternator - see § 5.11.

3. Lights and signals - see § 5.30.

4. Wiring - see § [5.93 5.92].

5. Chassis manufacturer shall install readily accessible electrical terminal so that body and chassis electrical load can be recorded through chassis ammeter or

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voltmeter without dismantling or disassembling chassis component. Chassis wiring system to terminal shall have minimum 100-ampere capacity. Chassis ammeter or voltmeter and wiring shall be compatible with generating capacity, and ammeter shall be capable of recording continuous draw of 100 amperes.

6. Each chassis circuit shall be color coded and a diagram of the circuits shall be included with the chassis.

§ 5.20. Engine.

The engine shall be of the internal-combustion, four-stroke cycle type, having not less than six cylinders. Thermostats with not less than 175° - 195°F rating shall be provided. Engine shall be equipped with a crankcase ventilating system to meet federal requirements. (See table 1)

§ 5.21. Exhaust system.

1. Exhaust pipe, muffler, and tail pipe shall be outside bus body attached to chassis.

2. Tail pipe shall be constructed of seamless or electrically welded tubing of 16-gauge steel or equivalent, and shall extend at least five inches beyond chassis frame. (See § [5.84 5.83])

3. Size of tail pipe shall not be reduced after it leaves muffler.

4. Exhaust system shall be properly insulated from fuel tank and tank connections by securely attached metal shield at any point where it is 12 inches or less from tank or tank connections.

5. Muffler shall be constructed of corrosion-resistant material.

6. Exception Type A and B Vehicles.

Tail pipe may exit behind rear wheel.

§ 5.22. Fenders, front.

1. Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight-ahead position.

2. Front fenders shall be properly braced and free from any body attachment.

3. Chassis sheet metal shall not extend beyond rear face of cowl.

§ 5.23. Frame.

1. Frame or equivalent shall be of such design as to

correspond at least to standard practice for trucks of same general load characteristics which are used for severe service.

2. When frame side members are used, they shall be of one-piece construction. If frame side members are extended, such extension shall be designed and furnished by chassis manufacturer with a guarantee, and installation shall be made by either chassis or body manufacturer and guaranteed by company making installation. Extensions of frame lengths are permissible only when such alterations are behind rear hanger of rear spring, and shall not be for purpose of extending wheel base.

3. Holes in top or bottom flanges of frame side rails shall not be permitted except as provided in original chassis frame. There shall be no welding to frame side rails except by chassis or body manufacturer.

§ 5.24. Frame length - (See § 5.46)

§ 5.25. Fuel tank.

1. Fuel tank equipped with protective cage to meet FMVSS 301 shall have minimum capacity of 30 gallons, and be mounted directly on right side of chassis frame, filled and vented entirely outside body.

2. Fuel filter with replaceable element shall be installed between fuel tank and carburetor.

3. Fuel tank, fittings or lines, shall not extend above top of chassis frame rail.

4. If tank sizes other than 30 gallons are supplied, location of front of tank and filler spout must remain as specified below.

5. Drain plug at least 1/4 inch in diameter shall be located in center of bottom of tank.

6. Measurements shown below are for guidance of chassis manufacturers and serve only to prevent need for replacement of original tank. (Inspectors concerned with state or local approval of vehicle need not consider them unless tank does not fit.)

a. Tank or cage shall not extend in height above side member of chassis.

b. Distance from center line of chassis to outside of tank cage shall not be more than 44 inches.

c. Bottom of tank cage shall not be more than 19.0 inches below top of frame.

d. Center of fillpipe cap shall be one inch below top of frame with plus or minus tolerance of 1/4 inch permitted.

7. Exceptions.

a. For Type A vehicles, the fuel tank shall be manufacturer's standard, mounted, filled, and vented outside of body.

b. For Type B of body-on-chassis, fuel tank may, due to space limitation, be mounted behind rear wheels with fillpipe on right side of body and have capacity of less than 30 gallons.

c. For Type D vehicles the fuel tank may be mounted between frame rails with fuel filler pipe extending to right side of body between frame rails and body floor. Center of tank shall not be more than 65 inches to rear of center line of front axle. Bottom of cage shall not extend below the level of the front axle.

§ 5.26. Governor.

1. An approved engine governor set at 3,400 RPM is required on vehicles equipped with gasoline engines.

2. An approved road speed control governor shall be required on all buses and set at a maximum speed of 45 mph.

§ 5.27. Heating system, provision for.

The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The opening shall be suitable for attaching 3/4-inch pipe thread/hose connector. The engine shall be capable of supplying water having a temperature of at least 170°F at a flow rate of 50 pounds/per minute at the return end of 30 feet of one-inch inside diameter automotive hot water heater hose. (SBMI Standards No. 001-Standard Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment.)

§ 5.28. Horn.

Bus shall be equipped with dual horns of standard make which meet requirements of Federal Motor Vehicle Standards.

§ 5.29. Instrument and instrument panel.

A. Chassis shall be equipped with following instruments and gauges:

1. Speedometer which will show speed;
2. Odometer which will show accrued mileage, including tenths of miles;
3. Ammeter or voltmeter with graduated scale;
4. Oil-pressure gauge;

5. Water-temperature gauge;

6. Fuel gauge;

7. Upper-beam headlamp indicator; and

8. Air-pressure or vacuum gauge, where air or vacuum brakes are used, and audible low-pressure indicator to warn driver if air pressure in air brake system falls below 60 pounds per square inch.

B. All instruments or gauges shall be mounted on instrument panel in such manner that each is clearly visible to driver in normal seated position. Lights in lieu of gauges are not acceptable.

C. Exceptions.

On all Type A vehicles, both the ammeter or voltmeter and its wiring are to be compatible with generating capacity; also, § 5.29 A 8 does not apply.

§ 5.30. Lights and signals.

1. Each chassis shall be equipped with not less than two sealed beam headlights - beam controlled, and stop and tail lights, and two front turn signal lamps mounted on front fenders.

2. Lights shall be protected by fuse or circuit breakers.

3. Self-canceling directional signal switch shall be installed by the chassis manufacturer. [*The directional signals shall activate only when ignition is in "on" position.*]

4. An approved back-up alarm signal complying with the Society of Automotive Engineers published Backup Alarm Standards (SAE 994b) for rubber tired vehicles is permitted.

§ 5.31. Oil filter.

Oil filter of replaceable element or cartridge type shall be provided and shall be connected by flexible oil lines if it is not of built-in engine-mounted design. Oil filter shall have oil capacity of at least one quart.

§ 5.32. Openings.

All openings in floorboard or firewall between chassis and passenger-carrying compartment, such as for gearshift lever and auxiliary brake lever, shall be sealed unless altered by body manufacturer. (See § 5.53 10)

§ 5.33. Overall length.

Overall length of a conventional bus shall not exceed 36 feet and metropolitan type not to exceed 40 feet.

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§ 5.34. Passenger load.

Gross vehicle weight (i.e., wet weight, plus body weight, plus driver's weight of 150 pounds, plus weight of maximum seated pupil load based on not less than 120 pounds per pupil) shall not exceed maximum gross vehicle weight rating as established by manufacturer.

§ 5.35. Power or gradeability.

Chassis shall be so geared and powered as to be capable of surmounting 3.7% grade at speed of at least 20 miles per hour with full load on continuous pull in direct drive.

§ 5.36. Shock absorbers.

Bus shall be equipped with front and rear double-acting shock absorbers compatible with manufacturer's rated axle capacity.

§ 5.37. Springs.

1. Springs or suspension assemblies shall be of ample resiliency under all load conditions and of adequate strength to sustain loaded bus without evidence of overload. (See table 1)
2. Springs or suspension assemblies shall be designed to carry their proportional share of gross vehicle weight in accordance with requirement for "Weight Distribution" as shown in § 5.42.
3. Rear springs shall be of progressive or variable type.
4. Stationary eye of the front spring shall be protected by full wrapper leaf in addition to main leaf.

Exception Type A vehicles.

Springs that are regular equipment on vehicle to be purchased may be used.

§ 5.38. Steering gear.

1. Steering gear shall be approved by chassis manufacturer and designed to assure safe and accurate performance when vehicle is operated with maximum load and maximum speed.
2. Steering mechanism shall provide for an easy adjustment for lost motion.
3. No changes shall be made in steering apparatus which are not approved by chassis manufacturer.
4. There shall be clearance of at least two inches between steering wheel and cowl instrument panel, windshield, or any other surface.
5. Power steering is required. It shall contain a

provision to automatically bleed air from unit.

§ 5.39. Tires and rims.

1. Tire and rim sizes, based upon current standards of Tire and Rim Association, shall be required. (See table 1)
2. Total weight imposed on any tire shall not be above current standard of Tire and Rim Association.
3. Dual rear tires shall be provided on all vehicles.
4. All tires on given vehicles shall be of same size and ply rating.
5. Spare tire, if required, shall be suitably mounted in accessible location outside passenger compartment.

Exception Type A conversion van.

Same as above, except that dual rear tires are not required and spare tire rack may be inside passenger compartment provided it does not interfere with aisle width or passenger seating.

§ 5.40. Transmission.

1. Mechanical type transmission shall be synchromesh except first and reverse gears. Its design shall provide not less than four forward and one reverse speeds. With five-speed transmission, fifth gear shall be direct.
2. Transmission overdrive is not permitted.
3. Automatic transmissions are permissible when equipped with a parking pawl or when installed on a bus equipped with an air or hydraulic spring operated parking brake system.

Exception Type A vehicles.

Three-speed transmissions are acceptable.

§ 5.41. Turning radius.

Chassis with a wheel base of 264 inches or less shall have a right and left turning radius of not more than 42-1/2 feet, curb to curb measurement. Chassis with a wheel base over 264 inches shall have a right and left turning radius of not more than 44-1/2 feet curb to curb measurement.

§ 5.42. Weight distribution.

A. Weight distribution of fully loaded bus on level surface shall be such that not more than 75% of gross vehicle weight is on rear tires, and not more than 35% is on front tires.

B. Exception Type D vehicles.

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With engine inside front of body, if entrance door is ahead of front wheels, not more than 75% of gross vehicle weight shall be on rear tires, nor more than 50% on front tires. If entrance door is behind front wheels, not more than 75% of gross vehicle weight shall be on rear tires, nor more than 40% on front tires. With engine in rear, not more than 75% of gross vehicle weight shall be on rear tires, nor more than 40% on front tires.

§ 5.43. Wheels.

Disc wheels are required. (See table 1)

Table 1.

TABLE OUTLINING MINIMUM LIMITS OF BUS CHASSIS AND TIRE AND RIM SIZES
(Weights expressed in thousands)

| Bus Type | A | B | C | C | C | D | D | U | D |
|------------------------------------|----------|----------|---------|---------|---------|------------------|------------------|----------|----------|
| Rated Pupil Seating Capacity | 8-20 | 18-25 | 28-34 | 32 | 64 | 52-63 | 64-72 | 78-78 | 82-84 |
| Approx. Wheel Base-Inches | 125 | 125 | 151 | 217 | 234 | 148-170 | 187-226 | 228-266 | 246-284 |
| Mfgs. G.V.W. | 7.7 | 12.0 | 16.0 | 19.3 | 23.0 | 28.5 | 28.5 | 29.0 | 32.0 |
| Rating Pounds | | | | | | | | | |
| Min. Cowl To Rear Axle-Inches | - | 102 | 125 | 192 | 229 | - | - | - | - |
| Min. Engine Size Cu. in. Diapl. | 300 | 300 | 300 | 300 | 345 | 359 | 359 | 427 | 510 HPD |
| Mfgs. Axle Rating-Pounds-Front | 3.8 | 4.0 | 6.0 | 6.0 | 7.0 | 16.8 | 16.8 | 12.0 | 12.0 |
| Rear | 5.7 | 11.0 | 15.0 | 18.0 | 17.0 | 17.0 | 17.0 | 18.5 | 22.0 |
| Approx. Rear Axle Ratio | 4.1 | 5.2 | 6.2 | 7.2 | 7.7 | 4.8-5.7 | 4.8-5.7 | 6.2 | 5.2 |
| Brake Lining Area-Sq. Ins. | 270 | 370 | 500 | 500 | 576 | Hyd-Disc Air 622 | Hyd-Disc Air 622 | 748 | 792 |
| Tire and Tube Sizes-Front and Rear | 8.0-16.5 | 8.0-19.5 | 8.25-20 | 8.25-20 | 8.00-20 | 10-20 | 10-20 | 10.00-20 | 10.00-20 |
| Ply Rating | 8 | 8 | 10 | 10 | 10 | 12 | 12 | 10 | 12 |
| Rim Sizes Front and Rear | 6.0 | 5.5 | 6.5 | 6.5 | 7.0 | 7.5 | 7.5 | 7.5 | 7.5 |
| Spring-Rated Cap. at Ground-Front | 1.9 | 2.0 | 3.0 | 2.45 | 3.5 | 6.5 | 6.5 | 6.0 | 6.5 |
| Rear | 2.7 | 5.5 | 7.5 | 7.5 | 8.5 | 9.2 | 9.2 | 9.5 | 11.0 |

Article 3. The Bus Body.

§ 5.44. Aisle.

1. Minimum clearance of all aisles, including aisle (or passageway between seats) leading to emergency door, shall be 12 inches. (See § 5.56 B 6)

2. Aisle supports of seat backs shall be slanted away from aisle sufficiently to give aisle clearance of 15 inches at top of seat backs.

3. Exceptions.

a. Type D vehicles with engine inside front of body: Minimum distance between barrier at rear of entrance stepwell and engine cover shall be 14 inches, measured at floor level.

b. Type A vehicles to have minimum aisle width of 15 inches.

c. Type B F.C. to have minimum aisle width of 14 inches.

d. Buses equipped with wheelchair positions. See § 6.2 of these regulations.

§ 5.45. Battery.

The battery shall be located in the engine compartment, except when otherwise specified on annual chassis specifications. (See § 5.13 C and D) when mounted outside engine compartment.

§ 5.46. Body sizes.

Sizes are based on knee-room clearance between rows of forward-facing seats, overall width, center aisle width, and average rump width. Body lengths for various capacity units will be designated in Specification Notices, issued periodically by the Pupil Transportation Service, Department of Education.

§ 5.47. Bumper, front. See § 5.15 of these regulations.

§ 5.48. Bumper, rear.

1. Rear bumper shall be of pressed steel channel at least 3/16 inch by 8 inches.

2. It shall be wrapped around back corners of bus. It shall extend forward at least 12 inches, measured from rear-most point of body at floor line.

3. Bumper shall be attached to chassis frame in such manner that it may be easily removed, shall be so braced as to develop full strength of bumper section from rear or side impact, and shall be so attached as to prevent hitching of rides.

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4. Rear bumper shall extend beyond rear-most part of body surface at least one inch, measured at floor line.

Exception Type A vehicles.

Rear bumper shall be standard type furnished by chassis manufacturer as part of chassis on conversion vans. Body manufacturer will furnish bumper on cutaway chassis.

§ 5.49. Ceiling. See insulation and interior §§ 5.64 and 5.65.

§ 5.50. Chains. See wheel housings § 5.88 4.

§ 5.51. Color.

1. School bus body including hood, cowl, and fenders shall be painted uniform color, national school bus yellow, according to

2. Grill shall be national school bus yellow, if painted; otherwise it shall be chrome or anodized aluminum.

3. Rear bumper and lettering shall be painted black.

4. Body trim shall be painted black. This includes B under § 5.74 2.

5. Front turn signal lamp shall be painted black. Side body turn signals shall be black or cast aluminum.

§ 5.52. Communication system - optional equipment.

A. Two-way communication systems.

For installation and use on Virginia school buses subject to the following provisions: When two-way communication equipment is needed on school buses for administrative or operational safety, private frequencies assigned specifically to local governmental agencies by the Federal Communications Commission should be used. Two-way equipment utilizing public citizens band channels may also be used where needed to enhance the safety of school bus operation. The use of the public citizens band type shall be restricted to those owned and licensed by the school board for official use only. Such mobile units on school buses shall be subject to written policies adopted by the local school board. Installation shall be subject to the State School Bus Standards and Department of Education Annual Fleet Assessment.

B. Public address system.

For use by driver, the system contains an inside speaker and an external speaker which is of special use when driver needs to caution young pupils about surrounding dangers at school bus stops. Inside speakers shall be recessed.

C. AM/FM radios and cassette players.

[May be installed as a local option.] If installed, they

shall be properly mounted by the body manufacturer or local shop personnel. All wiring shall be properly connected and concealed and any speakers in the passenger compartment shall be of recessed type.

§ 5.53. Construction. Type B, C, and D vehicles.

1. Construction of body shall meet all requirements of Federal Motor Vehicles Safety Standards Number 220 (Roll-over), Number 221 (Joint Strength), and all other applicable federal standards.

2. Construction shall be of prime commercial quality steel or other metal with strength at least equivalent to all-steel as certified by bus body manufacturer. All such construction materials shall be fire-resistant.

3. Construction shall provide reasonable dustproof and watertight unit.

4. Bus body (including roof bows, body posts, strainers, stringers, floor, inner and outer linings, rub rails and other reinforcements) shall be of sufficient strength to support entire weight of fully loaded vehicle on its top or side if overturned. Bus body as unit shall be designed and built to provide impact and penetration resistance.

5. Side posts and roof bows. There shall be a body side post and roof bow fore and aft of each window opening. This may be a continuous bow or two separate pieces effectively joined.

6. Floor shall be of prime commercial quality steel of at least 14-gauge or other metal or other material at least equal in strength to 14-gauge steel. Floor shall be level from front to back and from side to side except in wheel housing, toeboard, and driver's seat platform areas. [*When plywood is used, it shall be of 1/2-inch exterior BB Grade or equivalent and securely fastened to the existing steel floor.*]

7. Roof strainers. Two or more roof strainers or longitudinal members shall be provided to connect roof bows, to reinforce flattest portion of roof skin, and to space roof bows. These strainers may be installed between roof bows or applied externally. They shall extend from windshield header and, when combined with rear emergency door post, are to function as longitudinal members extending from windshield header to rear floor body cross member. At all points of contact between strainers or longitudinal members and other structural material, attachment shall be made by means of welding, riveting or bolting.

8. Side strainer(s). There shall be one or more side strainers or longitudinal members to connect vertical structural members and to provide impact and penetration resistance in event of contact with other vehicles or objects. Such strainer(s) shall be formed

(not in flat strip) from metal of at least 16-gauge and three inches wide.

a. Side strainer(s) shall be installed in area between bottom of window and bottom of seat frame and shall extend completely around bus body except for door openings and body cowl panel. Side strainer(s) shall be fastened to each vertical structural member in any one or any combination of the following methods as long as stress continuity of members is maintained:

- (1) Installed between vertical members;
- (2) Installed behind panels but attached to vertical members; and
- (3) Installed outside external panels.

b. Fastening method employed shall be such that strength of strainer(s) is fully utilized.

c. Side strainer(s) of longitudinal member(s) may be combined with one of required rub rails (see § 5.74), or be in form of additional rub rail, as long as separate conditions and physical requirements for rub rails are met. No portion of side strainer or longitudinal member is to occupy same vertical position as rub rail.

9. Rear corner reinforcements. Rear corner framing of bus body between floor and window sill and between emergency door posts and last side posts shall consist of at least three structural members applied horizontally or vertically, two of which shall be vertical, to provide additional impact and penetration resistance equal to that provided by frame members in areas of sides of body. Such structural members shall be securely attached at each end.

Exception -

Extra vertical member required in 9 above may be deleted on units of less than 90 inches in width.

10. Floor sills. There shall be one main body sill at each side post and two intermediate body sills on approximately 10-inch centers. All sills shall be of equal height, not to exceed three inches. All sills shall extend width of body floor except where structural members or features restrict area.

Main body sill shall be equivalent to or heavier than 10-gauge and each intermediate body sill shall be equivalent to or heavier than 16-gauge, or each of all body sills shall be equivalent to or greater than 14-gauge. All sills shall be permanently attached to floor.

Connections between sides and floor system shall be capable of distributing loads from vertical posts to all

floor sills.

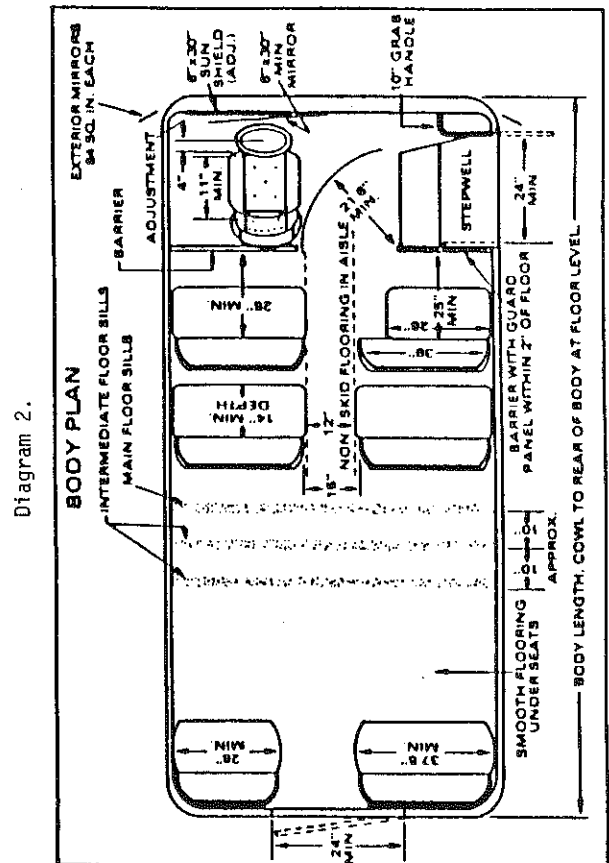
11. All openings between chassis and passenger-carrying compartment made due to alterations of body manufacturer shall be sealed. (See § 5.70)

12. A cover shall be provided for the opening to the gasoline tank fillpipe.

13. A moisture and rustproof removable panel shall be provided in the floor for access to the fuel tank sender gauge. It shall be designed for prolonged use and adequate fastening to the floor.

Exception Type B vehicles.

Item 13 above does not apply.



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§ 5.54. Construction Type A vehicles.

1. Construction of body shall meet all requirements of Federal Motor Vehicle Safety Standard Number 220 (Roll-over) and all other applicable federal standards.

[2. *Body joints created by body manufacturer shall meet the 60% joint strength provision required in FMVSS221 for Type B, C & D buses.*]

[2. 3.] Construction shall be of prime commercial quality steel or other metal strength at least equivalent to all steel as certified by bus body manufacturer. All such construction materials shall be fire-resistant.

[2. 4.] Construction shall provide reasonably dustproof and watertight unit.

[4. 5.] Bus body (including roof bows, body posts, strainers, stringers, floor, inner and outer linings, rub rails and other reinforcements) shall be of sufficient strength to support entire weight of fully loaded vehicle on its top or side if overturned. Bus body as unit shall be designed and built to provide impact and penetration resistance.

[5- 6.] Floor. A plywood of 1/2 inch exterior B.B. Grade or equivalent shall be applied over the existing steel floor and securely fastened. Floor shall be level from front to back and from side to side except in wheel housing, toeboard and driver seat platform areas.

Exception -

Plywood may be deleted when provisions of Items 4 and 8a of § 5.53 for Type C and D are met.

[6. 7.] Roof strainers. Two or more roof strainers or longitudinal members shall be provided to connect roof bows to reinforce flattest portion of roof skin, and to space roof bows. These strainers may be installed between roof bows or applied externally. They shall extend from windshield header to rear body header over the emergency door. At all points of contact between strainers of longitudinal members and other structural material, attachment shall be made by means of welding, riveting, or bolting.

After load as called for in Static Load Test Code has been removed, none of the following defects shall be evident:

- a. Failure or separation at joints where strainers are fastened to roof bows;
- b. Appreciable difference in deflection between adjacent strainers and roof bows;
- c. Twisting, buckling, or deformation of strainer

cross section.

[7. 8.] Side strainers. There shall be one longitudinal side strainer mounted at shoulder level (window sill level) and extending from front main vertical post to rear corner post. This member shall be attached to each vertical structural member. Such strainer shall be formed of metal (not in flat strip).

a. There shall be one longitudinal side strainer(s) installed in the area between bottom of window and bottom of seat frame extending from front main vertical post to rear corner post. This member shall be attached to each vertical structural member.

b. Strainers may be fastened in any one or any combination of the following methods as long as stress continuity of members is maintained:

- (1) Installed between vertical members;
- (2) Installed behind panels but attached to vertical members; or
- (3) Installed outside external panels.

c. Fastening method employed shall be such that strength of strainers is fully utilized.

[8. 9.] Area between floor and window line shall be restructured inside to include at least four vertical formed reinforcement members extending from floor to window line rail. They shall be securely attached at both ends.

[9. 10.] Rear corner reinforcements. Rear corner framing of the bus body between floor and window sill and between emergency door post and last side post shall consist of at least one structural member applied horizontally to provide additional impact and penetration resistance equal to that provided by frame members in areas of sides of body. Such member shall be securely attached at each end. Bodies over 90 inches in width shall comply with § 5.53 9.

[10- 11.] All openings between chassis and passenger carrying compartment made due to alterations by body manufacturers shall be sealed. (See § 5.70.)

§ 5.55. Defrosters.

Defrosters shall be of sufficient capacity to keep windshield clear of fog, ice, and snow and to defog the window to the left of the driver. (See § 5.61) An auxiliary fan of sufficient capacity to defog the entrance door glass shall be installed above the windshield on the right side. An additional fan to the left of the driver is permissible. Fans shall be placed so as not to block driver's view of outside rearview mirrors.

Exception Type A vehicle.

Auxiliary fan not required.

§ 5.56. Doors.

A. Service door.

1. Service door shall be manually operated, under control of driver, and so designed as to afford easy release and prevent accidental opening. No parts shall come together so as to shear or crush fingers.

2. Service door shall be located on right side of bus opposite driver and within his direct view.

3. Service door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 68 inches.

4. Service door shall be of split-type, jack-knife type, or sedan-type. (Split-type door includes any sectioned door which divides and opens inward or outward.) If one section of split-type door opens inward and other opens outward, front section shall open outward. The jack-knife type shall fold inward at the front of the door opening.

5. Lower as well as upper panels shall be of approved safety glass. (See § [5.00 ± 5.89 I]) Bottom of lower glass panel shall not be more than 35 inches from ground when bus is unloaded. Top of upper glass panel shall not be more than six inches from top of door.

6. Vertical closing edges shall be equipped with flexible material to protect children's fingers.

7. There shall be no door left of driver.

Exception Type A vehicles.

Standard does not apply.

8. Exception Type B and D vehicles.

Service doors may be hydraulically or electrically operated and shall be located as far forward as possible on the right side.

B. Emergency door Type B, C, and D vehicles.

1. Emergency door shall be located in center of rear end of bus.

2. Emergency door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 45 inches measured from floor level.

3. Emergency door shall be hinged on right side and shall open outward and be equipped with an adequate strap or stop to prevent door from striking lamps or right rear of body. Such strap or stop shall allow door

to open at least a 90 degree angle from closed position.

Exception Type D vehicles with rear engines.

Emergency door shall be located on the left side in the rear half of the body, shall be hinge on the left side and open outward. Door shall meet all requirements of FMVSS217 § 5.4.2.16.

4. Upper portion of emergency door shall be equipped with approved safety glass, exposed area of which shall not be less than 400 square inches. (See § [5.00 ± 5.89 I]) Lower portion of door, if in rear end of bus, may be equipped with approved safety glass, area of which shall not be less than 12 inches in height and 20 inches in width. This glass, if used, shall be protected by metal guard on inside. This guard shall be free of any sharp edges that may cause injury to passengers.

5. There shall be no steps leading to emergency door.

6. No seat or other object shall be so placed in bus as to restrict any part of passageway leading to emergency door to opening smaller than rectangle of 12 inches in width and 48 inches in height, measured from floor level.

7. When not fully latched, emergency door shall actuate signal audible to driver by means of mechanism actuated by latch.

8. Words "EMERGENCY DOOR," both inside and outside in black letters two inches high shall be painted directly above emergency door. Words may be placed on the top of door outside if space is available.

9. The emergency door shall be designed to open from inside and outside bus. It shall be equipped with a slide bar and cam-operated lock located on left side of door and fastened to the door framing.

The slidebar shall be approximately 1-1/4 inches wide and 3/8 inch thick and shall have a minimum stroke of 1-1/4 inches. The slidebar shall have a bearing surface of a minimum of 3/4 inch with the door lock in a closed position. Control from driver's seat shall not be permitted. Provision for opening from outside shall consist of nondetachable device so designed as to prevent hitching-to, but to permit opening when necessary. Door lock shall be equipped with interior handle and guard that extends approximately to center of door. It shall lift up to release lock.

C. Emergency door Type A vehicles.

1. Emergency door shall be located in center of rear end of bus and shall be equipped with fastening device for opening from inside and outside body, which may be quickly released but is designed to

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offer protection against accidental release. Control from driver's seat shall not be permitted. Provision for opening from outside shall consist of device designed to prevent hitching-to but to permit opening when necessary.

2. When not fully closed, emergency door shall actuate signal audible to driver.

3. Emergency door shall be marked "EMERGENCY DOOR" on inside and outside in painted black letters two inches high.

4. There shall be no steps leading to emergency door.

5. No seat or other object shall be placed in bus which restricts passageway to emergency door to less than 15 inches.

D. Security locking system.

A door locking system designed to prevent vandalism, which is approved by the Pupil Transportation Service, Department of Education, may be installed provided it is equipped with an interlock in the chassis starting circuit and an audible alarm to indicate to the driver when an emergency door is locked while the ignition is in the "on" position. A cutoff switch on the interlock circuit or a lock and hasp on the rear door [~~with shall~~] not be permitted.

§ 5.57. Electrical system.

1. Battery - see § 5.13.
2. Alternator - see § 5.11.
3. Lights and signals - see § 5.30.
4. Wiring - see § [~~5.02~~ 5.92].

§ 5.58. Emergency equipment.

A. Fire extinguisher.

1. Bus shall be equipped with one dry-chemical fire extinguisher of at least 2-1/2 pound capacity with pressure indicator, mounted in extinguisher manufacturer's bracket of automotive type, and located in full view and in an accessible place in the front of the bus excluding floor and area above bottom line of windshield.

2. Fire extinguisher shall bear label of Underwriters' Laboratories, Inc., showing rating of not less than 2A 10-B.C.

B. First-aid kit.

1. Bus shall carry Grade A metal first-aid kit, unit-type, mounted in full view and in accessible place in the front of the bus.

2. The first-aid kit shall contain the following items:

| Item | Unit |
|---|------|
| Bandage compress (sterile gauze pads) 4-inch | 3 |
| Bandage compress (sterile gauze pads) 2-inch | 2 |
| Adhesive absorbent bandage (nonadhering pad) 1 X 3 inch | 2 |
| Triangular bandage, 40-inch | 2 |
| Gauze bandage, 4-inch | 2 |
| Absorbent-gauze compress | 1 |
| Antiseptic applicator (swab type) 10 per unit | 2 |
| (Zephiran Chloride/Green Soap type) | |
| Bee sting applicator (swab type) 10 per unit | 1 |

C. Flare.

1. Bus shall be equipped with three red bidirectional triangular flares meeting requirements of FMVSS-125.

2. Kit shall be securely mounted on the right of toeboard as far forward as practical or in the area to the left of the driver's seat.

Exception Type A vehicles.

Flares may be mounted behind left rear seat.

§ 5.59. Floor - (See § 5.53.)

§ 5.60. Floor covering.

1. Floor in underseat area, including tops of wheel housings, driver's compartment and toeboard shall be covered with fire-resistant rubber floor covering or an approved equivalent, having minimum over-all thickness of .125 inch. Driver's compartment and toeboard area shall be trimmed with molding strips behind the cowl face line.

2. Floor covering in aisle shall be of aisle-type fire-resistant rubber or an approved equivalent, nonskid, wear-resistant and ribbed. Minimum overall thickness shall be .1875 inch measured from tops of ribs. Rubber floor covering shall meet Federal Specifications ZZ-M71d.

3. Floor covering shall be permanently bonded to floor, and shall not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of the type recommended by manufacturer of floor-covering material. All seams shall be sealed with waterproof sealer.

§ 5.61. Heaters.

1. Hot water heaters of fresh-air or combination fresh-air and recirculating type, with power defrosters, are required.
2. They shall bear name plate rating affixed by heater manufacturer on top of heater shell.
3. Heaters shall be capable of maintaining inside temperature of 50°F, with an outside temperature of 20°F when the bus is loaded to one-half capacity.
4. The heater wiring shall be connected to the cold side of the ignition switch through a continuous duty solenoid relay Cole Hersee No. 24106 or equivalent. (See § [~~5.93~~ 4 5.92 4])
5. The power defroster shall deliver a sufficient amount of heated air distributed through a windshield duct, nozzle or nozzles to defog and deice the entire windshield, and to defog the driver's window. The duct, nozzle, or nozzles shall be designed to prevent objects from being placed in any manner which would obstruct the flow of air.
6. Water circulation cut-off valves in the supply and return lines, a minimum of 3/4 inch diameter, shall be at or near the engine. A water flow regulating valve in the pressure line for convenient operation by the driver is also required.
7. Heater hoses, including those in engine compartment, shall be supported in such manner that hose chafing against other objects will not occur nor shall suspended water lines interfere with routine vehicle maintenance.
8. All water hoses in driver or passenger area shall be shielded.
9. An auxiliary heater of recirculating type, having a minimum capacity of 60,000 BTU output, shall be installed under the second seat behind the wheelhousing. There shall be a grille or guard over exposed heater cores to prevent damage by pupils' feet.
10. A booster pump in the intake heater line shall be provided on all Type C and D buses.
11. Exception Type A vehicles.
 - a. Front heater with high output and defroster shall be furnished by the chassis manufacturer.
 - b. The body manufacturer shall provide an additional underseat heater near the rear of the bus.

§ 5.62. Identification - See Diagrams 4 and 5.

For purpose of identification school buses shall be lettered as follows:

1. Lettering shall be placed according to Diagrams 4 and 5. Lettering shall be of black paint and conform to "Series B" for Standard Alphabets for Highway Signs.
2. Both the front and rear of the body shall bear the words, "SCHOOL BUS" in black letters eight inches in height.
3. All school buses shall have a number painted in black letters four inches high on the rear of the body, on the right side just back of the entrance door, and on the left side just back of the warning sign. (See Diagrams 4 and 5.) The number shall also be placed on the front bumper, approximately 18 inches from the right end in yellow letters four inches high.
4. The name of the school division shall be on each side of the bus in black letters four inches high - as "... COUNTY PUBLIC SCHOOLS," or "... CITY PUBLIC SCHOOLS."

§ 5.63. Inside height.

Inside body height shall be 72 inches or more, measured metal to metal, at any point on longitudinal center line from front vertical bow to rear vertical bow.

Exception Type A conversion van.

Inside body height shall be 63 inch minimum.

§ 5.64. Insulation.

Ceilings and walls shall be coated with proper materials to deaden sounds and to reduce vibrations to a minimum. Fiber glass thermal insulation (minimum thickness one inch) shall be used to insulate walls and roof between inner and outer panels.

§ 5.65. Interior.

1. Interior of bus shall be free of all unnecessary projections likely to cause injury. This standard requires inner lining on ceilings and walls. Ceiling panels shall be constructed so as to contain lapped joints with all exposed edges hemmed to minimize sharpness. If lateral panels are used, forward panels shall be lapped by rear panels.
2. Ceilings in passenger compartment shall be free of all projections.

§ 5.66. Lights and signals - see Diagrams 4 and 5.

No lights or signals other than herein specified shall be installed on school buses, except those required by Federal Regulations.

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1. Clearance lights. Body shall be equipped with two red clearance lamps at rear, two amber clearance lamps at front, and intermediate side marker lamps on buses 30 feet or more in length.

They shall be of armour type.

2. Identification lamps. Three amber lamps shall be mounted on front and three red lamps on rear of body.

3. Stop and tail lamps. Bus shall be equipped with two matched stop and tail lamps of heavy duty type, which shall be in combination, emitting red light plainly visible from a distance of at least 500 feet to rear, and mounted on rear end with their centers not less than 12 nor more than 24 inches from plane side of body, and not less than six nor more than 18 inches below D-glass in rear of body. They shall be approximately seven inches in diameter. These lights shall be on the same horizontal line with the turn signal units and shall not flash. A pilot light shall be installed on the left side of the instrument panel and connected to the cold side of the brake light switch so that it will indicate when the stop lights are activated. A list of approved stop and tail lights will be supplied to the body manufacturers by the Pupil Transportation Service, Department of Education. The use of lights not on this list will not be approved.

4. For illumination of rear license plate, the type of stop and tail light with which the chassis is equipped may be used. The stop light connection will be made to this light.

5. Back-up lamp. Back-up lamp shall be mounted on the rear of the body and shall be illuminated when the ignition switch is energized and reverse gear is engaged.

6. Interior lamps. Interior lamps shall be provided which adequately illuminate aisles and stepwell.

7. Turn signal units. Bus shall be equipped with Class A, flashing turn signal units of heavy-duty type. These signals shall be independent units equipped with amber lens on all faces [, and may be equipped with four-way hazard warning switch to cause simultaneous flashing of turn signal lamps when needed as vehicular traffic hazard warning. . The turn signals/directional signal units shall activate only when ignition is in "on" position.] A pilot light or lights shall indicate when these lights are activated. The front lights shall be mounted near the front corners of chassis on each side. The rear lights shall be seven inches in diameter and mounted not less than six nor more than 18 inches from plane of the side of the body and not less than six nor more than 18 inches below D-glass in rear of body. They shall be on the same horizontal line with the stop and tail lights required in 3 above.

a. In addition to the turn signals described above, two amber lens metal turn signal lamps of armour type with a minimum of four candlepower each shall be mounted on the body side at approximate seat level height and located just to the rear of the entrance door on the right side of the body and approximately the same location on the left side. They are to be connected to and function with the regular turn signal lamps. Such lamps shall provide 180° angle vision and if painted, they shall be black.

b. A list of approved turn signal lights will be supplied to the body manufacturers by the Pupil Transportation Service, Department of Education. The use of lights not on this list will not be approved.

c. Exception Type A conversion vans.

Turn signals shall be chassis manufacturer's standard.

8. Hazard warning signal. The turn signal units shall also function as the hazard warning system. The system shall operate independently of the ignition switch and, when energized, shall cause all turn signal lamps to flash simultaneously.

9. Reflex reflectors. (Class A) Two amber lights and two amber reflectors (they may be combined) shall be mounted, one on each side, near the front of the chassis. Two four-inch red reflectors shall be mounted, one on each side near the rear of the body and two four-inch red reflectors shall be mounted on the rear above the bumper. Two intermediate amber four-inch reflectors, one on each side near the middle of the bus, shall be mounted on buses 30 feet or more in length. They shall be mounted on panel above floor line rub rail and be metal encased.

10. School bus traffic warning lights.

a. Buses shall be equipped with four red lamps and four amber lamps. One amber lamp shall be located near each red lamp, at the same level, but closer to the vertical center line of the bus. Lamps to be 80 watts, 12-volt sealed beam clear spot units five inches in diameter with seven inch acrylic lens, including component parts and location necessary for their operation. All lamps shall comply with SAE standards for school bus warning lamps. Information on such approved components will be supplied by the Pupil Transportation Service, Department of Education.

b. The traffic warning light system shall be wired so that the amber lamps are activated manually by a hand operated switch. When door is opened, amber lamps will be automatically deactivated and red lamps, warning sign with flashing lamps and crossing control arm shall be activated. When door

is closed, all lamps shall be deactivated. No lamps shall come on when door is reopened unless the manual switch is depressed. There shall also be a cancellation switch in case lamps are accidentally activated or when no stop needs to be made.

c. The control circuit shall be connected to the cold side of the ignition switch with the master push button cancel switch mounted on the accessory console, clearly distinguished, visible and accessible to the driver.

d. The motor-driven flasher and the relay shall be fastened in a compartment in the driver area and be easily accessible for servicing.

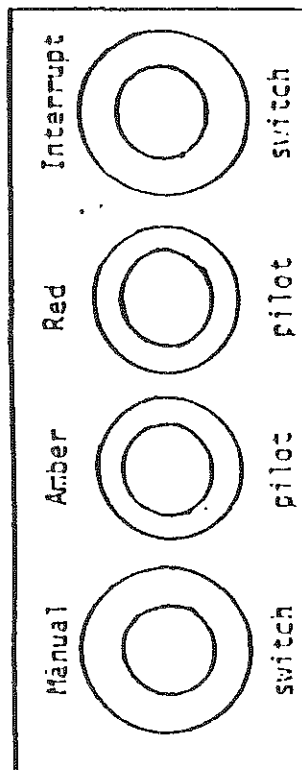
e. System shall contain an amber pilot light for amber lamps and a red pilot light for red lamps, clearly visible to the driver, to indicate when system is activated.

f. A three-inch black painted border around the lamps is required if not equipped with a black painted housing.

g. All joints shall be soldered or jointed by equally effective connectors.

h. The traffic warning lamp system shall require a separate control panel. This panel shall be as small as practicable, and switches and pilot lamps shall be located in conformance with the diagram below. All switches shall be properly identified by labels.

Diagram 3.
Traffic Warning Lamp
Control Panel



i. The panel shall be located at or near the entrance door control handle within easy reach, visible, and be readily accessible to the driver.

j. There shall be an interrupt feature in the system to interrupt the traffic warning sign and the crossing control arm when their use is not desired. This feature shall consist of a double throw relay and a push button momentary switch.

k. Manual switch, cancel switch and interrupt switch shall be push button or flip type momentary switches.

11. School bus traffic warning sign.

a. Warning sign shall be mounted on the left side near the front of the bus immediately below the window line.

b. Sign shall be of the Octagon series, 18 inches in diameter, 16-gauge cold rolled steel, and be equipped with windguard. The sign shall have a red background with a 1/2 inch white border, and the word "STOP" on both sides in white letters, six inches high and one inch wide.

c. Sign shall have double-faced alternately flashing red lamps, four inches in diameter, located at the top and bottommost portions of the sign, one above the other.

d. The sign shall be connected and energized through the red traffic warning lamps.

e. Air operated signs require air pressure regulator in addition to control valve. Source of supply to be the main air tank with a pressure protection valve at the tank.

f. Sign and components shall comply with all provisions of SAEJ1133. A list of approved traffic warning signs and components will be supplied by the Pupil Transportation Service, Department of Education.

12. School bus crossing control arm.

a. An approved crossing control arm shall be mounted on the right end of the front bumper with mounting brackets appropriate for the bumper configuration. Information on such approved arms will be supplied by the Pupil Transportation Service, Department of Education.

b. The arm shall be activated in conjunction with the traffic warning sign.

c. Wiring for an electric powered arm shall be grounded to a metal base at a suitable place on the bumper.

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d. Source of supply for air operated arms to be the main air supply tank with pressure protection valve at tank.

e. Appropriate grommets or a loom shall be used where wires or tubes go through holes in bumper and firewall.

[13. *Optional strobe warning light.*

a. A white flashing strobe light may be installed on the roof of a school bus not to exceed 1/3 of the body length from the rear of the roof edge. Light shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than 6-1/2 inches. A manual switch and a pilot light must be included to indicate when the light is in operation.

b. The strobe light must operate only when the bus transports students during periods of reduced visibility caused by conditions other than darkness.

c. A list of approved of strobe light components will be supplied by the Pupil Transportation Service, Department of Education.]

Diagram 4.

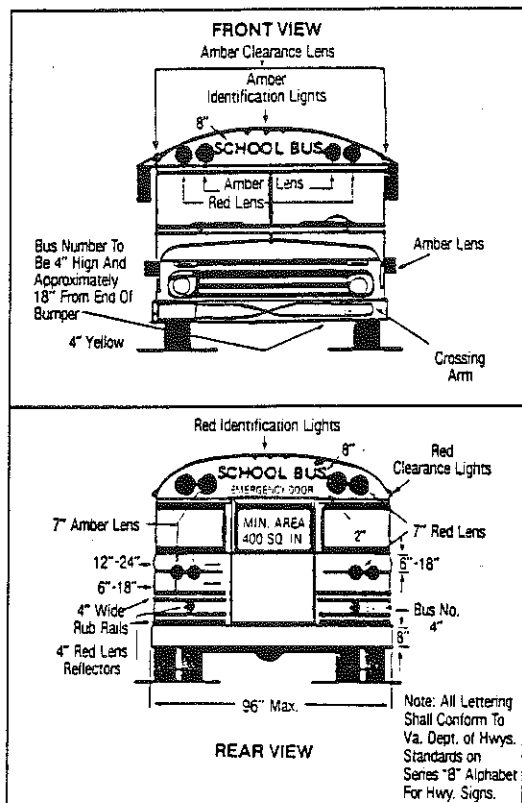
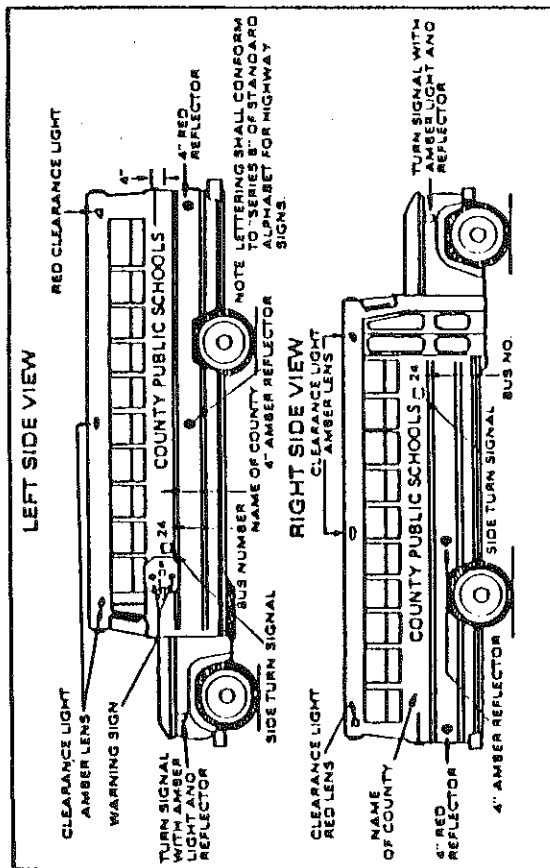


Diagram 5.



§ 5.67. Metal treatment.

All metal parts that will be painted shall be chemically cleaned, etched, zinc-phosphate-coated, and zinc-chromate or epoxy-primed or conditioned by equivalent process.

§ 5.68. Mirrors.

1. Interior rear view mirror at least 6 X 30 inches, metal encased safety glass of at least 1/8 inch thickness, which will afford good view of pupils and roadway to rear and shall be installed in such a way that vibration will be reduced to a minimum. It shall have rounded corners and protected edges.

2. Two exterior rear view silver electro-plated copper back or chrome faced mirrors shall be provided, one to left and one to right of driver.

Each mirror shall be not less than 6 X 11 inches and shall be Junior West Coast Type. Mirrors shall be firmly supported by tripod type brackets fastened to top corners of bus body. Left and right mirrors shall be on same level and shall be mounted so that they can be adjusted to give driver clear view to left rear and right rear of bus.

a. Exterior crossview mirror at least 7-1/2 inches in diameter shall be located on left front fender of bus in such manner that seated driver may observe, through its use, areas to front of bus where direct observation is not possible. It shall not obstruct the left turn signal. A hemispherical mirror shall be mounted on the right front fender in a corresponding position.

b. An adjustable convex mirror with a minimum diameter of four inches and a maximum diameter of five inches may be mounted on each side on a separate arm attached to the mounting of the regular outside mirror. This convex mirror shall be mounted so that it can be positioned immediately below the regular outside mirror. Stick on convex type mirrors to the face of regular outside mirrors are prohibited.

3. A list of approved mirrors will be supplied to body manufacturers by the Pupil Transportation Service, Department of Education. The use of mirrors not on this list will not be approved.

Exception Type A vehicles.

Interior mirror to be 6 X 16 inches minimum and outside 6 X 9-1/2 inches mounted on doors.

§ 5.69. Mounting.

1. Chassis frame shall extend to rear edge of rear body cross member. Bus body shall be attached to chassis frame in such manner as to prevent shifting or

separation of body from chassis under severe operating conditions.

2. Body front shall be attached and sealed to chassis cowl in such manner as to prevent entry of water, dust, and fumes through joint between chassis cowl and body.

3. Insulating material shall be placed at all contact points between body and chassis frame. Insulating material shall be approximately 1/4 inch thick, shall have quality of sidewall of automobile tire, and shall be so attached to chassis frame or body member that it will not move under severe operating conditions.

4. Exception Type A conversion vans.

Standard does not apply.

§ 5.70. Openings.

Any openings in body or front fenders of chassis resulting from change necessary to furnish required components shall be sealed. (See §§ 5.32 and 5.53 10)

§ 5.71. Overall length.

Overall length of bus shall not exceed 36 feet for conventional flat faced cowl units or 40 feet for metropolitan type.

§ 5.72. Overall width.

Overall width of bus shall not exceed 100 inches, including traffic warning sign in closed position. Outside rearview mirrors are excluded.

§ 5.73. Posts - See §§ 5.53 and [5.90 & 5.89 3].

§ 5.74. Rub rails.

1. There shall be one rub rail located on each side of bus immediately below window level which shall extend from rear side of entrance door completely around bus body (except for emergency door) to point of curvature near outside cowl on left side. If floor level rub rail extends to emergency door post in rear, this rub rail may stop at rear side post.

Exception -

This rub rail is not required between the front body post and rear side post if an internal frame member (fortress rail) of greater strength is positioned immediately below the window level. The rub rail shall be applied from the last sidepost to the emergency doorpost.

2. There shall be one rub rail located on each side of bus approximately at seat level which shall extend from rear side of entrance door completely around

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bus body (except for emergency door) to point of curvature near outside cowl on left side. This rail shall be painted black.

3. There shall be one rub rail located approximately at floor line which shall extend from rear side of entrance door completely around bus body (except for emergency door) to point of curvature near outside cowl on left side, except at wheel housings. If the window level rub rail extends to emergency door post in rear, this rub rail may stop at rear side post.

4. All rub rails shall be attached at each body post and all other up-right structural members.

5. All rub rails shall be of four inches or more in width, shall be of 16-gauge steel, and shall be constructed in corrugated or ribbed fashion.

6. All rub rails shall be applied outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement.

7. Certain exceptions may be approved for heater air-intake and for rear engine type buses.

Exception Type A vehicles.

Rail required in 1 above does not apply on conversion vans.

§ 5.75. Seat belt for driver.

A locking retractor type seat belt shall be provided for the driver. Each belt section shall be booted so as to keep the buckle and button-type latch off the floor and within easy reach of the driver. Belt shall be anchored in such a manner or guided at the seat frame so as to prevent the driver from sliding sideways from under the belt.

§ 5.76. Seats.

1. All seats shall have minimum depth of 14 inches.

2. In determining seating capacity of bus, allowable average rump width shall be 13 inches. (See § 5.46.)

3. All seats shall be forward facing. They shall have two legs securely fastened to the floor with the other end supported by rail or bracket on side wall.

a. A two-passenger left rear seat, minimum of 26 inches in length, and a three-passenger right rear seat, minimum of 37.5 inches in length, will be provided.

b. The right front seat will have a two-passenger cushion, minimum of 26 inches in length and a three-passenger back which serves as a barrier for the next seat.

c. Seating plans for buses with wheelchair positions see §§ 6.2 and 6.12.

4. Seat cushions shall have 24-hour glass coil type springs interlaced and securely fastened to plywood base having minimum thickness of 1/2 inch. Urethane foam may be used in place of springs if sample is submitted and approved each year.

Passenger seat cushion retention system shall be employed to prevent passenger seat cushions from disengaging from seat frames in event of accident. Each seat cushion retention system shall be capable of withstanding vertical static load equal to minimum of five times weight of cushion. System shall also be capable of withstanding forward or rearward static load equal to 20 times weight of cushion.

5. No bus shall be equipped with jump seats or portable seats.

6. Seat spacing shall provide a minimum of 25 inch knee room at center of seat, when measured horizontally from back to back, at cushion level.

7. Seat and back cushions of all seats shall be designed to safely support designated number of passengers under normal road conditions encountered in school bus service. Covering of seat cushions shall be of material having 42 ounce finished weight, 54 inch width, and finished vinyl coating of 1.06 broken twill and shall be medium brown or green in color. Material on polyester drill and polyester cotton twill knit backing with equal vinyl coating which meets or exceeds the laboratory test results for the 42 ounce 1.06 covering may be used. Padding and covering on all seats shall comply with provisions of Federal Motor Vehicles Safety Standard No. 302.

8. Minimum distance between steering wheel and back rest of driver's seat shall be 11 inches. Driver's seat shall have fore-and-aft adjustment of not less than four inches and up and down adjustment of three inches. It shall be manually adjustable and strongly attached to floor.

9. Minimum of 36-inch headroom for sitting position above top of undepressed cushion line of all seats shall be provided. Measurement shall be made vertically not more than seven inches from side wall at cushion height and at fore-and-aft center of cushion.

10. Backs of all seats of similar size shall be of same width at top and of same height from floor and shall slant at same angle with floor.

11. Seat back heights shall be between 19 and 24 inches measured from cushion level.

§ 5.77. Barriers.

1. [*A padded*] barrier shall be installed at rear of driver's seat in such a position as neither to interfere with adjustment of driver's seat nor to obstruct 21.0 inch entranceway to the aisle.

2. [*A padded*] barrier shall be installed at rear of entrance stepwell. Placement shall not restrict entrance passageway at any level to less than 21.0 inches. Barrier to coincide with length of the right front seat cushion with minimum width of 26 inches and shall have a modesty panel to extend from bottom of barrier to floor.

3. Lift-gate units see § 6.12 2.

[§ 5.78. Stanchions and guard rails.

Padded stanchions may be used in lieu of barriers, if permitted by federal regulations. A modesty panel is required with all stanchions except the one immediately behind the driver's seat.]

[§ 5.79. § 5.78.] Steering wheel - See § 5.38 4.

[§ 5.80. § 5.79.] Steps.

1. First step at service door shall be not less than 12 inches and not more than 16 inches from ground, based on standard chassis specifications.

2. Service door entrance may be equipped with two-step or three-step stepwell. Risers in each case shall be approximately equal.

3. Steps shall be enclosed to prevent accumulation of ice and snow.

4. Steps shall not protrude beyond side body line.

5. Grab handle not less than 20 inches in length shall be provided in unobstructed location inside doorway, but shall not be attached so that it will interfere with the opening of the glove compartment door. This handle shall be designed to eliminate exposed ends that would catch passenger clothing and shall be so placed in a position to aid small children entering the bus.

6. Step covering. All steps, including floorline platform area, shall be covered with 3/16-inch rubber metal-backed treads with at least 1-1/2-inch white nosing (or three inch white rubber step edge with metal back at floorline platform area.)

a. Step tread minimum overall thickness shall be 3/16-inch ribbed design, similar to ribbed design of the rubber aisle;

b. Metal back of tread, minimum 24-gauge cold roll steel, shall be permanently bonded to ribbed rubber; grooved design shall be such that said grooves run

at 90#0 angle to long dimensions of step tread;

c. 3/16-inch ribbed step tread shall have a 1-1/2-inch white nosing as integral piece without any joint; and

d. Rubber portion of step treads shall have following characteristics:

a. Special compounding for good abrasion resistance and high coefficient of friction.

b. Flexibility so that it can be bent around a 1/2-inch mandrel both at 20°F and 130°F without breaking, cracking, or crazing.

c. Show a durometer hardness 85 to 95.

[§ 5.81. § 5.80.] Stirrup steps.

There shall be one folding stirrup step and suitably located handle on each side of front of body for easy accessibility for cleaning windshield and lamps.

Exception Type A vehicles.

Standard does not apply.

[§ 5.82. § 5.81.] Storage compartment.

Metal storage compartment for tools and chains is required. (A local school division may waive this requirement if chains or tools are not carried on bus and a written request for deletion has been filed with the Pupil Transportation Service, Department of Education and noted in the purchase agreement).

If provided, the metal container shall have adequate strength and capacity for storage of chains and other emergency tools. Such container shall be located outside passenger compartment in body skirt on the right side of body with a door hinged at the top or front and equipped with an adequate fastener.

[§ 5.83. § 5.82.] Sun shield.

Interior adjustable transparent sun shield, darkest shade available, not less than 60 X 30 inches shall be installed in position convenient for use by driver.

Exception Type A vehicles.

Manufacturer's standard is acceptable.

[§ 5.84. § 5.83.] Tail pipe.

Tail pipe shall extend to but not more than 1/2 inch beyond outer edge of rear bumper. (See § 5.21 2.)

[§ 5.85. § 5.84.] Undercoating.

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Entire underside of bus body, including floor sections, cross members, and below floor line side panels, shall be coated with rust-proofing compound for which compound manufacturer has issued notarized certification of compliance to bus body builder that compounds meets or exceeds all performance requirements of Federal Specification TT-C-520 b using modified test procedures for following requirements:

1. Salt spray resistance - pass test modified to 5.0% salt and 1,000 hours;
2. Abrasion resistance - pass;
3. Fire resistance - pass.

Undercoating compound shall be applied with suitable airless or conventional spray equipment to recommend film thickness and shall show no evidence of voids in cured film. Undercoating is expected to prevent rust under all bus service conditions for minimum of five years.

[~~§ 5.86.~~ § 5.85.] Ventilation.

1. Body shall be equipped with suitable, controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions without opening of windows except in extremely warm weather.
2. Static-type, nonclosable, exhaust roof ventilators shall be installed in low-pressure area of roof panel.

[~~§ 5.87.~~ § 5.86.] Water test.

Each and every school bus body, after it is mounted on chassis ready for delivery, shall be subjected to a thorough water test in which water under pressure equal to a driving rain is forced against the entire bus body from various directions. Any leaks detected are to be repaired before the bus is declared ready for delivery.

[~~§ 5.88.~~ § 5.87.] Wheel housings.

1. Wheel housings shall be of full open type.
2. Wheel housings shall be designed to support seat and passenger loads and shall be attached to floor sheets in such manner as to prevent any dust or water from entering the body.
3. Inside height of wheel housings above floor line shall not exceed 10 inches.
4. Wheel housings shall provide clearance for dual wheels as established by National Association of Chain Manufacturers.

Exception -

Standard does not apply to Type A conversion vans.

[~~§ 5.89.~~ § 5.88.] Width - See § 5.72.

[~~§ 5.90.~~ § 5.89.] Windshield and windows.

1. All glass in windshield, window, and doors shall be of approved safety glass, so mounted that permanent mark is visible, and of sufficient quality to prevent distortion of view in any direction. Windshield shall be AS1 and all other glass shall be AS2.
2. Plastic glazing material of a thickness comparable to AS2 glass, meeting ANSI Standard C26.1 and FMVSS No. 205, may be used in side windows behind the driver's compartment.
3. Windshield shall be large enough to permit driver to see roadway clearly, shall be slanted to reduce glare, and shall be installed between front corner posts that are so designed and placed as to afford minimum obstruction to driver's view of roadway.
4. Windshield shall have horizontal gradient band starting slightly above line of driver's vision and gradually decreasing in light transmission to 20% or less of windshield.
5. Each full side window shall provide unobstructed emergency opening at least nine inches high and 22 inches wide, obtained either by lowering of window or by use of knock-out type split-sash windows.
6. Approved tinted glass or plastic glazing material may be used as needed for care of handicapped pupils.
7. All exposed edges of glass shall be banded.
8. A pushout emergency exit window, nearest the center of body, is required on each side of all Type D buses.

[~~§ 5.91.~~ § 5.90.] Windshield washers.

Windshield washers meeting federal requirements shall be provided and shall be controlled by push button switch located on instrument panel. Reservoir shall be mounted in engine compartment.

Exception - Type D vehicles, reservoir shall be mounted behind an access panel in driver area.

[~~§ 5.92.~~ § 5.91.] Windshield wipers.

1. Bus shall be equipped with two variable-speed windshield wipers of air or electric type powered by two motors of sufficient power to operate wipers.
2. Blades and arms shall be of such size that minimum blade length will be 12 inches with longer blades being used whenever possible.

3. Wiper motor and arm linkage shall be shielded to prevent objects from being placed against them.

Exception Type A vehicles.

One variable speed motor is acceptable.

[§ 5.92. § 5.92.] Wiring.

1. All wiring shall conform to current standards of Society of Automotive Engineers.

2. Circuits.

a. Wiring shall be arranged in at least 12 regular circuits as follows:

(1) head, tail, stop (brake) and instrument panel lamps

(2) clearance lamps

(3) dome and stepwell lamps

(4) starter motor

(5) ignition

(6) turn-signal units

(7) alternately flashing red signal lamps

(8) horns

(9) heater and defroster

(10) emergency door buzzer

(11) auxiliary fan

(12) booster pump

b. Any of above combination circuits may be subdivided into additional independent circuits.

c. Whenever possible, all other electrical functions (such as electric-type windshield wipers) shall be provided with independent and properly protected circuits.

d. Each body circuit shall be color coded and a diagram of the circuits shall be attached to the body in a readily accessible location.

3. A separate fuse or circuit breaker shall be provided for each circuit except starter motor and ignition circuits.

4. A continuous duty solenoid relay, Cole Hersee No. 24106 or approved equal, operated by the ignition switch, shall be provided to supply current to the

heater, emergency door buzzer, auxiliary fan(s), and booster pump (Circuits 9, 10, 11, and 12).

5. All wires within body shall be insulated and protected by covering of fibrous loom (or equivalent) which will protect them from external damage and minimize dangers from short circuits. Whenever wires pass through body member, additional protection in form of appropriate type of insert shall be provided.

6. All light circuits shall be such as to provide, as nearly as possible, bulb design voltage at lightbulb terminals.

7. Wires shall be fastened securely at intervals of not more than 24 inches. All joints shall be soldered or jointed by equally effective connectors.

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Virginia School Bus Wiring Diagram

Diagram 6.

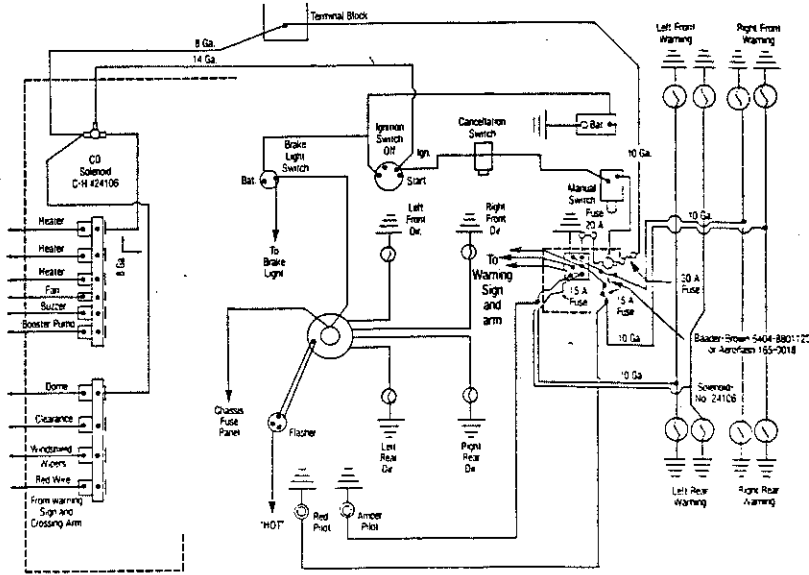
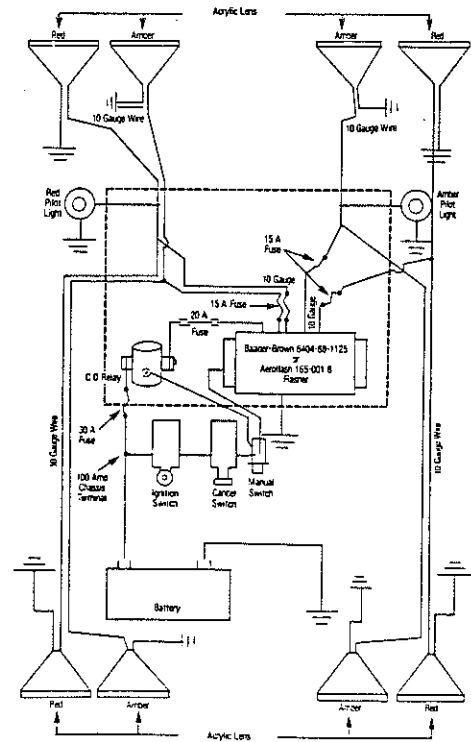


Diagram 7.

WIRING DIAGRAM FOR VIRGINIA SCHOOL BUS TRAFFIC LIGHTS



PART VI. STANDARDS FOR LIFT-GATE SCHOOL BUSES.

§ 6.1. General requirements.

A. School buses or school vehicles designed for transporting children with special transportation needs shall comply with Virginia's standards applicable to school buses and Federal Motor Vehicle Safety Standards as applicable to their GVWR category.

B. Any school bus that is used for the transportation of children who are confined to a wheelchair or other restraining devices which prohibit use of the regular service entrance, shall be equipped with a power lift, unless a ramp is needed for unusual circumstances.

C. Lift shall be located on the right side of the body, in no way attached to the exterior sides of the bus but confined within the perimeter of the school bus body when not extended.

§ 6.2. Aisles.

All aisles leading to the emergency door from wheelchair area shall be a minimum of 30 inches in width.

§ 6.3. Communications.

Special education buses may be equipped with a two-way radio communication system. (See § 5.52 A.)

§ 6.4. Fastening devices.

1. Wheelchair fastening devices shall be provided and attached to the floor or walls or both to enable securement of wheelchairs in the vehicle. The devices shall be of the type that require human intervention to unlatch or disengage. The fastening devices shall be designed to withstand forces up to 2,000 pounds per tiedown leg or clamping mechanism or 4,000 pounds total for each wheelchair, whichever is the lesser of the two.

2. Additional fastening devices may be needed to assist the student due to the many different configurations of chairs and exceptionalities.

§ 6.5. Glazing.

Tinted glazing may be installed in all doors, windows and windshield.

§ 6.6. Heaters.

An additional heater(s) shall be installed in the rear portion of the bus behind wheel wells as required in § 5.61 9 [, except a 50,000 minimum BTU heater may be used in bodies originally designed for 37-66 passenger capacity and 34,000 minimum BTU heater may be used in

bodies of 30 passengers or less. Hose to rear heater, when under body shall be encased in metal tube].

§ 6.7. Identification.

Buses with wheelchair lifts used for transporting physically handicapped children shall display universal handicapped symbols located on the front and rear of the vehicle below the windowline. Such emblems shall be white on blue, shall be a minimum of nine inches and a maximum of 12 inches in size, and may be reflectorized. [~~It~~ They] shall be placed so as not to cover lettering, lamps or glass.

§ 6.8. Power lift.

1. Lifting mechanism shall be able to lift minimum pay load of 800 pounds. A clear opening and platform to accommodate a 30-inch wide wheelchair shall be provided.

2. When the platform is in the fully up position, it shall be locked in position mechanically by means other than a support, or lug in the door.

3. Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside of the bus. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.

4. Power lifts shall be so equipped that they may be manually raised in the event of power failure of the power lift mechanism.

5. Lift travel shall allow the lift platform to rest securely on the ground.

6. All edges of the platform shall be designed to restrain wheelchair and to prevent operator's feet from being entangled during the raising and lowering process.

7. Up and down movements of the lift platform shall be perpendicular to the plane of the bus body in all positions.

8. A restraining device shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground level.

9. A self-adjusting, skid resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in item 8 above. The lift platform shall be skid resistant.

10. A circuit breaker or fuse energized through the

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ignition side of the accessory solenoid, shall be installed between power source and lift motor if electrical power is used.

11. The lift mechanism shall be equipped with adjustable limit switches or by-pass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full up position or full down position.

§ 6.9. Ramps.

When a power lift system is not adequate to load and unload students having special and unique needs, a ramp device may be installed.

1. If a ramp is used, it shall be of sufficient strength and rigidity to support the special device, occupant, and attendant(s). It shall be equipped with a protective flange on each longitudinal side to keep special device on the ramp.

2. Floor of ramp shall be of nonskid construction.

3. Ramp shall be of weight and design, and equipped with handle(s), to permit one person to put ramp in place and return it to its storage place.

§ 6.10. Regular service entrance.

1. In Type D vehicles, there shall be three step risers, of equal height, in the entrance well.

2. An additional fold-out step may be provided which will provide for the step level to be no more than six inches from the ground level.

3. Three step risers in Type C vehicles are optional.

§ 6.11. Assistive devices.

Seat frames may be equipped with attachments or devices to which belts, assistive harnesses or other devices may be attached.

§ 6.12. Seating arrangements.

1. Flexibility in seat spacing to accommodate special devices shall be permitted due to the constant changing of passenger requirements.

2. There shall be a [*padded*] barrier [~~or padded stanchion with modesty panel~~] forward of [~~each any~~] standard seating position and between lift-gate and first seat to rear of lift-gate. A wheelchair position immediately forward of lift-gate shall have a barrier between lift and wheelchair. (See § 5.77.)

§ 6.13. Special light.

Lights shall be placed inside the bus to sufficiently

illuminate lift area and shall be activated from door area.

§ 6.14. Special service entrance.

1. Bus bodies may have a special service entrance constructed in the body to accommodate a wheelchair lift for the loading and unloading of passengers.

2. The opening to accommodate the special service entrance shall be at any convenient point on the right (curb side) of the bus and far enough to the rear to prevent the door(s), when open, from obstructing the right front regular service door (excluding a regular front service door lift).

3. The opening shall not extend below the floor level. Outboard type lifts shall be used.

4. The opening, with doors open, shall be of sufficient width to allow the passage of wheelchairs. The minimum clear opening through the door and the lift mechanism shall be 30 inches in width.

5. A drip moulding shall be installed above the opening to effectively divert water from entrance.

6. Entrance shall be of sufficient width and depth to accommodate various mechanical lifts and related accessories as well as the lifting platform.

7. Door posts and headers from entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the bus not used for service doors.

§ 6.15. Special service entrance doors.

1. A single door may be used if the width of the door opening does not exceed 40 inches.

2. Two doors shall be used if any single door opening would have to exceed 40 inches.

3. All doors shall open outwardly.

4. All doors shall have positive fastening devices to hold doors in the open position.

5. All doors shall be weather sealed and on buses with double doors, they shall be so constructed that a flange on the forward door overlaps the edge of the rear door when closed.

6. When dual doors are provided, the rear door shall have at least a one-point fastening device to the header. The forward mounted door shall have at least three-point fastening devices. One shall be to the header, one to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge

mechanism shall be of a strength that will provide for the same type of use as that of a standard entrance door.

7. Door materials, panels and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering and other exterior features shall match adjacent sections of the body.

8. Each door shall have windows set in rubber compatible within one-inch of the lower line of adjacent sash.

9. Door(s) shall be equipped with a device that will actuate a red flashing visible signal located in the driver's compartment when door(s) is not securely closed and ignition is in "on" position.

10. A switch shall be installed so that the lifting mechanism will not operate when the lift platform door(s) is closed.

§ 6.16. Special optional equipment.

Special seats for aides may be installed on an optional basis. The location, restraints, and so forth shall be assessed and approved on an individual unit basis.

PART VII. ACTIVITY VEHICLES.

§ 7.1. Activity vehicles owned or operated under contract by or for the school board, which are used [*solely*] to transport pupils to and from school activity events, shall comply with all applicable regulations and standards prescribed for school buses except as noted in this article.

A. Exceptions, general regulations.

1. An activity vehicle transporting school pupils shall be operated at a safe [, *legal*] speed not in excess of 55 miles per hour [; or ~~minimum legal speed~~ *allowable*].

2. No standees shall be permitted.

3. The lettered identification and traffic warning devices do not apply. The name of the school division or regional vocational/special education [~~school center~~] shall be placed on both sides of the vehicle.

4. Stops for the purpose of loading or discharging pupils on the travel portion of the highway shall not be permitted.

B. Exception, driver requirements.

Every driver of school activity vehicles shall receive appropriate instruction and training before being allowed to operate a vehicle transporting children. The length of

the instructional program shall be determined by the experience of the applicant and the type of vehicle to be operated.

C. Exceptions, minimum standards for school buses in Virginia.

1. [*School activity*] vehicles shall not be painted national school bus yellow.

2. An approved road speed control governor shall be required and set at a maximum speed of 55 mph.

3. Other type seats and increased spacing may be used provided all provisions of Federal Standard FMVSS222 are met.

4. Vehicles may be equipped with luggage compartments in the body skirt provided they do not reduce ground clearance to less than 14.50 inches from bottom of compartment and that the addition of compartments does not exceed the vehicle GVWR.

5. Approved tinted glass or plastic glazing material is permitted.

6. Air conditioning units may be installed on an optional basis. Application requires heavier electrical components and assessment by the Pupil Transportation Service, Department of Education, on an individual unit basis.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

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

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

Effective Date: March 1, 1990

Summary:

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

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Development to further amend these standards in accordance with the provisions of the Administrative Process Act.

The final amendments to these standards include:

1. Revision of § 1, definitions, to clarify their application within the scope of the standards to be consistent with the Code of Virginia;

2. Clarification of the intent of the standards where they have proven to be difficult to interpret and administer. Examples of these clarifications include revising the survey requirements found in § 6;

3. Deletion of text which is inappropriate for use in a regulatory document. Examples of such text includes the use of permissive language such as the words "may" or "should"; and

4. Providing consistency between these standards and the asbestos regulations promulgated by the EPA.

The final amendments incorporate the following significant changes from the proposed regulation.

1. Deleting all unused definitions.

2. Retaining the asbestos inspector competency requirements to allow the Department of Commerce ample time to amend their asbestos inspector licensing regulations to incorporate similar competency standards.

3. Incorporating the air monitoring standards for inspections and reoccupancy of buildings found in § 2.1-526.14 of the Code of Virginia.

4. Requiring laboratories that analyze bulk samples to obtain accreditation in accordance with the AHERA, Quality Assurance Program.

5. Incorporating similar amendments to the Renovation/Demolition standard into the Condominium Standard.

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

I. § 1. Definitions.

[*"Abatement contractor" means company or individual properly licensed in the Commonwealth of Virginia who routinely conducts asbestos abatement activities such as, but not limited to removal, encapsulation or enclosure of asbestos containing materials in buildings.]*

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

"Asbestos" means any material containing more than one percent of the asbestiform varieties of:

- 1. Chrysotile (serpentine),*
- 2. Crocidolite (riebeckite),*
- 3. Amosite (cumingtonite-grunerite),*
- 4. Anthophyllite,*
- 5. Tremolite, or*
- 6. Actinolite.*

"Building manager" means contact person representing the owning entity at each facility.

[*"Building official" means an individual designated by the local government to issue building permits and enforce the USBC.]*

[*"Condominium" means the ownership of a single unit in a multiple unit structure with common elements in a condominium project.*

"Condominium project" means a real estate condominium project; a plan or project whereby four or more apartments, rooms, office spaces, or other units existing or proposed whether the unit involves a single structure, attached to or detached from other units, or is in one or more multiple unit structures, on contiguous parcels of real estate are offered or proposed to be offered for sale.]

"Competent personnel" means personnel [licensed by the Department of Commerce (D.O.C.) in accordance with the D.O.C. asbestos licensing regulations who performs duties in his licensing category; who are qualified by education or experience, or both, to determine the presence of asbestos and to assess its hazard, or to abate any such hazard by proper encapsulation, enclosure, removal, repair or operations and maintenance of the asbestos containing material and who are licensed by the Virginia Department of Commerce pursuant to the requirements of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1. In addition, asbestos inspectors must meet the minimum competency requirements specified in § 3 of these standards.]

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

"Enclosure" means the construction or installation over or about the asbestos-containing material of any solid or flexible coverings, which will not deteriorate or decompose

for an extended period of time, so as to conceal the material, contain all asbestos fibers and render the asbestos-containing material inaccessible.

"Executive ["Director"] shall [means the Executive Director, Virginia Department of Commerce.]

"Facility" means any building included, or that may be included, in the condominium which was substantially completed prior to July, 1978.

"Friable" means material which is capable of being crumbled, pulverized, or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air.

"Homogenous material" means any material that appears similar in terms of color, texture, pattern, date of material application and functional use.

"Inspector" means an individual who physically inspects each building for materials that may contain asbestos, who is properly licensed to conduct building inspections for asbestos by the Virginia Department of Commerce pursuant to the requirements of Chapter 7.01 (§ 54.1-145.4 et. seq.) of Title 54 and who meet the additional requirements specified in Section IV(3) of these standards is licensed by the Department of Commerce, [in accordance with the Department of Commerce asbestos licensing regulations] to perform on site investigations to identify, classify, record, sample, test and prioritize by exposure potential, all friable and nonfriable asbestos containing materials located within a structure [, and who meets the additional requirements specified in § 3 of these standards] .

"Management planner" means an individual who develops the plan to manage any identified or suspect asbestos containing materials in the facility, who is properly licensed by the Virginia Department of Commerce as an Asbestos Management Planner pursuant to the requirements of Chapter 7.01 (§ 54.1-45 et. seq.) of Title 54 is licensed by the Department of Commerce [in accordance with the Department of Commerce asbestos regulations] to [development develop] and implement an asbestos management plan .

"Notification" means procedure used to inform building occupants and visitors of the location, description and condition of all asbestos containing materials identified or suspected in the facility and of the existence and location of a plan to manage the material.

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

"Renovation" altering in any way, one or more facility components. Operations in which load supporting structure members are wrecked, or taken out, are excluded means [remodeling or] altering interior [partitions, interior

portions of or] exterior [portions of] walls or ceilings [, wiring of a wing] or other major [portions portion] of a building [; ;] altering or replacing roofing materials or major components and equipment of a building [; ; or] removing or disturbing any asbestos containing materials [during demolition, alteration, renovation or additions to buildings or structures] .

"Repair" means cause friable asbestos-containing material to be changed or modified to a condition where it is not friable.

"Response actions" means any action, including removal, encapsulation, enclosure, repair, method of operation, maintenance, record keeping or notification that protects human health from building materials containing asbestos.

"Significant hazard area" means any area where the asbestos containing material is highly friable, where more than 10% of the material is exposed, where the damage is widespread and the area is accessible to occupants including by any air handling system.

"Team leader [Supervisor" means an individual who is] properly [licensed] as an asbestos inspector and management planner pursuant to the requirements of Chapter 7.01 (§ 54.1-45.4 et. seq.) of Title 54 and who meet the minimum requirements specified in Section IV(3)(B) of these standards [by the Department of Commerce as a supervisor under the Department of Commerce asbestos licensing regulations :]

"Team leader" means an individual who is licensed as an asbestos inspector and management planner by the Department of Commerce in accordance with the asbestos regulations [and who meets the minimum requirements specified in § 3 of these standards] .

"Varying visible appearance" means any visible difference in size, color, texture, degree of hardness, etc., which may indicate differing material. This term is synonymous with "visually distinct material."

II. Background.

There has been a growing public awareness of the link between the inhalation of asbestos fibers and various diseases such as asbestosis, mesothelioma, lung and other cancers. As a result, Legislation was enacted by the 1987 General Assembly (Article 5.2 Sect. 2.1-526.12 through 2.1-526.17) and was modified by the 1988 General Assembly which required the Department of General Services to develop survey standards for the inspection of buildings other than school buildings in order to identify the presence of asbestos and to the extent practicable the relative hazard to health or safety posed by any asbestos identified.

III. § 2. Purpose.

The primary purpose of these standards is to establish

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the minimum requirements, relevant to the inspection of each facility for asbestos, the evaluation of the risk to human health, and the development of a specific schedule and plan to abate that risk prior to the conveyance of any unit in a building containing asbestos.

IV. § 3. Scope.

[~~1. A.~~] All condominiums shall be evaluated and a plan developed in accordance with the provisions of these standards after July 1, 1987 .

[~~2. B.~~] Any building substantially completed after July 1, 1978 is exempt from the requirements of these standards.

[C. Minimum competency requirements.

1. Individuals conducting inspections of buildings for asbestos containing materials shall meet the following minimum requirements:

a. They shall have a valid Asbestos Inspector's License and Asbestos Management Planner's License issued by the Virginia Department of Commerce, pursuant to the requirements of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1, and have either:

(1) Successfully completed a minimum of two weeks of intensive field training under the direction of a Team Leader, or

(2) Have a minimum of two years experience in conducting field assessment surveys for asbestos containing materials in buildings.

2. Individuals filling positions of team leader shall meet the following minimum requirements:

a. They shall possess, at a minimum, a college degree (A.S. or B.S.) in a physical science or related scientific field (e.g., biology, environmental science, engineering, geology, etc.), and

b. Have a minimum of three years experience in conducting field assessment surveys for asbestos containing materials in buildings, and;

c. Have a valid Asbestos Inspector's License and Management Planner's License issued by the Virginia Department of Commerce pursuant to Chapter 5 (§ 54.1-500 et seq.) of Title 54.1.]

V. Preliminary Assessment.

An initial assessment shall be made to determine which, if any, buildings were substantially completed prior to July, 1970. Any disagreement shall be resolved by the Executive Director.

All buildings being converted to condominiums must be

evaluated after July 1, 1987 by competent personnel as defined herein unless they are deemed exempt by the Executive Director pursuant to Section IV.2 of these standards.

VI. § 4. Document review and on-site survey.

A. A review ~~should~~ shall be made of all appropriate building construction documents (i.e., floor plans, blueprints, microfilm record, previous inspection records, asbestos abatement projects, etc.) to facilitate the identification of areas where asbestos may be present if available . [A basic sketch of the representative floor plan showing any major detail must be prepared to identify bulk sample locations and general asbestos material location.] Any on-site inspections must be conducted by competent personnel who have the training to identify the presence of asbestos, and to assess, to the extent practicable, the relative hazard or hazards to health and safety posed at each location at which asbestos is suspected or identified. Each on-site survey shall include at least the following and be documented in a report to the owners.

[~~B.~~ A basic sketch of the representative floor plan showing any major detail must be prepared to identify bulk sample locations and general asbestos material location.]

1. Visual inspection. Accessible building areas and spaces shall be visually inspected, including but not limited to the following [means] All suspected asbestos containing materials located in the work area that are or may become friable, as defined by these standards must be identified. These areas shall include, but are not limited to :

A. 1. Rooms, hallways, and offices

B. 2. Mechanical and electrical equipment rooms

C. 3. Pipe chases

D. 4. Basements

E. 5. Attics

F. 6. The space above ceilings, between walls, and below floors

G. 7. Steam tunnels

H. 8. Stairwells

I. 9. Closets and storage areas

J. 10. All occupied and unoccupied spaces

K. 11. Crawl spaces, including soil as appropriate

12. Floor covering and mastic

13. Exterior coverings and roofs

In addition, identify and document the location of all fire doors suspected of containing asbestos. These locations are to be designated on the building sketches and included in the inspection report.

[Note: B.] Areas where access is impossible or prohibitive should be *which are not accessible for sampling shall be* identified on the building sketches. In the plan A notation must be made *on the sketches* as to why the areas could not be investigated. All materials in these *inaccessible* areas are to be considered to contain asbestos and *must be included in the plan*. The area *inaccessible areas* must be evaluated according to the requirements of these standards when the area becomes accessible *but before occupation*.

2. C. Bulk sampling *means* representative bulk sampling of suspected asbestos-containing materials shall be conducted and submitted to a laboratory meeting the minimum requirements found in § 5 of these standards.

All sample areas shall be clearly marked and a permanent identification number corresponding to the respective samples and shall be identified on copies of the available construction drawings or the building sketches prepared by the inspector on the drawings required to be submitted.

A. D. Representative samples of each distinct type of friable asbestos material as defined herein shall be collected to confirm its asbestos content unless it is assumed to contain asbestos. Distinction between types of material shall be based on at least the following criteria:

1. Visual appearance, size;
2. Texture and hardness;
3. Functional use, including but not limited to insulation, ceilings, walls, boilers, tanks, furnace, other mechanical equipment, ceiling pipes, pipe wrapping, elbow material, valve material, structural members, decks, beams, duct materials, fire doors and/or stage curtains; *and*
4. Information provided by documents, interviews, or any source as to prior renovation or patchwork.

B. E. The minimum number of samples to be taken for each distinct type of suspected asbestos material shall be as follows:

1. Sprayed or troweled material. Three random samples for each visually or functionally different material or known different application for up to 1,000 sq. ft., five random samples from 1,000 to 5,000 sq. ft., [*and*] seven random samples [~~from 5,000 to 10,000~~

sq. ft., and for every *when over*] 5,000 sq. ft. [*over* 10,000 sq. ft. one additional random sample will be taken. This rule applies to homogeneous material on each floor only].

2. Pipe and duct insulation. A minimum of one sample for every 50 linear feet of material of varying size or visual appearance per floor. Samples shall be taken where material is damaged or exposed where possible, to avoid breaching intact covering.

3. Valve or fitting muds. Three samples of valve material or elbow mud for each insulated line of varying diameter or visual appearance per floor or area.

4. Boilers, tanks, and furnaces. Three samples per unit if homogeneous.

5. Patchwork. One sample of each patch or repair.

6. Ceiling or acoustical tile. Three samples for each material of varying visible appearance per floor.

7. Other friable materials. As determined as necessary by the inspector - but at least two samples per homogenous material per floor.

8. If the friable materials are not sampled but assumed to contain asbestos, then the inspector must complete the hazard assessment using 100% asbestos as the asbestos content value.

9. If the suspected asbestos-containing material is not friable as defined herein, a sample need not be taken. The location, type, and condition of the material shall be noted on the building layout documents or sketches provided by the inspector. The material shall be labeled according to the requirements of [~~Section X § 7~~] for suspect material. These materials must be included in the specified schedule and plan and must be included in the Priority Level IV Response Action category.

C. F. Selection of sample location.

1. For sprayed on or troweled on material, the EPA guidelines located on pages 15-27 in "Asbestos - Containing Materials in School Buildings - Guidance for Analytical Programs" will be followed.

2. For other types of uses, visually distinct materials will be sampled.

D. G. Bulk sample size.

1. Samples shall be taken to penetrate all layers of the material. Samples should contain at least 15 cubic centimeters of material, and shall be placed in a container and sealed at the time of collection.

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E. H. Sampling precautions.

All precautions shall be taken to prevent exposure to those present in or around the facility during the collection of samples. The survey team is responsible for protecting occupants of the area and for patching the sampling area.

1. All sampling shall be conducted when building occupants are not in the immediate area, and preference shall be given to time when the areas being sampled are not in use.

When it is not possible to collect samples during a time when the facility is not being used, advance arrangements shall be made to evacuate the immediate sampling area(s) for the time necessary to collect the samples. The building manager is responsible for insuring that evacuation takes place.

2. Proper procedures and equipment shall be used during sampling to minimize fiber generation.

3. Area protection and cleanup:

Care should be taken to minimize fiber release; however, any visible debris or residue generated during the sampling shall be thoroughly removed by wet wiping the debris or HEPA vacuuming. An area at least four feet in each direction shall also be cleaned using the above methods.

4. Locations from which samples are taken shall be patched as soon as the sampling has been completed by using methods and materials which are acceptable to the Project Manager and which are both structurally sound and aesthetically compatible. Each such location may be treated by low pressure application of an approved [~~encapsulation~~ encapsulant].

5. When samples are taken in areas where the material is in poor condition, care must be taken to prevent further deterioration or fiber release.

- a. The sample location will be [adequately] patched to prevent fiber release or deterioration by the inspector unless otherwise noted by the Building Manager in writing.

VII. § 5. Bulk sample analysis.

1. A. Samples shall be analyzed by polarizing light microscopy using the EPA Interim Method for the Determination of Asbestos in Bulk Insulation Samples (EPA-600/M4-82-020).

2. B. The inspector shall submit bulk samples for analysis to a laboratory that [successfully participates in] has been accredited in accordance with [the] [AHERA] National Institute of Standards and Technology (NITS)

Quality Assurance Program [()] or an approved equivalent [)] . [Quality Assurance Program, and have certification/accreditation by the American Industrial Hygiene Association.]

3. Sample Submissions:

A. Laboratory Analyst: Each analyst must have successfully completed a course in basic asbestos analysis, similar to that offered by Walter C. McCrone Associates of Chicago, Illinois. In addition, each analyst must have six months of on-the-job training with an analyst found acceptable through the NITS Quality Assurance Program/National Voluntary Laboratory Accreditation Program (NVLAP), or an approved equivalent.

[3. Air monitoring.

a. When air monitoring is used for building assessment it must be used in conjunction with comprehensive visual assessment techniques for determining the priority and nature of response action.

b. The airborne asbestos reoccupancy level, to be measured upon completion of response actions, shall be equal to the reoccupancy standards established for buildings pursuant to 40 CFR Part 763 and subsequent amendments thereto.]

VIII. § 6. Relative exposure potential assessment.

During the inspection for asbestos, each location where the presence of asbestos is suspected or identified shall be evaluated using the algorithm found in Appendix A.

The [local] building [manager will be notified immediately by the inspector if significant hazard area is discovered. This notification may be verbal initially but must be reduced to writing within 24 hours. department shall not issue a building permit for renovation of a building constructed prior to 1978 until the owner or agent provides a certification that an inspection has been made and (1) no asbestos was found, or (2) the proper response action has been or will be taken. The owner or agent shall also certify that the inspector who performed is duly licensed by the Department of Commerce asbestos licensing regulations.]

IX. § 7. Assessment of conditions and prioritization for remedial action.

Upon completion of the on-site inspections and the calculation of the Relative Exposure Potential Assessment, recommendations shall be made regarding future response actions.

A number of factors are used to determine the exposure number and, subsequently, the priority level. One of the most important factors among those listed in Appendix A

of this Standard is the friability factor. Friability is the ability to crumble, pulverize, or powderize a dry material by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air. The determination of friability is straight forward and is explained in Appendix A of this Standard. Friability is a multiplicative factor and can increase the final exposure number as much as 33% to 100%.

Another factor important in determining exposure potential is the mechanism for fiber transportation. This transport mechanism may be an air plenum or it can be the simple opening and closing of a door. High occupant activity can cause fibers to become entrained, and even water damage can be a means of fiber transport. A number of the factors mentioned above are addressed in the field and scored on the algorithm. One of the most serious situations is to have a highly friable material in a non-ducted supply air plenum. Another serious concern is to have a highly friable material in a return air plenum. No matter what the transport mechanism is, corrective procedures will need to be designed and implemented to reduce or eliminate the transportation of fibers.

Five priority levels have been defined for those areas found to contain asbestos. These Priority Levels are a function of the exposure number. (For explanation of exposure numbers, please see Appendix A). A priority ranking is an excellent means of designing a phased abatement program.

The following is a detailed explanation of each priority level:

Significant hazard area *means* areas placed in this category are those that are considered to pose a significant potential hazard to human health. The proper response to this priority is to immediately isolate the area and repair, encapsulate, enclose or remove the material before access is allowed. Any response other than removal must leave the material inaccessible or not friable.

Priority level I.

Areas placed in this Priority category are those that are felt to pose a high exposure potential. Materials in these areas are usually in very poor condition with material possibly laying about on the floor. However, there is the possibility for the material to be in good condition and still exhibit a high potential for exposure, depending on other factors such as friability, accessibility, air movement and vibration. Fireproofing is a material that can exhibit this condition. These are the areas that should be addressed first.

The response action recommended for items in this level are to repair the material by encapsulation, enclosure or by any other means which will render the material not friable and to institute a plan designed to insure that the material does not become friable, or remove the material

using competent, licensed personnel.

Priority Level II:

Areas listed in this level have materials that are not in as poor condition as those listed in Priority Level I but still pose a relatively high potential for exposure. In some cases the difference between a Priority Level I area and Priority Level II may be access to the area and the material. The corrective action plan for these areas should be to properly repair of the material and to institute a plan to insure that the material does not become friable, or remove the material using competent, licensed personnel.

Priority Level III:

These areas pose a moderate exposure potential; however, with time these materials will deteriorate and should be abated. Corrective action should be aimed at eliminating the factors causing the material to deteriorate and to making repairs. A plan will be necessary to monitor the condition of these materials to insure that they do not become friable [*after repairs are made or remove the material using competent, licensed personnel*].

Priority Level IV:

These materials currently have a relatively low exposure potential. Make minor repairs to the material and institute a plan to insure the material remains not friable or remove the material using competent, licensed personnel.

Determination of Priority Levels:

The determination of Priority Level I areas and Priority Level II areas is based on considerable experience and compiled with standard, recognized approaches to prioritization based on industry standards.

The Priority Levels are graduation by design. An area that falls in the upper portion of Priority Level II should be considered to pose a higher exposure potential than an area that falls in the lower portion of Priority Level II.

Finally, it is strongly recommended that in any area that is scheduled to undergo renovation or demolition, a complete survey be conducted to confirm the asbestos content of all suspect materials that could contain asbestos. Materials that contain asbestos must be removed prior to commencement of any renovation or demolition work in which the asbestos containing material will be disturbed by the project. Any removal of asbestos materials must be by personnel properly licensed by the Department of Commerce.

X. § 8. Signs/labels/notification.

Every location at which asbestos is suspected or identified shall be clearly marked with suitably designed signs or labels or the building occupants, *owners and*

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condominium management staff shall be notified of the location and condition of the asbestos containing material within the building and the existence of a plan for its management, in writing.

1. Every mechanical room where asbestos is identified shall have at least one sign located in a conspicuous place at each entrance which contains appropriate wording (e.g., WARNING CEILING MATERIAL CONTAINS ASBESTOS. DO NOT DISTURB).

2. Locations containing any materials identified or suspected to contain asbestos shall be reported in order to provide a permanent record for future reference by the facility and shall be included in the plan.

~~3. All thermal system insulation with suspected or known asbestos-containing materials shall be labeled accordingly (e.g., WARNING SUSPECTED ASBESTOS. DO NOT DISTURB). The labels shall be painted on or affixed to the insulation or covering in a color that contrasts with the color of the material at intervals that would prevent someone from disturbing the material without knowing that it does or is likely to contain asbestos.~~

XI. Certification.

To determine compliance, documentation shall include at a minimum:

1. Qualifications of Inspector.
2. Qualifications of Laboratory and Analyst.
3. Documentation necessary to determine that the survey was conducted according to these standards.
4. ~~Proposed action to comply with unmet requirements.~~

XII. § 9. Plan.

1. A. For those facilities where any action short of immediate removal has been recommended, [~~the inspector~~ *a management planner*] shall develop a plan to manage the potential hazard. The plan shall include at a minimum:

- a. 1. A timetable and recommended response actions to be used to abate any risk to human health discovered during the survey.
- b. 2. Details for identifying and visually marking all asbestos in accordance with these standards.
- e. 3. Procedures for the written notification of persons occupying and/or using the facility as to the location and condition of the asbestos materials found in the facility and that a plan to manage the material has been implemented and its location.

d. 4. A program for training persons who may be required to work on or in the vicinity of asbestos.

e. 5. A program for notifying contractors as to the location of any known or suspected asbestos in the facility and control measures required to protect employees and building occupants.

f. 6. An inspection procedure and training requirements for persons to conduct ~~quarterly~~ *semi-annual* maintenance inspections to identify any change in the friability or accessibility of each identified or suspect material within the facility.

g. 7. A written description of the location where each sample was obtained, a copy of the laboratory report and a copy of the relative hazard assessment conducted for that material.

h. 8. Signature of the inspector, the date of the survey, the date the report is submitted and the applicable license numbers required by this standard.

~~2. B. The presence of any asbestos which has not been removed shall be disclosed to every [~~potential prospective~~] purchaser of a unit.~~

APPENDIX A

Instructions For Use Of The 20-Variable Algorithm

The 20-variable algorithm is an expansion on the old EPA or Sawyer algorithm. Where the primary variables are identical to the Sawyer algorithm, the first 6 variables have 2 sub-variables used to adjust the subjective or general score. The subjective or general score can be adjusted to represent a more accurate reflection of the true value of that general variable.

ASSESS EACH OF THE FACTORS

Carefully consider each of the following seven factors (the eighth factor, asbestos content, must be determined from laboratory reports) and record your observations:

FACTOR ONE. MATERIAL CONDITION:

The condition of the asbestos-containing material is the most important indicator of whether fibers have been released in the past or may be released in the future.

An assessment of the condition should evaluate: the quality of the installation, the adhesion of the material to the underlying substrate, deterioration, destruction of the material by water, vandalism which has damaged the material, and any other damage. Evidence of debris on horizontal surfaces, material hanging, dislodged chunks, scrapings, indentations, or cracking are indicators of poor material condition.

Condition is closely related to other factors considered

in the assessment inspection: if the asbestos-containing material is accessible, it is likely to be damaged; if the activity level is high in the area, the level of damage may be high; and materials which are exposed may be more likely to sustain damage.

Accidental or deliberate physical contact with the material can result in damage to the asbestos-containing material. Inspectors should look for any evidence that the asbestos-containing material has been disturbed such as finger marks in the material, graffiti, pieces dislodged or missing, scrape marks from movable equipment or furniture, or accumulation of the friable material on floors, shelves, or other horizontal surfaces.

Asbestos-containing material may deteriorate as a result of the quality of the installation as well as environmental factors which affect the cohesive strength of the asbestos-containing material or the strength of the adhesion to the substrate. Deterioration can result in dusting of the surface of the asbestos-containing material, delamination of the material (i.e., separating into layers), or an adhesive failure of the material where it pulls away from the substrate and either hangs loosely or falls to the floor and exposes the substrate. Inspectors should touch the asbestos-containing material and determine if dust is released when the material is lightly brushed or rubbed. If the coated surface "gives" when slight hand pressure is applied or the material moves up and down with light pushing, the asbestos-containing material is no longer tightly bonded to its substrate.

FACTOR ONE: MATERIAL CONDITION

This factor is comprised of three levels:

A. NO DAMAGE: Material is intact and shows no sign of deterioration.

NUMERICAL VALUE: 0

B. MODERATE DAMAGE - SMALL AREAS: Through visual inspection and physical contact there are indications that 10% or less of the material is breaking up into layers or beginning to fall. There may be small areas where the material is deteriorating. There may be signs of accidental or intentional damage.

NUMERICAL VALUE: 2

C. WIDESPREAD SEVERE DAMAGE: Greater than 10% of the material is damaged. Large pieces are dislodged and/or debris in the area is evident. Parts of the material may be suspended from the ceilings or may have fallen to the floor. Evidence of severe accidental or intentional damage.

NUMERICAL VALUE: 5

After the subjective score is determined for material

condition based on the standard EPA guidelines for determining such, the score should be adjusted up 1 point or down 1 point depending on the building area age. If the age of the material and/or building in question is greater than 30 years, the objective variable is increased by 1. If the area age is less than 15 years, it is subtracted by 1. If the age is between 15 and 30 years, the score does not change. Then if the type of material, in particular pipe coverings, is a magnesium or calcium silicate preformed pipe which has a tendency to deteriorate more rapidly, the score is up by 1; and if the material type is corrugated air cell or paper product, it is reduced by 1. For ceiling plasters or fireproofing, if the material type is a more cementitious Monokote Type it is reduced by 1. If it is a cotton candy Caico type blaze shield or sound shield, it is up by 1. For standard acoustical plaster materials, there is no change in the subvariable.

FACTOR TWO: WATER DAMAGE

Water damage is usually caused by roof leaks, particularly in buildings with flat roofs or a concrete slab and steel beam construction. Skylights can also be significant sources of leaks. Water damage can also result from plumbing leaks and water in the vicinity of pools, locker rooms, and lavatories.

Water can dislodge, delaminate, or disturb asbestos-containing materials that are otherwise in satisfactory condition and can increase the potential for fiber release by dissolving and washing out the binders in the material. Materials which were not considered friable may become friable after water has dissolved and leached out the binders. Water can also carry fibers as a slurry to other areas where evaporation will leave a collection of fibers that can become resuspended in the air.

Inspect the area for visible signs of water damage such as discoloration of the asbestos-containing material, stains on the asbestos-containing material, adjacent walls, or floor, buckling of the walls or floor, or areas where pieces of the asbestos-containing material have separated into layers (delaminated) or come loose and fallen down, thereby exposing the substrate.

Close inspection is required. In many areas staining may only occur in a limited area while water damage causing delamination may have occurred in a much larger area. In addition, the water damage may have occurred since the original inspection for friable material was conducted causing new areas to become friable and require an assessment inspection.

Delamination is particularly a problem in areas where the substrate is a very smooth concrete slab. Check to see if the material "gives" when pressure is applied from underneath.

FACTOR TWO: WATER DAMAGE

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This factor is comprised of three levels:

A. NO WATER DAMAGE: No water stains or evidence of the material being disturbed by water. No stains on the floor or walls to indicate past water damage.

NUMERICAL VALUE: 0

B. MINOR WATER DAMAGE: Small areas of the material or adjacent floor and/or walls show water stains and ceiling material may be slightly buckled. However, pieces have not fallen from the ceiling and the damage affects 10% or less of the material.

NUMERICAL VALUE: 1

C. MODERATE TO MAJOR WATER DAMAGE: Water has dislodged some of the material and caused the material to break away, or has become saturated and has the potential to fall, and/or greater than 10% of the material has been affected. Asbestos fibers have been carried from the asbestos-containing material by water and evaporation has occurred, and/or the fibers have been deposited on other surfaces.

NUMERICAL VALUE: 2

After the general subjective determination has been made, if the roof above the material is a sloped or hipped roof, the subjective is reduced by 1/2. If it is a flat roof and built-up it is increased by 1/2. If the substrate type is metal or concrete, it is reduced by 1/2.

FACTOR THREE: EXPOSED SURFACE AREA

The amount of asbestos-containing material exposed to the area occupied by people can increase the likelihood that the material may be disturbed and determines whether the fibers can freely move through the area. An asbestos-containing material is considered exposed if it can be seen, i.e., if there are no physical barriers which must be moved in order to get to the material. For a material not to be exposed, the barrier must be complete, undamaged, and not likely to be removed or dislodged. An asbestos-containing material should be considered exposed if it is visible, regardless of the height of the material.

If the asbestos-containing material is located behind a suspended ceiling with movable tiles, a close inspection must be made of the condition of the suspended ceilings, the likelihood and frequency of access into the suspended ceiling, and whether the suspended ceiling forms a complete barrier or is only partially concealing the material.

Asbestos-containing material above a suspended ceiling is considered exposed if the space above the suspended ceiling comprises an air plenum. Suspended ceilings with numerous louvers, grids or other open spaces should be considered exposed. This factor is comprised of three levels:

FACTOR THREE: EXPOSED SURFACE AREA

A. MATERIAL NOT EXPOSED: Located above suspended ceiling. None visible without removing panels or ceiling sections. Suspended ceiling is not damaged.

NUMERICAL VALUE: 0

B. TEN PERCENT OR LESS OF THE MATERIAL IS EXPOSED: A few panels of a suspended ceiling have been removed. Spaces between ceiling tiles exist which would allow fibers to pass through the barrier.

NUMERICAL VALUE: 1

C. GREATER THAN 10 PERCENT OF THE MATERIAL IS EXPOSED.

NUMERICAL VALUE: 1

After the general determination is made, if there is an HVAC system that is part of the plenum area, the general determination is increased by 1. If there is no plenum but only an enclosed dead space, it is reduced by 1. If there is a semi- or permanent enclosure under the fireproofing or acoustical plaster isolating the mechanical system, the general determination is reduced by 1/2.

FACTOR FOUR: ACCESSIBILITY

If the friable asbestos-containing material can be reached by building users or maintenance people either directly or by impact from objects used in the area, it is accessible and subject to accidental or intention contact and damage. Material which is accessible is most likely to be disturbed in the future.

Evidence of degree of accessibility can also be determined by examining asbestos-containing surfaces for impact marks, gouges, scrapes, finger marks, items thrown into the material, etc. Even coated ceilings 25 feet high have been observed with pencils, pens, forks and other items stuck in the material. Also note such practices as stacking boxes from floor to ceiling. The top box may scrape the asbestos-containing coating off the ceiling when it is moved.

The proximity of the friable asbestos-containing material to heating, ventilation, lighting and plumbing systems requiring maintenance or repair may increase its accessibility.

In addition, the activities and behavior of persons using the building should be included in the assessment of whether the material is accessible. For example, persons involved in athletic activities may accidentally cause damage to the material on the walls and ceilings of gymnasiums through contact by balls or athletic equipment. To become fully aware of the uses of the building by its occupants, the inspector should consult with

building staff or personnel familiar with routine building activities. This factor is comprised of three levels:

ACCESSIBILITY

A. NOT ACCESSIBLE: The material is located above a tight suspended ceiling or is concealed by ducts or piping. The building occupants cannot contact the material.

NUMERICAL VALUE: 0

B. RARELY ACCESSIBLE: The material is contacted only during abnormal activity such as infrequent maintenance or repair of nearby heating ventilation, lighting or plumbing systems. Building occupants rarely touch the material or throw objects against it.

NUMERICAL VALUE: 1

C. HIGHLY ACCESSIBLE: Material is contacted frequently due to routine maintenance. The building occupants can contact the material during normal activity at which time they routinely touch and dislodge the materials or throw objects against it.

NUMERICAL VALUE: 4

If the ceiling height or material height is greater than 9 1/2 feet, the subjective score is reduced by 1. If it is under 9 1/2 feet it is increased by 1. Since the building occupancy and use status tells us a great deal about how often the material is going to be accessed, we adjust the subjective determination by 1 1/2+ depending on the amount of occupancy.

Pipe chases, crawl spaces, attics and mechanical air handling rooms are reduced by 1 1/2, whereas major boiler rooms, classrooms, secretarial pools, or offices are increased by 1 1/2.

FACTOR FIVE: ACTIVITY AND MOVEMENT

The level of activity and movement in the vicinity of the asbestos-containing material can affect both the potential for disturbance of the material as well as the level of resuspension of the fibers which have come loose from the material. Consider not only the movement caused by the activities of people in the area but also movement from other sources such as high vibration from adjacent rooms, highways, etc.

Another source of vibration is sound, such as music and noise. Sound sets airwaves in motion in certain frequencies. As these sound waves impact on asbestos-containing material, they may vibrate this material and contribute to fiber release. Therefore, fibers may be released to a greater extent in a band room, music practice room, or auditorium than in the remainder of the building. Aircraft noise also has the ability to vibrate buildings; therefore, the inspector should determine if the

building is in a direct flight path. It has been reported that in several schools whose ceilings were coated with asbestos-containing acoustical plaster, the band rooms were dustier than any other room in the school and granular material was deposited on floors and desks after music practice sessions.

The level of activity can best be described by identifying the purpose of the area as well as estimating the number of persons who enter the area on a typical day.

ACTIVITY AND MOVEMENT

A. NONE OR LOW ACTIVITY: This level would normally include areas such as administrative offices, libraries, and those classrooms where the population is quiet and nondestructive.

NUMERICAL VALUE: 0

B. MODERATE ACTIVITY: This level describes corridors, classrooms or other areas where activities exist that could create undue vibration. This vibration could result in fibers being released from the material into the immediate area.

NUMERICAL VALUE: 1

C. HIGH ACTIVITY LEVEL: This level may be found in cafeterias and corridors whose occupants are vandalous or disruptive in their activities. This also includes all gymnasiums, swimming pools and rooms containing machinery.

NUMERICAL VALUE: 2

After the subjective determination is made, we must determine whether there is sedentary or nonsedentary movement. If the room in question is a library or other sedentary work environments, the subjective variable is reduced by 1/2. However, if the area in question has a great deal of activity such as in a hallway, a boiler room, a maintenance shed, etc., the variable will be increased by 1/2. If the room in question is subject to sound or mechanical vibration such as in an auditorium or a band hall or in an air handling or boiler room where there are constant vibrations, the variable is up by 1/2. If the area in question contains no recognizable sound or mechanical vibrations, or if no air handling systems are on the roof of the area, the subjective variable is reduced by 1/2.

FACTOR SIX: AIR PLENUM OR DIRECT AIR STREAM

An air plenum exists when the return (or, in rare cases, conditioned) air leaves a room or hall through vents in a suspended ceiling and travels at low speed and pressure through the space between the actual ceiling and the suspended ceiling or ducts. In evaluating whether an air plenum or direct air stream is present the inspector must look for evidence of ducts or cavities used to convey air

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to and from heating or cooling equipment or the presence of air vents or outlets which blow air directly onto friable material.

A typical construction technique is to use the space between a suspended ceiling and the actual ceiling as a return air plenum. In many cases you will have to lift the tiles in the suspended ceiling to check if this is the case. Inspection of the air handling or HVAC equipment rooms may also provide evidence of the presence of this material in the plenums.

Special attention should be paid to whether activities such as maintenance frequently occur which would disturb the material in the plenum. Also any evidence that the material is being released or eroded (i.e., is it damaged or deteriorated so that the material is free to circulate in the airstream) such as accumulations of the material in the plenum should be noted. The presence of a direct air stream is indicated by discoloration of the asbestos coating in the vicinity of a vent or erosion patterns may be evident in the asbestos-containing material.

AIR PLENUM OR DIRECT AIR STREAM

A. NO AIR PLENUM OR DIRECT AIR STREAM PRESENT:

NUMERICAL VALUE: 0

B. AIR PLENUM OR DIRECT AIR STREAM PRESENT: Look for dust patterns deposited by an air stream on surfaces next to air supply diffusers. Fan rooms coated with asbestos-containing material may be contributing asbestos fibers to the building air if the circulation system draws air from such a coated room. Look for debris from the asbestos-containing material being deposited on dampers and filters of the air intake.

NUMERICAL VALUE: 1

After the general determination is made, we look at the velocity of the air flow if in fact there is an air flow. If the air flow is recognizable by human feeling rather than subtle, the variable is increased by 1/4. If it is nonrecognizable it is reduced by 1/4. If the air flow is a constant, steady stream it, again, is reduced by 1/4; whereas if the air flow is an impact air flow such as through thermostatic action where large gusts of air impact the material from time to time it is increased by 1/4.

FACTOR SEVEN. FRIABILITY

The term "friable" is applied to dry material that can be crumbled, pulverized, or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air. In order to evaluate the friability of the material it should be touched. The asbestos-containing material can vary in

degree of friability. The more friable the material, the greater the potential for asbestos fiber release and contamination. A material that contains asbestos can be expected to emit fibers during use or maintenance if the original integrity of the material has been disturbed.

FRIABILITY

A. NOT FRIABLE: Material that is hard and cannot be damaged by hand. An object is required to penetrate material. The material integrity has been maintained.

NUMERICAL VALUE: 0

B. LOW FRIABILITY: Material that is difficult yet possible to damage by hand. Material can be indented by forceful impact. If the granular, cementitious asbestos-containing material is rubbed, it leaves granules on the hand but no powder. Material integrity has been disturbed.

NUMERICAL VALUE: 1

C. MODERATE FRIABILITY: Fairly easy to dislodge and crush or pulverize. Material may be removed in small or large pieces. Material is soft and can easily be indented by hand pressure. The granular, cementitious asbestos-containing material leaves a powder residue on the hands when rubbed.

NUMERICAL VALUE: 2

D. HIGH FRIABILITY: The material is fluffy, spongy, or flaking and may have pieces hanging down. Easily crushed or pulverized by hand pressure. Material may disintegrate or fall apart when touched.

NUMERICAL VALUE: 3

FACTOR EIGHT: ASBESTOS CONTENT

The percentage for all types of asbestos present should be added for the total asbestos content. The numerical value is assigned based upon the report of analysis, not on appearance of the material.

With a high percentage of asbestos, there are more fibers that can be released and contaminate the building environment. Therefore, if certain areas are identical in their assessment using the other seven factors, this factor will be helpful in establishing priorities and indicating which area needs to be addressed first. This factor is comprised of three levels:

A. TRACE AMOUNTS TO ONE PERCENT.

NUMERICAL VALUE: 0

B. GREATER THAN ONE PERCENT TO FIFTY PERCENT. Ceiling and wall coatings most frequently

encountered in this category are the granular, cementitious acoustical plasters.

NUMERICAL VALUE: 2

C. FIFTY PERCENT TO ONE HUNDRED PERCENT. Most frequently materials containing over 50% asbestos were pipe and boiler wrapping or the fibrous, cotton candy, type sprayed-on insulation.

NUMERICAL VALUE: 3

Step 2: Exposure Number Calculation

The Exposure Number is derived from the Factor Scores by a formula. After entering the chosen Factor Scores on lines 1 through 8:

- a) Sum factors 1 through 6 and enter opposite SUM;
- b) Multiply factor 7 times factor 8, and enter opposite PRODUCT;
- c) Multiply SUM times PRODUCT and enter opposite EXPOSURE NUMBER.

This number represents the result of your assessment for each area of the building. The values can range from 0 to 162. The higher the numerical value, the greater the potential for fiber release and therefore the more hazardous the situation. The Exposure Number must now be compared to the Corrective Action Scale, which is Step 3.

Step 3: Comparison of Exposure Number to Corrective Action Scale

Appendix B, Corrective Action Scale, presents five Priority Levels, and a range of Exposure Numbers for which that Priority Level is appropriate. Compare the Exposure Number derived in Step 2 to the Priority Levels in Appendix B. For example, an Exposure Number of 65 indicates that a Priority Level of I should be assigned. An Exposure Number of 10, however, indicates that a Priority Level of IV should be assigned. The proper response action for each Priority Level is found in [Section IX § 7] of these standards.

APPENDIX B

CORRECTIVE ACTION SCALE

| <u>Priority Level</u> | <u>Exposure Number Range</u> |
|-----------------------|------------------------------|
| I | 61 - 162 |
| II | 40 - 60 |
| III | 20 - 39 |
| IV | 0 - 1 |

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|--------------------|---------------|
| Significant Hazard | As Defined in |
| Area | Section I |

Title of Regulation: VR 394-01-06. Virginia Statewide Fire Prevention Code/1987.

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

Effective Date: January 1, 1990

NOTICE: Due to its length the Virginia Statewide Fire Prevention Code filed by the Board of Housing and Community Development is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Housing and Community Development.

Summary:

The 1987 edition of the Virginia Statewide Fire Prevention Code is a set of regulations adopted by the Board of Housing and Community Development pursuant to power mandated by § 27-94 of the Code of Virginia. The code is a mandatory, statewide set of regulations that must be complied with for the protection of life and property from the hazards of fire or explosion. Technical requirements of the Statewide Fire Prevention Code are based on the BOCA National Fire Prevention Code, a companion document to the BOCA National Building Code which is the Uniform Statewide Building Code. The Fire Prevention Code supersedes all fire prevention regulations heretofore adopted by local government or other political subdivisions. Local governments are empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair or use of a building or structure. Local enforcement of this code is optional. The State Fire Marshal shall have authority to enforce the Fire Prevention Code in those jurisdictions in which the local governments do not enforce the Code. An administrative appeals system is established for resolution of disagreements between the enforcing agency and aggrieved party.

Pursuant to SJR 190, the Board of Housing and Community Development amended those portions of the Virginia Uniform Statewide Fire Prevention Code regulations pertaining to: Application to Post-USBC and Pre-USBC buildings necessary to permit the amendments to Volume II which require retrofitting existing buildings of Use Group R-1 (Hotels, Motels) with automatic sprinkler systems and smoke detectors

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to be enforced by the local fire official or the State Fire Marshal.

Pursuant to HB 550, the 1988 General Assembly empowered the Board of Housing and Community Development to promulgate and adopt regulations governing the handling, storage and use of explosives, ammunition, and blasting agents. The Ad Hoc Committee on Explosives, Ammunition and Blasting Agents drafted new regulations to replace Article 26 of the Uniform Statewide Fire Prevention Code. Due to the substantive nature of the public comments received on the proposed draft in 1988, the Board of Housing and Community Development enacted the then current Department of Labor and Industry regulations as emergency regulations governing explosives and blasting agents.

The Board of Housing and Community Development amended the regulations to delete the current text of Article 26 in its entirety and replace it with a new Article 26. Explosives, Ammunition, and Blasting Agents.

The final regulations include the following significant changes from the proposed regulation:

1. Establishing one category of blaster certification, and exempting individuals conducting agricultural blasting on their own property from having to become certified.
2. Requiring an authorization from the Marine Resources Commission prior to conducting blasts in any waters of the Commonwealth.
3. Establishing a 90-day time limit by which a blaster can appeal the revocation or suspension of their certification.
4. Providing a definition of agricultural blasting consistent with § 58.1-3223 of the Code of Virginia to clarify which blasting operations are exempt from the \$500,000 liability insurance requirements.

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Title of Regulation: VR 394-01-7. Asbestos Survey Standards for Buildings to be Renovated or Demolished.

Statutory Authority: § 36-99.7 of the Code of Virginia.

Effective Date: March 1, 1990

Summary:

There has been a growing public awareness of the link between the inhalation of asbestos fibers and various diseases such as asbestosis, mesothelioma, lung and other cancers. As a result, legislation was enacted by the 1987 General Assembly and was modified by

the 1988 General Assembly which required the Department of General Services to develop survey standards for the inspection of buildings which are proposed to be renovated or demolished. These standards are provided to identify the presence of asbestos, and to the extent practicable, the relative hazard to health or safety posed by any asbestos identified. The amendments made in § 36-99.7 of the Code of Virginia, enacted by the 1989 General Assembly, authorized the Board of Housing and Community Development to further amend these standards in accordance with the provisions of the Administrative Process Act.

The final amendments to these standards include:

1. Revision of § 1, definitions, to clarify their application within the scope of the standards to be consistent with the Code of Virginia;
2. Clarification of the intent of the standards where they have proven to be difficult to interpret and administer. Examples of these clarifications include revising the exemption found in § 4; and
3. Deletion of text which is inappropriate for use in a regulatory document. Examples of such text include the use of permissive language such as the words "may" or "should"; and
4. Providing consistency between these standards and the Asbestos Regulations promulgated by the Environmental Protection Agency.

The final amendments incorporate the following significant changes from the proposed regulation.

1. Deletion of all unused definitions.
2. Retaining the asbestos inspector competency requirements to allow the Department of Commerce ample time to amend their asbestos inspector licensing regulations to incorporate similar competency standards.
3. Incorporating the air monitoring standards, for inspections and reoccupancy of buildings, found in § 2.1-526.14 of the Code of Virginia.
4. Requiring laboratories that analyze bulk samples to obtain accreditation in accordance with the AHERA, Quality Assurance Program.
5. Deleting the 20 Variable Assessment Algorithm from the Renovation/Demolition Standard. Section 36-99.7 of the Code of Virginia requires that management plans be developed consistent to those required by the Department of General Services; therefore, the algorithm is unnecessary, as it is used for the purpose of developing such plans.

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VR 394-01-7. [Virginia] Asbestos Survey Standards for Buildings to be Renovated or Demolished.

I. § 1. Definitions.

["*Abatement contractor*" means company or individual properly licensed in the Commonwealth of Virginia who routinely conducts asbestos abatement activities] such as, but not limited to removal, encapsulation or enclosure of asbestos containing materials in buildings .

"Asbestos" means any material containing more than one percent of the asbestiform varieties of:

1. chrysotile (serpentine),
2. crocidolite (riebeckite),
3. amosite (cummingtonite-grunerite),
4. anthophyllite,
5. tremolite, or
6. actinolite.

"Building" means a combination of any materials having a roof to form a structure for the use or occupancy by persons or property . The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the content clearly requires a different meaning [; except farm buildings not used for residential purposes and frequented generally by the owner, members of his family and farm employees] .

"Building manager" means contact person representing the owning entity at each [facility building] .

"Building official" means individual designated by the local building department to issue building permits for the renovation or demolition of buildings and enforce the Virginia Uniform Statewide Building Code, Volume I, New Construction Code (USBC) .

"Central heating" means a heating system permanently installed [and adjusted] so as to provide the distribution of heat to all habitable [or occupiable] rooms [; bathrooms and water closet compartments from a source outside of the room served or spaces] .

"Competent personnel" means personnel who are qualified by education and/or experience to determine the presence of asbestos and to assess its hazard, or to abate any such hazard by proper encapsulation, enclosure, removal, repair or operations and maintenance of the asbestos containing material and who are licensed by the Virginia Department of Commerce pursuant to the requirements of Chapter 5 (§ 54.1-500 et. seq.) of Title 54.1. In addition, asbestos inspectors must meet the minimum competency requirements specified in Section IV(3) of these Standards [licensed by the Department of

Commerce in accordance with the Department of Commerce asbestos licensing regulations who are qualified by education or experience, or both, to determine the presence of asbestos and to assess its hazard, or to abate any such hazard by proper encapsulation, enclosure, removal, repair or operations and maintenance of the asbestos containing material and who are licensed by the Virginia Department of Commerce pursuant to the requirements of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1. In addition, asbestos inspectors must meet the minimum competency requirements specified in § 4 of these Standards] .

"Demolition" the wrecking or taking out of any load supporting structure member of a facility together with any related handling operations means to take down and remove a building in accordance with the USBC following the issuance of a demolition permit by the building official.

["*Director*" shall mean means the Director, Virginia Department of Housing and Community Development.]

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

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

"Friable" means material which is capable of being crumbled, pulverized, or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air.

"Homogenous material" means any material that appears similar in terms of color, texture, pattern, date of material application and functional use.

"Inspector" means an individual who physically inspects each building for materials that may contain asbestos, who is properly licensed to conduct building inspections for asbestos by the Virginia Department of Commerce pursuant to the requirements of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 and who meet the additional requirements specified in Section IV(3) of these standards is licensed by the Department of Commerce [in accordance with the Department of Commerce asbestos regulations] to perform on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential all friable and nonfriable asbestos containing materials located within a structure [and who meet the additional requirements specified in § 4 of these standards

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"Management planner" means an individual who is develops the plan to manage any identified or suspect asbestos containing materials in the facility, who is properly licensed by the Virginia Department of Commerce as an Asbestos Management Planner pursuant to the requirements of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 licensed by the Department of Commerce [in accordance with the Department of Commerce asbestos regulations] to develop and implement an asbestos management plan .

[*"NESHAPS"* means National Emission Standard for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos, Sections Sect. 61.140 - 61.156.]

[*"Notification"* means procedure used to inform building occupants and visitors of the location, description and condition of all asbestos containing materials identified or suspected in the facility and of the existence and location of a plan to manage the material.]

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

"Renovation" altering in any way, one or more facility components. Operations in which load-supporting structure members are wrecked, or taken out, are excluded means [remodeling or] altering interior [partitions, interior portions of or] exterior [portions of] walls or ceilings [, or of] a wing or other major portion of a building; altering or replacing roofing materials or major components and equipment of a building; re-roofing; [or] removing or disturbing any asbestos containing materials [during alteration, or renovation of additions to buildings or structures].

"Repair" means return friable asbestos containing material to a condition where it is not friable.

"Response actions" means any action, including removal, encapsulation, enclosure, repair, method of operation, maintenance, record keeping or notification that protects human health from building materials containing asbestos.

"Significant hazard area" means any area where the asbestos containing material is highly friable, where more than 10% of the material is exposed, where the damage is widespread and the area is accessible to occupants including by any air handling system.

[*"Supervisor"* means an asbestos abatement worker licensed by the Department of Commerce as a supervisor in accordance with the Department of Commerce asbestos licensing regulations.]

"Team leader" means an individual who is properly licensed as an asbestos inspector and management planner pursuant to the requirements of Chapter 7.01 (§ 54-146.4

et seq.) of Title 54 and who meets the minimum requirements specified in Section IV(3)(B) of these standards [properly] licensed as an asbestos inspector and management planner [by the Department of Commerce in accordance with the asbestos licensing regulations pursuant to the requirements of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 and who meet the minimum requirements specified in § 4 of these standards].

"Varying visible appearance" means any visible difference in size, color, texture, degree of hardness, etc., which may indicate differing material. This term is synonymous with "visually distinct material."

II. Background.

There has been a growing public awareness of the link between the inhalation of asbestos fibers and various diseases such as asbestosis, mesothelioma, lung and other cancers. As a result, Legislation was enacted by the 1987 General Assembly (Article 5-2 Sect. 2.1-526.12 through 2.1-526.17) and was modified by the 1988 General Assembly which required the Department of General Services to develop survey standards for the inspection of buildings other than school buildings in order to identify the presence of asbestos and to the extent practicable the relative hazard to health or safety posed by any asbestos identified.

III. Purpose.

The primary purpose of these standards is to establish the minimum requirements, relevant to the inspection of each covered facility for asbestos, and the evaluation of the risk to human health within that facility.

IV. § 2. Scope.

1. A. According to Sect. 36-09.7 of the Code of Virginia, after January 1, 1989 the local building official shall not issue a building permit for a non-exempted building to be renovated or demolished until the building has been inspected according to these standards and the owner or his agent presents a statement signed by the inspector conducting the inspection that states either (1) no asbestos was detected or (2) asbestos was detected and response actions to abate any risk to human health have been completed or (3) asbestos was detected and response actions to abate any risk to human health have been or will be undertaken as a part of the renovation or demolition project. The inspection report must be signed by the inspector. The [primary] purpose of these standards is to establish the minimum requirements relevant to the inspection of each covered facility for asbestos and the evaluation of the risk to human health within the facility.

2. B. Exemptions.

Any building meeting any one of the following conditions is exempt from the requirements of these standards.

- a. ~~1. built after~~ Any building for which [~~a an initial~~] permit was issued after January 1, 1978, ~~or~~,
- b. ~~2. that is a Single-family dwelling; or dwellings ,~~
- e. ~~3. that is Residential housing with [less than] four [dwellings or fewer units] ; or ,~~
[~~4. Farm buildings,]~~
- d. ~~that is a farm building; or,~~
- e. [~~4. 5.] that is a building Buildings with less than 3,500 square feet ; or ,~~
- f. [~~5. 6.] that is a building Buildings with no central heating system; or,~~
- g. [~~6. 7.] that is a building Buildings owned by a public utility that is required by law to give notification to the Commonwealth of Virginia and to the Environmental Protection Agency prior to removing asbestos in connection with the renovation or demolition of a building.~~

§ 3. Building permit requirements.

The local building department shall not issue a building permit for [the] renovation or demolition of [any area within] a building [~~constructed for which an initial building permit was issued~~] prior to [January 1,] 1978, until the owner or agent provides a certification that an inspection [of the area to be renovated or demolished] has been made and [(i) no asbestos was found; or (ii) the proper response action has been or will be taken. The owner or agent shall also certify that the inspector who performed the inspection is duly licensed by the Department of Commerce asbestos licensing regulations that response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M), the management standards for asbestos-containing materials prepared by the Department of General Services in accordance with § 2.1-526.14:2 of the Code of Virginia, and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58)] .

§ 4. Minimum competency requirements:

A. Individuals conducting inspections of buildings for asbestos-containing materials shall meet the following minimum requirements:

- 1. They shall have a valid Asbestos Inspector's License and Asbestos Management Planner's License issued by the Virginia Department of Commerce pursuant to the requirement of Chapter 5 (§ 54.1-500 et seq.) of Title 54.1, and have either;

a. Successfully completed a minimum of two weeks of intensive field training under the direction of a team leader or;

b. Have a minimum of two years experience in conducting field assessment surveys for asbestos containing materials in buildings.

B. Individuals filling positions of team leader shall meet the following minimum requirements.

1. They shall possess, at a minimum, a college degree (A.S. or B.S.) in a physical science or related scientific field (e.g., biology, environmental science, engineering, geology, etc.), and

2. Have a minimum of three years experience in conducting field assessment surveys for asbestos containing materials in buildings, and

3. Have a valid Asbestos Inspector's License and Management Planner's License issued by the Virginia Department of Commerce pursuant to Chapter 5 (§ 54.1-500 et seq.) of Title 54.1.

V. Preliminary Assessment.

An initial assessment shall be made to determine if the building was built prior to January 1, 1978. Any disagreement shall be resolved according to the Appeals Process established by the Uniform Statewide Building Code. All buildings covered by these standards must be inspected for asbestos prior to receiving a building permit for a renovation or demolition after January 1, 1980, by competent personnel as defined herein unless they are deemed exempt pursuant to Section IV-2 of these standards.

VI. [§ 4. § 5.] Document review and on-site survey.

A review should be made of all appropriate building construction documents (i.e., floor plans, blueprints, microfilm record, previous inspection records, asbestos abatement projects, etc.) to facilitate the identification of areas where asbestos may be present if available. A basic sketch of the representative floor plan showing any major detail must be prepared to identify bulk sample locations and general asbestos material location. Any on-site inspections must be conducted by competent personnel properly licensed by the Virginia Department of Commerce who have the training to identify the presence of asbestos, and to assess, to the extent practicable, the relative hazard or hazards to health and safety posed at each location at which asbestos is suspected or identified. Each on-site survey shall include at least the following and be documented in a report to the owners.

A. A basic sketch of the representative floor plan showing any major detail must be prepared to identify bulk sample locations and general asbestos material location.

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1. B. Visual inspection.

All suspect asbestos-containing materials located in the renovation or demolition area that are or may become friable, as defined by these standards, during the renovation or demolition project must be identified. These areas may include but not be limited to:

- A. 1. Rooms, hallways, and offices
- B. 2. Mechanical and electrical equipment rooms
- C. 3. Pipe chases
- D. Basements
- E. 4. Attics
- F. 5. The space above ceilings, between walls, and below floors
- G. 6. Steam tunnels
- H. 7. Stairwells
- I. 8. Closets and storage areas
- J. 9. All occupied and unoccupied spaces
- K. 10. Crawl spaces, including soil as appropriate
- L. 11. Floor covering and mastic
- M. 12. Exterior coverings and roofs

In addition, identify and document the location of all fire doors suspected of containing asbestos. These locations are to be designated on the building sketches and included in the inspection report.

Note: C. Areas where access is impossible or prohibitive which are not accessible for sampling shall be identified on the building sketches. A notation must be made in the inspection report as to why the areas could not be investigated. All materials in these areas are to be considered to contain asbestos.

2. D. Bulk sampling.

Representative bulk sampling of suspected asbestos-containing materials shall be conducted and submitted to a laboratory meeting the minimum requirements found in Section VII of these standards.

All sample areas shall be clearly marked and a permanent identification number corresponding to the respective samples and shall be identified on copies of the available construction drawings or the building sketches prepared by the inspector on the drawings required by these regulations.

A. E. Representative samples of each distinct type of suspect asbestos-containing material shall be collected to confirm its asbestos content unless it is assumed to contain asbestos. Distinction between types of material shall be based on at least the following criteria:

1. Visual appearance, size;
2. Texture and hardness;
3. Functional use, including but not limited to insulation, ceilings, walls, boilers, tanks, furnace, other mechanical equipment, ceiling pipes, pipe wrapping, elbow material, valve material, structural members, decks, beams, duct materials, roofs, exterior coverings, fire doors and/or stage curtains.
4. Information provided by documents, interviews, or any source as to prior renovation or patchwork.
5. Patchwork. One sample of each patch or repair.

B. F. The minimum number of samples to be taken for each distinct type of suspected asbestos material shall be as follows:

1. Sprayed or troweled material. Three random samples for each visually or functionally different material or known different application for up to 1,000 sq. ft., five random samples from 1,000 to 5,000 sq. ft., seven random samples [from 5,000 to 10,000 sq. ft., and for every when over] 5,000 sq. ft. [over 10,000 sq. ft. one additional random sample will be taken. This rule applies to homogeneous material on each floor only.]
2. Pipe and duct insulation. A minimum of one sample for every 150 linear feet of material of varying size or visual appearance per floor. Samples shall be taken where material is damaged or exposed where possible, to avoid breaching intact covering.
3. Valve or fitting muds. Three samples of valve material or elbow mud for each insulated line of varying diameter or visual appearance per floor or area.
4. Boilers, tanks, and furnaces - three samples per unit if homogeneous.
5. Patchwork. One sample of each patch or repair.
6. Ceiling or acoustical tile. Three samples for each material of varying visible appearance per floor.
7. Roofs and other exterior materials. Three samples per 10,000 sq. ft. plus 1 additional sample per each additional 5000 sq. ft. per homogenous area or level.
8. Other materials. As determined as necessary by the inspector but at least two samples per homogenous

material per floor or level.

Note: Additional concerns should be addressed when sampling roof materials, such as proper patching procedures and "warranty" considerations.

C. G. Selection of sample location:

1. For sprayed on or troweled on material, the EPA [and REPO] guidelines on pages 15-27 in "Asbestos - Containing Materials in School Buildings - Guidance for Analytical Programs" will be followed *located [in Appendix "A" shall be followed in "Asbestos-Containing Materials in School Buildings - Guidance for Analytical Programs" will be followed]*.

2. For other types of uses, visually distinct materials will be sampled.

D. H. Bulk sample size.

±. Samples shall be taken to penetrate all layers of the material. Samples should contain at least 15 cubic centimeters of material, and shall be placed in a container and sealed at the time of collection.

E. I. Sampling precautions.

All precautions shall be taken to prevent exposure to those present in or around the facility during the collection of samples. The survey team is responsible for protecting occupants of the area and for patching the sampling area.

1. All sampling shall be conducted when building occupants are not in the immediate area, and preference shall be given to time when the areas being sampled are not in use. When it is not possible to collect samples during a time when the facility is not being used, advance arrangements shall be made to evacuate the immediate sampling area(s) for the time necessary to collect the samples. *The immediate area shall be evacuated prior to taking samples for the time necessary to collect samples.* The building manager is responsible for insuring that evacuation takes place.

2. Proper procedures and equipment shall be used during sampling to minimize fiber generation.

3. Area protection and cleanup. Care should be taken to minimize fiber release; however, any visible debris or residue generated during the sampling shall be thoroughly removed by wet wiping the debris or HEPA vacuuming. An area at least four feet in each direction *adjacent to the sample area* shall also be cleaned using the above methods.

4. Locations from which samples are taken shall be patched as soon as the sampling has been completed by using methods and materials which are acceptable

to the Project Manager and which are both structurally sound and aesthetically compatible *immediately upon removal of the sample*. Each such location may be treated by low pressure application of an approved [*encapsulation encapsulant*] .

5. When samples are taken in areas where the material is in poor condition, care must be taken to prevent further deterioration or fiber release.

a. The sample location will be adequately patched to prevent fiber release or deterioration by the inspector unless otherwise noted by the Building Manager in writing.

[§ 6. Bulk sample analysis.]

±. [6. 1.] Samples shall be analyzed by polarizing light microscopy using the EPA Interim Method for the Determination of Asbestos in Bulk Insulation Samples (EPA-600/M4-82-020).

2. [7. 2.] ~~The inspector shall submit Representative bulk samples shall be sent~~ for analysis to a laboratory that [~~successfully participates in~~ *has been accredited in accordance with the*] the AHERA, National Institute of Standards and Technology (NITS) Quality Assurance Program, or an [~~other approved an~~] equivalent Quality Assurance Program and have certification/accreditation by the American Industrial Hygiene Association .

3. Sample submissions:

A. Laboratory Analyst.

Each analyst must have successfully completed a course in basic asbestos analysis, similar to that offered by Walter C. McCrone Associates of Chicago, Illinois. In addition, each analyst must have six months of on-the-job training with an analyst found acceptable through the NITS Quality Assurance Program/National Voluntary Laboratory Accreditation Program (NVLAP), or an approved equivalent.

VIII. Certification.

To determine compliance, documentation shall include at a minimum;

1. Qualifications of Inspector.

2. Qualifications of Laboratory and Analyst.

3. Documentation necessary to determine that the survey was conducted according to these standards.

4. Proposed action to comply with unmet requirements.

[F. Air monitoring.

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1. When air monitoring is used for building assessment, it must be used in conjunction with comprehensive visual assessment techniques for determining the priority and nature of any response actions.

2. The airborne asbestos reoccupancy level, to be measured upon completion of response actions, shall be equal to the reoccupancy standards established for buildings pursuant to 40 CFR Part 763 and subsequent amendments thereto.]

[APPENDIX A

Instructions For Use Of The 20-Variable Algorithm

The 20-variable algorithm is an expansion on the old EPA or Sawyer algorithm. Where the primary variables are identical to the Sawyer algorithm, the first six variables have two sub-variables used to adjust the subjective or general score. The subjective or general score can be adjusted to represent a more accurate reflection of the true value of that general variable.

ASSESS EACH OF THE FACTORS

Carefully consider each of the following seven factors (the eighth factor, asbestos content, must be determined from laboratory reports) and record your observations:

FACTOR ONE. MATERIAL CONDITION:

The condition of the asbestos-containing material is the most important indicator of whether fibers have been released in the past or may be released in the future.

An assessment of the condition should evaluate: the quality of the installation, the adhesion of the material to the underlying substrate, deterioration, destruction of the material by water, vandalism which has damaged the material, and any other damage. Evidence of debris on horizontal surfaces, material hanging, dislodged chunks, scrapings, indentations, or cracking are indicators of poor material condition.

Condition is closely related to other factors considered in the assessment inspection: if the asbestos-containing material is accessible, it is likely to be damaged; if the activity level is high in the area, the level of damage may be high; and materials which are exposed may be more likely to sustain damage.

Accidental or deliberate physical contact with the material can result in damage to the asbestos-containing material. Inspectors should look for any evidence that the asbestos-containing material has been disturbed such as finger marks in the material, graffiti, pieces dislodged or missing, scrape marks from movable equipment or furniture, or accumulation of the friable material on floors, shelves, or other horizontal surfaces.

Asbestos-containing material may deteriorate as a result of the quality of the installation as well as environmental factors which affect the cohesive strength of the asbestos-containing material or the strength of the adhesion to the substrate. Deterioration can result in dusting of the surface of the asbestos-containing material, delamination of the material (i.e., separating into layers), or an adhesive failure of the material where it pulls away from the substrate and either hangs loosely or falls to the floor and exposes the substrate. Inspectors should touch the asbestos-containing material and determine if dust is released when the material is lightly brushed or rubbed. If the coated surface "gives" when slight hand pressure is applied or the material moves up and down with light pushing, the asbestos-containing material is no longer tightly bonded to its substrate.

FACTOR ONE: MATERIAL CONDITION

This factor is comprised of three levels:

A. NO DAMAGE: Material is intact and shows no sign of deterioration.

NUMERICAL VALUE: 0

B. MODERATE DAMAGE - SMALL AREAS: Through visual inspection and physical contact there are indications that 10% or less of the material is breaking up into layers or beginning to fall. There may be small areas where the material is deteriorating. There may be signs of accidental or intentional damage.

NUMERICAL VALUE: 2

C. WIDESPREAD SEVERE DAMAGE: Greater than 10% of the material is damaged. Large pieces are dislodged and/or debris in the area is evident. Parts of the material may be suspended from the ceilings or may have fallen to the floor. Evidence of severe accidental or intentional damage.

NUMERICAL VALUE: 5

After the subjective score is determined for material condition based on the standard EPA guidelines for determining such, the score should be adjusted up 1 point or down 1 point depending on the building area age. If the age of the material and/or building in question is greater than 30 years, the objective variable is increased by 1. If the area age is less than 15 years, it is subtracted by 1. If the age is between 15 and 30 years, the score does not change. Then if the type of material, in particular pipe coverings, is a magnesium or calcium silicate preformed pipe which has a tendency to deteriorate more rapidly, the score is up by 1; and if the material type is corrugated air cell or paper product, it is reduced by 1. For ceiling plasters or fireproofing, if the material type is a more cementitious Monokote Type it is reduced by 1. If it is a cotton candy Cafeo type blaze

shield or sound shield, it is up by 1. For standard acoustical plaster materials, there is no change in the subvariable.

FACTOR TWO: WATER DAMAGE

Water damage is usually caused by roof leaks, particularly in buildings with flat roofs or a concrete slab and steel beam construction. Skylights can also be significant sources of leaks. Water damage can also result from plumbing leaks and water in the vicinity of pools, locker rooms, and lavatories.

Water can dislodge, delaminate, or disturb asbestos-containing materials that are otherwise in satisfactory condition and can increase the potential for fiber release by dissolving and washing out the binders in the material. Materials which were not considered friable may become friable after water has dissolved and leached out the binders. Water can also carry fibers as a slurry to other areas where evaporation will leave a collection of fibers that can become resuspended in the air.

Inspect the area for visible signs of water damage such as discoloration of the asbestos-containing material, stains on the asbestos-containing material, adjacent walls, or floor, buckling of the walls or floor, or areas where pieces of the asbestos-containing material have separated into layers (delaminated) or come loose and fallen down thereby exposing the substrate.

Close inspection is required. In many areas staining may only occur in a limited area while water damage causing delamination may have occurred in a much larger area. In addition, the water damage may have occurred since the original inspection for friable material was conducted causing new areas to become friable and require an assessment inspection.

Delamination is particularly a problem in areas where the substrate is a very smooth concrete slab. Check to see if the material "gives" when pressure is applied from underneath.

FACTOR TWO: WATER DAMAGE

This factor is comprised of three levels:

A. NO WATER DAMAGE: No water stains or evidence of the material being disturbed by water. No stains on the floor or walls to indicate past water damage.

NUMERICAL VALUE: 0

B. MINOR WATER DAMAGE: Small areas of the material or adjacent floor and/or walls show water stains and ceiling material may be slightly buckled. However, pieces have not fallen from the ceiling and the damage affects 10% or less of the material.

NUMERICAL VALUE: 1

C. MODERATE TO MAJOR WATER DAMAGE: Water has dislodged some of the material and caused the material to break away, or has become saturated and has the potential to fall, and/or greater than 10% of the material has been affected. Asbestos fibers have been carried from the asbestos-containing material by water and evaporation has occurred, and/or the fibers have been deposited on other surfaces.

NUMERICAL VALUE: 2

After the general subjective determination has been made, if the roof above the material is a sloped or hipped roof, the subjective is reduced by 1/2. If it is a flat roof and built-up it is increased by 1/2. If the substrate type is metal or concrete, it is reduced by 1/2.

FACTOR THREE: EXPOSED SURFACE AREA

The amount of asbestos-containing material exposed to the area occupied by people can increase the likelihood that the material may be disturbed and determines whether the fibers can freely move through the area. An asbestos-containing material is considered exposed if it can be seen, i.e., if there are no physical barriers which must be moved in order to get to the material. For a material not to be exposed, the barrier must be complete, undamaged, and not likely to be removed or dislodged. An asbestos-containing material should be considered exposed if it is visible, regardless of the height of the material.

If the asbestos-containing material is located behind a suspended ceiling with movable tiles, a close inspection must be made of the condition of the suspended ceilings, the likelihood and frequency of access into the suspended ceiling, and whether the suspended ceiling forms a complete barrier or is only partially concealing the material.

Asbestos-containing material above a suspended ceiling is considered exposed if the space above the suspended ceiling comprises an air plenum. Suspended ceilings with numerous louvers, grids or other open spaces should be considered exposed. This factor is comprised of three levels:

FACTOR THREE: EXPOSED SURFACE AREA

A. MATERIAL NOT EXPOSED: Located above suspended ceiling. None visible without removing panels or ceiling sections. Suspended ceiling is not damaged.

NUMERICAL VALUE: 0

B. TEN PERCENT OR LESS OF THE MATERIAL IS EXPOSED: A few panels of a suspended ceiling have been removed. Spaces between ceiling tiles exist which would allow fibers to pass through the barrier.

NUMERICAL VALUE: 1

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C. GREATER THAN 10 PERCENT OF THE MATERIAL IS EXPOSED.

NUMERICAL VALUE: 4

After the general determination is made, if there is an HVAC system that is part of the plenum area, the general determination is increased by 1. If there is no plenum but only an enclosed dead space, it is reduced by 1. If there is a semi- or permanent enclosure under the fireproofing or acoustical plaster isolating the mechanical system, the general determination is reduced by 1/2.

FACTOR FOUR: ACCESSIBILITY

If the friable asbestos-containing material can be reached by building users or maintenance people either directly or by impact from objects used in the area, it is accessible and subject to accidental or intention contact and damage. Material which is accessible is most likely to be disturbed in the future.

Evidence of degree of accessibility can also be determined by examining asbestos-containing surfaces for impact marks, gouges, scrapes, finger marks, items thrown into the material, etc. Even coated ceilings 26 feet high have been observed with pencils, pens, forks and other items stuck in the material. Also note such practices as stacking boxes from floor to ceiling. The top box may scrape the asbestos-containing coating off the ceiling when it is moved.

The proximity of the friable asbestos-containing material to heating, ventilation, lighting and plumbing systems requiring maintenance or repair may increase its accessibility.

In addition, the activities and behavior of persons using the building should be included in the assessment of whether the material is accessible. For example, persons involved in athletic activities may accidentally cause damage to the material on the walls and ceilings of gymnasiums through contact by balls or athletic equipment. To become fully aware of the uses of the building by its occupants, the inspector should consult with building staff or personnel familiar with routine building activities. This factor is comprised of three levels:

ACCESSIBILITY

A. NOT ACCESSIBLE: The material is located above a tight suspended ceiling or is concealed by ducts or piping. The building occupants cannot contact the material.

NUMERICAL VALUE: 0

B. RARELY ACCESSIBLE: The material is contacted only during abnormal activity such as infrequent maintenance or repair of nearby heating ventilation, lighting or plumbing systems. Building occupants rarely

touch the material or throw objects against it.

NUMERICAL VALUE: 1

C. HIGHLY ACCESSIBLE: Material is contacted frequently due to routine maintenance. The building occupants can contact the material during normal activity at which time they routinely touch and dislodge the materials or throw objects against it.

NUMERICAL VALUE: 4

If the ceiling height or material height is greater than 9 1/2 feet, the subjective score is reduced by 1. If it is under 9 1/2 feet it is increased by 1. Since the building occupancy and use status tells us a great deal about how often the material is going to be accessed, we adjust the subjective determination by 1 1/2+ depending on the amount of occupancy.

Pipe chases, crawl spaces, attics and mechanical air handling rooms are reduced by 1 1/2, whereas major boiler rooms, classrooms, secretarial pools, or offices are increased by 1 1/2.

FACTOR FIVE: ACTIVITY AND MOVEMENT

The level of activity and movement in the vicinity of the asbestos-containing material can affect both the potential for disturbance of the material as well as the level of resuspension of the fibers which have come loose from the material. Consider not only the movement caused by the activities of people in the area but also movement from other sources such as high vibration from adjacent rooms, highways, etc.

Another source of vibration is sound, such as music and noise. Sound sets airwaves in motion in certain frequencies. As these sound waves impact on asbestos-containing material, they may vibrate this material and contribute to fiber release. Therefore, fibers may be released to a greater extent in a band room, music practice room, or auditorium than in the remainder of the building. Aircraft noise also has the ability to vibrate buildings; therefore, the inspector should determine if the building is in a direct flight path. It has been reported that in several schools whose ceilings were coated with asbestos-containing acoustical plaster, the band rooms were dustier than any other room in the school and granular material was deposited on floors and desks after music practice sessions.

The level of activity can best be described by identifying the purpose of the area as well as estimating the number of persons who enter the area on a typical day.

ACTIVITY AND MOVEMENT

A. NONE OR LOW ACTIVITY: This level would normally include areas such as administrative offices,

libraries, and those classrooms where the population is quiet and nondestructive.

NUMERICAL VALUE: 0

B. MODERATE ACTIVITY: This level describes corridors, classrooms or other areas where activities exist that could create undue vibration. This vibration could result in fibers being released from the material into the immediate area.

NUMERICAL VALUE: 1

C. HIGH ACTIVITY LEVEL: This level may be found in cafeterias and corridors whose occupants are vandalous or disruptive in their activities. This also includes all gymnasiums, swimming pools and rooms containing machinery.

NUMERICAL VALUE: 2

After the subjective determination is made, we must determine whether there is sedentary or nonsedentary movement. If the room in question is a library or other sedentary work environments, the subjective variable is reduced by 1/2. However, if the area in question has a great deal of activity such as in a hallway, a boiler room, a maintenance shed, etc., the variable will be increased by 1/2. If the room in question is subject to sound or mechanical vibration such as in an auditorium or a band hall or in an air handling or boiler room where there are constant vibrations, the variable is up by 1/2. If the area in question contains no recognizable sound or mechanical vibrations, or if no air handling systems are on the roof of the area, the subjective variable is reduced by 1/2.

FACTOR SIX: AIR PLENUM OR DIRECT AIR STREAM

An air plenum exists when the return (or, in rare cases, conditioned) air leaves a room or hall through vents in a suspended ceiling and travels at low speed and pressure through the space between the actual ceiling and the suspended ceiling or ducts. In evaluating whether an air plenum or direct air stream is present the inspector must look for evidence of ducts or cavities used to convey air to and from heating or cooling equipment or the presence of air vents or outlets which blow air directly onto friable material.

A typical construction technique is to use the space between a suspended ceiling and the actual ceiling as a return air plenum. In many cases you will have to lift the tiles in the suspended ceiling to check if this is the case. Inspection of the air handling or HVAC equipment rooms may also provide evidence of the presence of this material in the plenums.

Special attention should be paid to whether activities such as maintenance frequently occur which would disturb the material in the plenum. Also any evidence that the material is being released or eroded (i.e., is it damaged or

deteriorated so that the material is free to circulate in the airstream) such as accumulations of the material in the plenum should be noted. The presence of a direct air stream is indicated by discoloration of the asbestos coating in the vicinity of a vent or erosion patterns may be evident in the asbestos-containing material.

AIR PLENUM OR DIRECT AIR STREAM

A. NO AIR PLENUM OR DIRECT AIR STREAM PRESENT:

NUMERICAL VALUE: 0

B. AIR PLENUM OR DIRECT AIR STREAM PRESENT: Look for dust patterns deposited by an air stream on surfaces next to air supply diffusers. Fan rooms coated with asbestos-containing material may be contributing asbestos fibers to the building air if the circulation system draws air from such a coated room. Look for debris from the asbestos-containing material being deposited on dampers and filters of the air intake.

NUMERICAL VALUE: 1

After the general determination is made, we look at the velocity of the air flow if in fact there is an air flow. If the air flow is recognizable by human feeling rather than subtle, the variable is increased by 1/4. If it is nonrecognizable it is reduced by 1/4. If the air flow is a constant, steady stream it, again, is reduced by 1/4; whereas if the air flow is an impact air flow such as through thermostatic action where large gusts of air impact the material from time to time it is increased by 1/4.

FACTOR SEVEN: FRIABILITY

The term "friable" is applied to dry material that can be crumbled, pulverized, or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit asbestos fibers into the air. In order to evaluate the friability of the material it should be touched. The asbestos-containing material can vary in degree of friability. The more friable the material, the greater the potential for asbestos fiber release and contamination. A material that contains asbestos can be expected to emit fibers during use or maintenance if the original integrity of the material has been disturbed.

FRIABILITY

A. NOT FRIABLE: Material that is hard and cannot be damaged by hand. An object is required to penetrate material. The material integrity has been maintained.

NUMERICAL VALUE: 0

B. LOW FRIABILITY: Material that is difficult yet

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possible to damage by hand. Material can be indented by forceful impact. If the granular, cementitious asbestos-containing material is rubbed, it leaves granules on the hand but no powder. Material integrity has been disturbed.

NUMERICAL VALUE: 1

C. MODERATE FRIABILITY: Fairly easy to dislodge and crush or pulverize. Material may be removed in small or large pieces. Material is soft and can easily be indented by hand pressure. The granular, cementitious asbestos-containing material leaves a powder residue on the hands when rubbed.

NUMERICAL VALUE: 2

D. HIGH FRIABILITY: The material is fluffy, spongy, or flaking and may have pieces hanging down. Easily crushed or pulverized by hand pressure. Material may disintegrate or fall apart when touched.

NUMERICAL VALUE: 3

FACTOR EIGHT: ASBESTOS CONTENT

The percentage for all types of asbestos present should be added for the total asbestos content. The numerical value is assigned based upon the report of analysis, not on appearance of the material.

With a high percentage of asbestos, there are more fibers that can be released and contaminate the building environment. Therefore, if certain areas are identical in their assessment using the other seven factors, this factor will be helpful in establishing priorities and indicating which area needs to be addressed first. This factor is comprised of three levels

A. TRACE AMOUNTS TO ONE PERCENT.

NUMERICAL VALUE: 0

B. GREATER THAN ONE PERCENT TO FIFTY PERCENT: Ceiling and wall coatings most frequently encountered in this category are the granular, cementitious acoustical plasters.

NUMERICAL VALUE: 2

C. FIFTY PERCENT TO ONE HUNDRED PERCENT. Most frequently materials containing over 50% asbestos were pipe and boiler wrapping or the fibrous, cotton candy, type sprayed-on insulation.

NUMERICAL VALUE: 3

Step 2: Exposure Number Calculation

The Exposure Number is derived from the Factor Scores by a formula. After entering the chosen Factor

Scores on Lines 1 through 8:

a) Sum factors 1 through 6 and enter opposite SUM;

b) Multiply factor 7 times factor 8, and enter opposite PRODUCT;

e) Multiply SUM times PRODUCT and enter opposite EXPOSURE NUMBER;

This number represents the result of your assessment for each area of the building. The values can range from 0 to 162. The higher the numerical value, the greater the potential for fiber release and therefore the more hazardous the situation. The Exposure Number must now be compared to the Corrective Action Scale, which is Step 3.

Step 3: Comparison of Exposure Number to Corrective Action Scale

Appendix B, Corrective Action Scale, presents five Priority Levels, and a range of Exposure Numbers for which that Priority Level is appropriate. Compare the Exposure Number derived in Step 2 to the Priority Levels in Appendix B. For example, an Exposure Number of 66 indicates that a Priority Level of I should be assigned. An Exposure Number of 10, however, indicates that a Priority Level of IV should be assigned. The proper response action for each Priority Level is found in Section IX of these standards.

APPENDIX B

CORRECTIVE ACTION SCALE

| <u>Priority Level</u> | <u>Exposure Number Range</u> |
|-------------------------|------------------------------|
| I | 61 - 162 |
| II | 40 - 60 |
| III | 20 - 39 |
| IV | 0 - 19 |
| Significant Hazard Area | As Defined in Section IX] |

* * * * *

Title of Regulation: VR 394-01-21, Virginia Uniform Statewide Building Code, Volume I, New Construction Code, 1987 Edition.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Effective Date: March 1, 1990

NOTICE: Due to its length the 1987 Edition of the Virginia

Uniform Statewide Building Code, Volume I - New Construction Code filed by the Board of Housing and Community Development is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Housing and Community Development.

Summary:

Volume I - New Construction Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide uniform regulation which must be complied with in all buildings or additions hereafter constructed, altered, enlarge, repaired, or converted to another use group. Its purpose is to protect the health, safety and welfare of building users, and to provide for energy conservation, water conservation and accessibility for the physically handicapped and aged. Technical requirements of the New Construction Code are based on the BOCA Model Building Code. The New construction code specifies the enforcement procedures to be used by local governments. Enforcement by local governments is mandatory. Provision is made for modifications by the building official when alternate means will provide equivalent health and safety. An administrative appeals system is established for resolution of disagreements between the building owner and the building official.

The amendments are summarized as follows:

1. Fee levy. The Board of Housing and Community Development proposes to add a new § 104.5 which will require local governing bodies to assess building permit applicants a one percent levy on the total cost of each building permit. The text will require this levy to be transmitted quarterly to the Department of Housing and Community Development, and mandates that it be used to support the training programs of the Virginia Building Code Academy. The new text will allow those localities which maintain a training academy that is accredited by the Department of Housing and Community Development to retain this levy. These new provisions will also require the board to conduct an annual review of the costs associated with the academy in order to determine if any adjustment to the percentage of the levy is necessary. This portion of the amendments was adopted without any change.

2. Section 512.0 (Handicapped Requirements) has not been finalized; however, the board has scheduled final action on this section for December 1989 pending receipt of studies to be issued by the federal government.

3. Underground storage tanks (USTs). The federal Environmental Protection Agency (EPA) has

promulgated final regulations by which to govern the installation, upgrade and closure of all USTs which contain an accumulation of regulated substances. EPA's final regulations became effective on December 22, 1988, and these supersede the existing text of § 627.0 of the USBC. The Virginia State Water Control Board is currently proposing adoption of EPA's final regulations. Section 36-99.6 of the Code of Virginia authorizes the Board of Housing and Community Development to incorporate the UST regulations promulgated by the State Water Control Board into the USBC. Therefore, the Board of Housing and Community Development amended § 627.0 by deleting all current text and adopted by reference the regulations promulgated by the State Water Control Board.

4. Fire protection systems. Pursuant to HJR 374, the Board of Housing and Community Development amended Articles 5, 8, 9, and 10 to mandate the installation of fire sprinkler and smoke detection systems for certain buildings of Use Groups R-1 and R-2 (Multifamily dwellings). These amendments also establish exceptions to existing code requirements based on the installation of such systems. Examples of these exceptions include reductions in fire resistance ratings for fire separation assemblies, and increased sizes for buildings of combustible construction. The final adopted amendment includes an exception to installing sprinkler systems in R-2 buildings if public water supply is inadequate.

5. Boat storage facilities. HJR 337 (1989 General Assembly Session) requested the Board of Housing and Community Development to study the need to improve the level of fire protection required for boat storage facilities. Therefore, the board proposed to amend the regulations by incorporating the fire protection system requirements specified in the National Fire Protection Association Standard Number 303, Fire Protection Standard for Boatyards and Marinas for new boat storage facilities. These regulations were not adopted by the board.

6. Asbestos inspections. The 1989 Virginia General Assembly enacted HB 1651, which amended § 36-99.7 of the Code of Virginia. This amendment will require local building officials to receive a certification from building owners that the building has been properly inspected for asbestos prior to issuing a building permit to renovate or demolish the building. The proposed text for the regulations merely reflects the language of the amended law. This portion of the amendments was adopted without any change.

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1987.

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Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Effective Date: March 1, 1990

Summary:

Volume II - Building Maintenance Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Technical requirements of the Building Maintenance Code are based on the BOCA National Existing Structures Code, a companion document to the BOCA National Building Code which serves as the basis for Volume I of the USBC, the New Construction Code. Enforcement procedures are provided that must be used when the Building Maintenance Code is enforced by local agencies. Local enforcement of the Code is optional. An administrative appeals system is established for resolution of disagreements between the building owner and the code official.

Pursuant to Senate Joint Resolution 190, the Board of Housing and Community Development amended those portions of the Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code/1987 Edition pertaining to: Application to Pre-USBC and Post-USBC buildings; Fire Protection Systems for Use Group R-1 (hotels, motels). These amendments require all existing Use Group R-1 buildings to be retrofitted with automatic sprinkler systems and smoke detectors.

The final adopted amendment exempts hotels and motels from retrofitting if less than four stories in height and allows a seven year retrofit period from the date at which an adequate public water supply is available.

VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1987.

Article 1.

Adoption, Administration and Enforcement.

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as Volume II - Building Maintenance Code of the 1987 edition of the Virginia Uniform Statewide Building Code. Except as otherwise indicated, Building Maintenance Code or Code, shall mean Volume II - Building Maintenance Code of the 1987 edition of the Virginia Uniform Statewide Building Code.

Note: See Volume I - New Construction Code for regulations applicable to new construction. See Volume III

- Fire Prevention Code for fire safety requirements applying to existing public buildings used by 10 or more persons.

100.2. Authority: The Building Maintenance Code is adopted according to regulatory authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia.

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

100.4. Effective date: The Building Maintenance Code shall become effective on March 1, 1988.

100.5. Effect on other codes: The Building Maintenance Code shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36 of the Code of Virginia. The Building Maintenance Code supersedes all building maintenance codes and regulations of the counties, municipalities political subdivisions and state agencies that may have been or may be enacted or adopted, except as modified by § 100.5.1, below.

Note: This will not prevent adoption in accordance with Chapter 1, Title 15 of the Code of Virginia or other special or general legislation, of other requirements by local governments which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a building or structure.

100.5.1. Application to pre-USBC buildings: Buildings or portions thereof constructed, altered, converted or repaired before the effective date of the initial edition of the Virginia Uniform Statewide Building Code (USBC) shall be maintained in compliance with the Building Maintenance Code; provided, however, that the code official shall exempt from the provisions of the Uniform Statewide Building Code, Volume II, Building Maintenance Code, alterations of building uses, designs and equipment existing under a current certificate of occupancy unless an unsafe or unhealthy condition exists [; and except as provided in § 100.5.3]

[Exception: Existing buildings of Use Group R-1 shall comply with the provisions of § 100.5.3.]

100.5.2. Application to post-USBC buildings: Buildings or portions thereof that were subject to the Uniform Statewide Building Code when constructed, altered, converted or repaired shall be maintained in compliance with the Building Maintenance Code and with the edition

of the USBC that was in effect at that time [, except as provided in Section 100.5.3] .

[Exception: Existing buildings of Use Group R-1 shall comply with the provisions of § 100.5.3.]

100.5.3. Fire protection systems for existing buildings: Existing buildings and structures of Use Group R-1 shall comply with provisions of Sections 100.5.3.1 and 100.5.3.2.

100.5.3.1. Automatic Sprinkler Systems: An automatic sprinkler system shall be installed in [all Use Group R-1 buildings which are four or more stories in height, in] accordance with [§ 1002.7 of] the 1987 Uniform Statewide Building Code, Volume I, by either March 1, [1993 1997] , or within [3 7] years of the date upon which an adequate public water supply is made available to meet the needs of the suppression system, whichever is later.

100.5.3.2. Smoke detectors: Single and multiple station smoke detectors shall be installed in accordance with § 1019.1 through 1019.3 of the 1987 Uniform Statewide Building Code, Volume I, by March 1, 1993.

100.6. Exemptions for certain equipment: The provisions of the Building Maintenance Code shall not apply to distribution equipment installed by a provider of publicly regulated utility services, or to electrical equipment used for radio and television transmission. However, the buildings, including their service equipment, housing such utility services shall be subject to this Code. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights.

100.7. Exemptions for farm structures: Farm structures not used for residential purposes shall be exempt from the provisions of the Building Maintenance Code. However, such structures lying within a flood plain or in a mudslide-prone area shall be subject to the applicable floodproofing regulations or mudslide regulations.

100.8. Purpose: The purpose of the Building Maintenance Code is to ensure public safety, health and welfare through proper building maintenance and use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance shall be deemed to include the maintenance and inspection of building equipment defined by § 36-97(13) of the Code of Virginia.

100.9. Workmanship: All repairs, maintenance work, alterations or installations which are required for compliance with this code shall be executed and installed in a workmanlike and acceptable manner so as to secure the results intended by this code.

SECTION 101.0. REQUIREMENTS.

101.1. Adoption of model code: The following model code, as amended by §§ 101.2 and 101.3, is hereby adopted and incorporated in the Building Maintenance Code.

° THE BOCA NATIONAL EXISTING STRUCTURES CODE/ 1987 EDITION

Published by:

Building Officials and Code Administrators International, Inc.
4051 West Flossmoor Road
County Club Hills, Illinois 60477-5795

101.2. Administrative and enforcement amendments to the referenced model code: All requirements of the referenced model code and of standards referenced therein that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the Building Maintenance Code.

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

101.4. Limitation of application of model code: No provision of the model code may be used to require alterations to the design or equipment of any portion of a building that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC. In the application of the model code to other buildings, no requirement of the current edition of the USBC shall be exceeded.

Note: Efforts have been made to remove conflicts between Volume I - New Construction Code and Volume II - Building Maintenance Code. However, although the two codes are compatible, they may not always be comparable. The purpose of this section is to resolve any unforeseen conflicts with Volume I.

SECTION 102.0. LOCAL ENFORCING AGENCY.

102.1. Enforcement by local governments: Any local government may, after official action, enforce the Building Maintenance Code, or any portion of the Code. The local governing body may assign responsibility for enforcement of the Building Maintenance Code, or any portion thereof, to a local agency or agencies of its choice. The terms "enforcing agency" and "code official" are intended to apply to the agency or agencies to which responsibility for enforcement has been assigned. However, the terms "building official" or "building department" apply only to the local building official or building department.

102.2. Right of inspection: The local governing body may inspect existing buildings to enforce the Building

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Maintenance Code, as authorized by § 36-105 of the Code of Virginia.

102.3. Interagency coordination: Where enforcement of any portion of the Building Maintenance Code is assigned to an agency other than the building department, such as the fire prevention bureau, such agency shall coordinate its reports of inspection with the building department. All required alterations, repairs, installations or constructions shall be subject to the building permit and certificate of use and occupancy provisions of the Uniform Statewide Building Code, Volume I, New Construction Code.

102.4. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the code official.

102.4.1. Appointment: The code official shall be appointed by the local government.

102.5. Qualifications of local enforcing agency personnel: The local government shall establish qualifications for the code official and his *technical* assistants adequate to ensure proper administration and enforcement of the Building Maintenance Code.

Note: Detailed requirements for the qualifications of the building official and technical assistants are provided in Volume I - New Construction Code of the Uniform Statewide Building Code. However, if a person from another agency is appointed as the code official to enforce the Building Maintenance Code, the requirements of Volume I - New Construction Code would not apply. In such cases, it is recommended that the code official have at least five years of related experience. Consideration should be given to the use of certification programs approved by the Department of Housing and Community Development and of the Fire Inspection Certification Program of the State Department of Fire Programs in the selection and training of enforcing agency personnel.

102.6. Relief from personal responsibility: The local enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The code official or the code official's subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by such officer or employee in the discharge of official duties and under the provisions of the Building Maintenance Code may be ~~defined~~ *defended* by the enforcing agency's legal

representative.

102.7. Control of conflict of interest: The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the Virginia Comprehensive Conflict of Interest Act.

102.8. Assistance by state: Upon notification of appointment of a code official, the Office of State Building Code shall advise the official of all services offered and will keep the official continually informed of developments affecting the Code and its interpretation and administration.

SECTION 103.0. DUTIES AND POWERS OF THE CODE OFFICIAL.

103.1. General: The code official shall enforce the provisions of the Building Maintenance Code as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

Note: Section 36-105 of the Code of Virginia provides that fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

103.2. Notices and orders: The code official shall issue all necessary notices or orders to ensure compliance with the requirements of this Code for the health, safety and general welfare of the public.

103.3. Delegation of duties and powers: The code official may delegate his duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the Code.

103.4. Maintenance inspections: When the local government has acted under § 36-105 of the Code of Virginia to enforce the requirements of this Code, the code official may inspect buildings to which it applies to assure continued compliance.

103.5. Unsafe conditions not related to maintenance: When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in a building which was constructed, altered, converted, or repaired before the effective date of the initial edition of the Uniform Statewide Building Code, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, the official may order the minimum changes needed to remedy the hazardous condition. Such order shall be in writing and shall be made a part of the permanent records of the code official relating to the building affected.

Note: The Building Maintenance Code does not generally provide for retrofitting existing buildings. However, conditions may exist in older buildings, because of faulty

design or equipment, that constitute such serious and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the Uniform Statewide Building Code. Only those changes that are needed to remedy the serious and dangerous hazards to life or health may be required by the code official. Reference is also made to section 103.2 of the administrative provisions of the Uniform Statewide Building Code - Volume I, which provides authority for modifications to be issued for alternate means to be used that provide the same level of safety.

103.6. Annual report: At least annually, the code official shall submit to the authority designated by the local government a written statement of operations in the form and content prescribed by such local government. A copy shall be forwarded to the Office of Professional Services for use in studies to improve the Virginia Uniform Statewide Building Code system.

103.7. Enforcing agency records: The code official shall keep records of reports of inspections, notices and orders issued and such other matters as directed by the local government. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act and, (i) after retention for one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, and (ii) after retention for three years in the case of all other buildings.

SECTION 104.0. APPLICATIONS AND PERMITS.

104.1. Procedures: Applications for permits for construction or alterations necessary to comply with this code shall be made to the building official under the procedures prescribed in Volume I - New Construction Code of the Uniform Statewide Building Code.

SECTION 105.0. MODIFICATIONS.

105.1. Modifications: When there are practical difficulties involved in carrying out any provision of the Code, the owner or the owner's agent, or the code official, may apply to the building official for a modification under the procedures of Volume I - New Construction Code of the Uniform Statewide Building Code when the proposed modification involves alterations or construction for which a building permit would be required. When the proposed modification does not involve any alterations or construction for which a building permit would be required, the code official may issue the modification.

105.2. Records: A copy of the application for modification and a copy of the final decision of the official to whom the application was made shall be kept in the permanent records of the enforcing agency.

SECTION 106.0. VIOLATIONS.

106.1. Code violations prohibited: No person, firm or

corporation shall maintain or use any building or equipment in conflict with or in violation of any of the provisions of this Code.

106.2. Notice of violation: The code official shall serve a notice of violation on the person responsible for maintenance or use of a building in violation of the provisions of this Code. Such order shall direct the discontinuance and abatement of the violation.

106.3. Prosecution of violation: If the notice of violation is not complied with promptly, the code official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation; or to require the removal or termination of the use of the building in violation of the provisions of this Code.

106.4. Violation penalties: Violations of this Code are a misdemeanor in accordance with § 36-106 of the Code of Virginia, and upon conviction, may be punished by a fine of not more than \$1,000.

106.5. Abatement of violation: Conviction of a violation of this Code shall not preclude the institution of appropriate legal action to prevent other violations or recurring violations of this Code relating to maintenance and use of the building or premises.

SECTION 107.0. UNSAFE BUILDINGS.

107.1. General: This section shall apply to buildings and their equipment that fail to comply with the Building Maintenance Code through damage, deterioration, infestation, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, and which constitute a hazard, or are otherwise dangerous to human life, health or safety, or the public welfare. All such buildings shall be declared by the code official to be a public nuisance and unfit for human habitation and shall be made safe through compliance with this code or shall be vacated, and either secured against public entry, or taken down and removed as directed by the code official. A vacant building, unsecured or open at door or window, may be deemed a fire hazard and unsafe within the meaning of this section.

107.2. Inspection of unsafe buildings: The code official shall examine every such building reported as unsafe, and shall prepare a report to be filed in the records of the enforcing agency. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any, caused by a collapse or failure.

107.3. Notice of unsafe buildings: If a building is found to be unsafe, the code official shall serve a notice to the owner, the owner's agent or person in control of the unsafe building. The notice shall specify the required repairs or improvements to be made to the building, or require the unsafe building, or portion of the building to

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be taken down and removed within a stipulated time. Such notice shall require the person notified to declare to the designated official without delay his acceptance or rejection of the terms of the notice.

Note: Whenever possible, the notice of unsafe building should also be given to the tenants of the unsafe building.

107.4. Posting of unsafe building notice: If the person named in the notice of unsafe building cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

107.5. Disregard of notice: Upon refusal or neglect of the person served with a notice of unsafe building to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the certificate of occupancy. In the case of a vacant building, including one vacated through revocation of the certificate of occupancy, the code official may cause the building to be closed through any available means.

107.6. Authority to vacate building: When in the opinion of the code official, there is actual and immediate danger of failure or collapse of a building or any part of a building which would endanger life; or when any building or part of a building has fallen and life is endangered by occupancy of the building; or when any other hazardous condition poses an immediate and serious threat to life; or when a building is declared a public nuisance, and unfit for human habitation, the code official may order the occupants to vacate the building. The code official shall post a notice at each entrance to such building that reads: "THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such a building except upon authorization of the code official for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections.

107.7. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a building or any part of a building which would endanger life, or when a violation of this code results in a hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, the code official shall have the necessary work done to the extent permitted by the local government to make such building or part of the building temporarily safe, whether or not legal action to force compliance has begun.

SECTION 108.0. APPEAL TO THE LOCAL BOARD OF BUILDING CODE APPEALS.

108.1. Grounds for appeal: The owner of a building or the

owner's agent may appeal from a decision of the code official to the local Building Code Board of Appeals established under Volume I - New Construction Code of the Uniform Statewide Building Code within 20 days after the day the notice was served when it is claimed that:

1. The code official has refused to grant a modification of the provisions of the code;
2. The true intent of this code has been incorrectly interpreted;
3. The provisions of this code do not fully apply;
4. The use of a form of compliance that is equal to or better than that specified in this code has been denied.

108.2. Form of application: Applications for appeals shall be submitted in writing to the Local Building Code Board of Appeals.

108.3. Notice of meeting: The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 20 working days of the filing of an appeal.

108.4. Hearing open to public: All hearings shall be public in accordance with the Virginia Freedom of Information Act. The appellant, the appellant's representative, the code official of the jurisdiction and any other person whose interest may be affected by the matter on appeal, shall be given an opportunity to be heard.

108.5. Postponement of hearing: A quorum shall be more than 50% of the board. When a quorum of the board, as represented by members or alternates, is not present to consider a specific appeal, either the appellant, the building official or their representatives may, prior to the start of the hearing, request a single postponement of the hearing of up to 10 working days. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the building official.

108.6. Form of decision, notification: Every action of the board on an appeal shall be by resolution. Certified copies shall be furnished to the appellant, to the building official, and to the code official.

108.7. Enforcement of decision: The code official shall take immediate action in accordance with the decision of the board.

SECTION 109.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

109.1. Appeal to the State Building Code Technical Review Board: Any person aggrieved by a decision of the local Board of Building Code Appeals, who was a party to the appeal, may appeal to the State Building Code Technical Review Board. Application for review shall be made to the

State Building Code Technical Review Board within 15 days of receipt of the decision of the local appeals board by the aggrieved party.

109.2. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the code official shall take immediate action in accordance with the decision.

109.3. Court review: Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board shall be to the circuit court of original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4 of Chapter 1.1:1 of Title 9 of the Code of Virginia.

SECTION 110.0. DEMOLITION OF BUILDINGS.

110.1. Procedures for demolition: Whenever a building is to be demolished pursuant to any provision of this Code, the work shall be carried out in compliance with the requirements of Volume I - New Construction Code of the Uniform Statewide Building Code.

ADDENDA.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL EXISTING STRUCTURES CODE/ 1987 EDITION.

As provided in section 101.3 of Volume II - Building Maintenance Code of the 1987 edition of the Virginia Uniform Statewide Building Code, the amendments noted in this Addendum shall be made to the BOCA National Existing Structures Code/ 1987 edition for use as part of the Building Maintenance Code.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

1. Article 1, Administration and Enforcement, is deleted in its entirety and replaced with Article 1 of the Building Maintenance Code.

ARTICLE 3. ENVIRONMENTAL REQUIREMENTS.

1. Delete Section ES-301.1.
2. Delete Section ES-301.1.1.
3. Delete Section ES-301.3.
4. Delete Section ES-301.4.
5. Delete Section ES-301.6.
6. Delete Section ES-301.7.

Note: The above sections of this code have been deleted because the agency's Attorney General representative advises that they cannot be interpreted as building regulations under the current language of § 36-99(7) of the Code of Virginia.

7. Delete Section ES-301.10.
8. Delete Section ES-301.10.1.
9. Delete Section ES-301.10.2.

ARTICLE 4. LIGHT, VENTILATION AND SPACE REQUIREMENTS.

Change Section ES-401.2 to read:

ES-401.2. Habitable spaces: Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable space shall be 4.0% of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the building code. Whenever walls or other portions of a structure face a window of any other room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

ARTICLE 5. PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.

Change section ES-503.5 to read:

ES-503.5. Water conservation: Plumbing fixtures which are replaced shall be of water saving construction and use as required by the energy and plumbing codes listed in the Virginia Uniform Statewide Building Code, Volume I, New Construction.

ARTICLE 6.

1. Delete section ES-601.5 Boiler inspections:

Note: See § 36-97(13) of the Code of Virginia for equipment definition.

ARTICLE 7.

Add new section ES-704.2.1

ES-704.2.1. Visual and audible alarms: Visual and audible alarms meeting the requirements of ANSI/UL Standard 1638 and ANSI/NFIPA 72G shall be provided in occupancies housing the hard of hearing as required by §

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36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be accepted.

ARTICLE 8.

1. Delete Section ES-801.2
2. Delete Section ES-801.3

ARTICLE 9.

Delete Article 9.

APPENDIX A.

Change Appendix A as follows:

1. Delete standard reference number NECC-87 National Energy Conservation Code.
2. Delete standard reference number NFPC-87 National Fire Prevention Code and substitute the Uniform Statewide Fire Prevention Code as adopted by the Virginia Department of Housing and Community Development.

ADDENDUM 3

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Chairman

Douglas E. Fahl
8401 Arlington Blvd.
Fairfax, VA 22031

Vice Chairman

Marian P. Whitehurst
209 Hall Drive
Chesapeake, VA 23320

Evelyn T. Butts
6801 Silverwood Court
Norfolk, VA 23513

William T. Clements
Box 248
Norton, VA 24273

Margaret W. DeMallie
P. O. Box 2555
Charlottesville, VA 22902

Francis H. Fife
P. O. Box 557
Charlottesville, VA 22902

Robert T. Gates

Prosperity Plaza
3020 Hamaker Court # 301
Fairfax, VA 22031

J. B. Hall, Jr.,
Suite 700
Plantation House
1108 East Main Street
Richmond, VA 23219

James W. Roncaglione
9807 Bridleridge Court
Vienna, VA 22180

Secretary (Non-Member)
Neal J. Barber, Director
Department of Housing and Community Development
205 North Fourth Street
Richmond, VA 23219

ADDENDUM 4

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Chairman

Curtis R. Jennings, Jr.
6835 Sugar Rum Bridge, SW
Roanoke, VA 24018

Vice Chairman

Leo J. Cantor
4501 Cutshaw Ave.
Richmond, VA 23230

Stanley C. Harris
4210 South Haven Rd.
Richmond, VA 23235

Peter V. Henderson
117 South Stockard Ct.
Williamsburg, VA 23185

Terrell D. Moseley
p. O. Box 3095
Lynchburg, VA 24503

Ronald E. Ponzo
4 Frances Street
Newport News, VA 23601

Secretary (Non-Member)

Jack A. Proctor
Deputy Director
Division of Building Regulatory Services
205 North Fourth St.
Richmond, VA 23219

* * * * *

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.

Effective Date: December 20, 1989

Summary:

This regulation establishes the administrative framework for project sponsor eligibility, operational requirements, distribution of funds, and loan and grant terms and conditions.

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 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.

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

[*"Program" means the Migrant Housing Program which is administered by DHCD.]*

"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.

Project Readiness - (30 points available). Firmness of any other funds required for the project, including documentation which indicates status of [ownership and use] permits, [~~use~~,] health department [approval], 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 MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to the New Drug Review Program.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

VR 460-05-2000.000. New Drug Review Program.

VR 460-05-2000.1000. New Drugs Not Covered by Medicaid.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Date: February 1, 1990

Summary:

These final regulations provide for the establishment and operation of the Medicaid New Drug Review Committee. The 1989 General Assembly required the Department to develop a plan to review new drugs which can result in their not being covered by Medicaid. Once the committee determines a new drug is not to be covered, a physician wishing to prescribe the drug must request prior authorization before Medicaid reimbursement will be available.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

General.

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

§ 1. Inpatient hospital services other than those provided in an institution for mental diseases.

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 15 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 14 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to subsection F of this section.)

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B. Medicaid does not pay the medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to subsection F of this section.)

C. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment to health or life of the mother if the fetus were carried to term.

D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

E. Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified. Hospital claims with admission dates on Friday or Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admission will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions

will be denied.

G. Reimbursement will not be provided for inpatient hospitalization for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period.

H. Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

I. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

[J. The department may waive portions or all of the utilization review documentation requirements of subsections A, D, E, G, or H in writing for specific hospitals from time to time as part of its ongoing hospital utilization review performance evaluation.]

§ 2. Outpatient hospital and rural health clinic services.

2a. Outpatient hospital services.

1. Outpatient hospital services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that:

a. Are furnished to outpatients;

b. Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and

c. Are furnished by an institution that:

(1) Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and

(2) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare.

2. Reimbursement for induced abortions is provided in only those cases in which there would be substantial endangerment of health or life to the mother if the fetus were carried to term.

3. Reimbursement will not be provided for outpatient hospital services for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the invoice for payment, or is a justified emergency or exemption.

2b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.

No limitations on this service.

§ 3. Other laboratory and x-ray services.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

§ 4. Skilled nursing facility services, EPSDT and family planning.

4a. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

4b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

1. Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

3. Eyeglasses are provided only as a result of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and require prior authorization by the Program.

4c. Family planning services and supplies for individuals of child-bearing age.

Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

§ 5. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. These limitations also apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine.

E. Any procedure considered experimental is not covered.

F. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus were carried to term.

G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services

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shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days determined to be medically unjustified will be adjusted.

H. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

I. Reimbursement will not be provided for physician services for those selected elective surgical procedures requiring a second surgical opinion unless a properly executed second surgical opinion form has been submitted with the invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in a retroactive eligibility period.

J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 6. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.

2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting

or removal of corns, warts, or calluses; experimental procedures; acupuncture.

3. The Program may place appropriate limits on a service based on medical necessity or for utilization control, or both.

B. Optometric services.

1. Diagnostic examination and optometric treatment procedures and services (except for orthoptics) by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.

C. Chiropractors' services.

Not provided.

D. Other practitioners' services.

1. Clinical psychologists' services.

a. These limitations apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

b. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

§ 7. Home health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts.

B. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

C. Home health aide services provided by a home health agency.

Home health aides must function under the supervision of a professional nurse.

D. Medical supplies, equipment, and appliances suitable for use in the home.

1. All medical supplies, equipment, and appliances are available to patients of the home health agency.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, and respiratory equipment and oxygen, and ostomy supplies, as preauthorized by the local health department.

E. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.

Service covered only as part of a physician's plan of care.

§ 8. Private duty nursing services.

Not provided.

§ 9. Clinic services.

A. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

B. Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that:

1. Are provided to outpatients;
2. Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and
3. Except in the case of nurse-midwife services, as specified in 42 CFR § 440.165, are furnished by or under the direction of a physician or dentist.

§ 10. Dental services.

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride treatments; routine amalgam and composite restorations; crown recementation; pulpomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical

exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.

C. All covered dental services not referenced above require preauthorization by the state agency. *The following services are also covered through preauthorization: medically necessary full banded orthodontics, tooth guidance appliances, complete and partial dentures, surgical preparation (alveoloplasty) for prosthetics, single permanent crowns, and bridges.* The following services are not covered: full banded orthodontics; permanent crowns and all bridges; removable complete and partial dentures; routine bases under restorations; and inhalation analgesia.

D. The state agency may place appropriate limits on a service based on dental medical necessity, for utilization control, or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray - two films (once/12 months); routine amalgam and composite restorations (once/three years); *dentures (once per 5 years)* and extractions, *orthodontics, tooth guidance appliances*, permanent crowns, and bridges, endodontics, patient education (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

§ 11. Physical therapy and related services.

11a. Physical therapy.

Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11b. Occupational therapy.

Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see General section and subsections 11a and 11b of this section.)

These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when

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otherwise included as an authorized service by a cost provider who provides rehabilitation services.

§ 12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

12a. Prescribed drugs.

1. Nonlegend drugs, except insulin, syringes, needles, diabetic test strips for clients under 21 years of age, and family planning supplies are not covered by Medicaid. This limitation does not apply to Medicaid recipients who are in skilled and intermediate care facilities.

2. Legend drugs, with the exception of anorexiants drugs prescribed for weight loss and transdermal drug delivery systems, are covered. Coverage of anorexiants for other than weight loss requires preauthorization.

3. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

[5. New drugs are not covered until approved by the board, unless a physician obtains prior approval. The new drugs listed in Supplement 1 to the New Drug Review Program regulations (VR 460-05-2000.1000) are not covered.]

12b. Dentures.

Provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

12c. Prosthetic devices.

Not provided.

12d. Eyeglasses.

Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity when provided by practitioners as licensed under the Code of Virginia.

§ 13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

13a. Diagnostic services.

Not provided.

13b. Screening services.

Not provided.

13c. Preventive services.

Not provided.

13d. Rehabilitative services.

1. Medicaid covers intensive inpatient rehabilitation services as defined in § 2.1 in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System.

2. Medicaid covers intensive outpatient rehabilitation services as defined in § 2.1 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs), or when the outpatient program is administered by a rehabilitation hospital or an exempted rehabilitation unit of an acute care hospital certified and participating in Medicaid.

3. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in Attachment 4.19-A.

4. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech therapy, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of rehabilitation.

§ 14. Services for individuals age 65 or older in institutions for mental diseases.

14a. Inpatient hospital services.

Provided, no limitations.

14b. Skilled nursing facility services.

Provided, no limitations.

14c. Intermediate care facility.

Provided, no limitations.

§ 15. Intermediate care services and intermediate care services for institutions for mental disease and mental retardation.

15a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with § 1902 (a)(31)(A) of the Act, to be in need of such care.

Provided, no limitations.

15b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided, no limitations.

§ 16. Inpatient psychiatric facility services for individuals under 22 years of age.

Not provided.

§ 17. Nurse-midwife services.

Covered services for the nurse midwife are defined as those services allowed under the licensure requirements of the state statute and as specified in the Code of Federal Regulations, i.e., maternity cycle.

§ 18. Hospice care (in accordance with § 1905 (o) of the Act).

Not provided.

§ 19. Extended services to pregnant women.

19a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.

The same limitations on all covered services apply to this group as to all other recipient groups.

19b. Services for any other medical conditions that may complicate pregnancy.

The same limitations on all covered services apply to this group as to all other recipient groups.

§ 20. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

20a. Transportation.

Nonemergency transportation is administered by local health department jurisdictions in accordance with reimbursement procedures established by the Program.

20b. Services of Christian Science nurses.

Not provided.

20c. Care and services provided in Christian Science sanatoria.

Provided, no limitations.

20d. Skilled nursing facility services for patients under 21 years of age.

Provided, no limitations.

20e. Emergency hospital services.

Provided, no limitations.

20f. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

Not provided.

VR 460-05-2000.0000. New Drug Review Program.

PART I. GENERAL.

Article 1.

§ 1.1. Definitions.

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

"Board" means the Board of Medical Assistance Services.

"Department of DMAS" means the Department of Medical Assistance Services.

"Director" means the Director of Medical Assistance Services.

"Drug information service" means that professional information service which operates in accordance with the standards of the American Society of Hospital Pharmacists, and which, under specific contract with DMAS, provides unbiased, authoritative, objective, comprehensive, and evaluative packages of information on specific new drug products.

"Food and Drug Administration or FDA" means the United States Food and Drug Administration.

"Investigational New Drug Application or IND" means that application which is the sponsor's submission to the FDA indicating that clinical investigation will take place.

"Medicaid New Drug Review Committee or MNDRC"

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means that committee responsible for evaluating new drug products for the Department of Medical Assistance Services.

"New drug" Means FDA approved NDAs or ANDAs or selected treatment INDs for new chemical entities; new dosage forms of existing covered entities; and selected new strengths of existing products.

"New Drug Application or NDA and Abbreviated New Drug Application or ANDA" means application submitted to FDA.

"New strengths" means those strengths of an already approved and reimbursable drug product which are to be prescribed at a different dosing regimen than the strength already reimbursable by DMAS.

"Treatment Investigational New Drug or Treatment IND" means a drug still in the investigation process but made available for use by patients who are not in the clinical trials but have serious or life-threatening diseases for which satisfactory alternative drugs are not available.

§ 1.2. Purpose of Medicaid New Drug Review Program.

The purpose of the Medicaid New Drug Review Program is to limit coverage of new drug products which have less expensive therapeutic alternatives unless, as mandated by the General Assembly, a physician obtains prior approval for their use. [(This will not apply to new drugs classified as treatment IND's.)

Article 2. Committee Establishment.

§ 1.3. Establishment of committee to review new drugs.

The Director of DMAS shall establish a committee herein called the Medicaid New Drug Review Committee (MNDRC) for the purpose of reviewing new drug products to recommend coverage decisions to the Board.

Article 3. Members and Duties.

§ 1.4. Committee Appointments.

A. The MNDRC shall have 12 voting members, 10 of whom are physicians and 2 of whom are pharmacists. The Director of DMAS shall appoint the physician members from candidates submitted by the Medical Society of Virginia, the Old Dominion Medical Society, and each of the medical schools in the Commonwealth. The physician candidates shall be physicians licensed in Virginia and broadly representative of various medical specialties. The Director shall appoint the pharmacist members from candidates submitted by the Department of Pharmacy at the Medical College of Virginia Hospitals, the Medical College of Virginia/Virginia Commonwealth University School of Pharmacy, the Virginia

Pharmaceutical Association (VPhA), and the Virginia Society of Hospital Pharmacists (VSHP). The Director of DMAS shall invite submission of candidates from each of these groups.

[B. The Director shall appoint a Technical Advisory Panel to advise the Board on any matters relating to the administration of the New Drug Review Program as may be appropriate from time to time. The panel shall consist of four members, one each from the following organizations: one member representing the Pharmaceutical Manufacturers Association, one member representing the Virginia Pharmaceutical Association, one member representing the Virginia Association of Chain Drug Stores, and one DMAS representative.]

[C. B.] The MNDRC [and Technical Advisory Panel] members shall serve at the pleasure of the Director for terms established by him. Vacancies shall be filled in the same manner as the original appointment.

[D. C.] DMAS shall provide staff assistance to the MNDRC and its officers in the routine conduct of its business.

§ 1.5. Duties of the Committee.

A. The committee shall meet no less than quarterly and, in addition, upon call by the Board, the DMAS Director, or any two voting members. A quorum for action by the MNDRC shall be seven voting members.

B. The MNDRC shall elect from among its members a chairman, a vice-chairman, and a secretary. Officers may be elected to successive terms.

C. The secretary of the MNDRC shall keep a full record of the proceedings of the committee. The record shall be open to public inspection at all reasonable times.

D. The MNDRC shall establish such rules as are necessary to conduct its business.

E. The MNDRC shall evaluate a new drug based on, but not limited to, the following factors:

1. The medical/therapeutic benefit of the new drug product under consideration compared to currently available drug products.

2. The comparison of the cost of the new drug product to therapeutically equivalent drug products already reimbursable under Medicaid.

PART II. NEW DRUG REVIEW PROCESS.

Article 1. Applications for Consideration.

§ 2.1. Applications for drug review.

A. Any licensed physician or MNDRC member, or manufacturer or other supplier of a new drug, may petition the MNDRC through the application process to consider a new drug product. The form of application and information required shall be as specified by the Department. The MNDRC may require that all such information be verified by affidavit or oath.

B. DMAS, upon receipt of MNDRC applications, shall acknowledge the receipt and state whether the application and accompanying information are complete.

C. Applications for MNDRC's consideration shall be submitted to:

New Drug Review Committee
Attention: DMAS Pharmacist
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia 23219

D. Persons submitting applications for review of new drugs shall supply the required number of copies of documents indicated on the application form.

[E. New drug applications and supplementary documents received less than 30 days prior to the next committee meeting shall become agenda items for the subsequent meeting.]

Article 2. Review Process.

§ 2.2. Review procedure.

A. The MNDRC shall consider information submitted by a contracting drug information service or any other appropriate source in reaching its decision.

B. The MNDRC shall request the Director or his designee to contract with a drug information service to perform a thorough review and analysis of a new drug for which DMAS has received an application. DMAS shall, upon receipt of the contractor's evaluation, transmit it along with the application for coverage and any other supporting attachments to the committee members.

C. The MNDRC shall review an application which is complete within six months of date of receipt.

D. The Board shall determine coverage of a new drug based on the recommendation rendered by the MNDRC.

E. DMAS shall notify applicants and providers within 60 days of the Board's decision regarding coverage of new drugs.

F. DMAS shall notify an applicant within 10 working days of the Board's decision on coverage. If the coverage is denied, the applicant will be advised of its right to apply for reconsideration after six months.

§ 2.3. Exception Process.

A. Medicaid reimbursement shall not be available for new drugs which have not been approved for coverage by the Board except through a prior approval process developed by DMAS.

B. Physicians who prescribe non-covered new drugs must obtain prior approval for the new drug before reimbursement can be allowed.

§ 2.4. Reconsideration of Denied Coverage.

A. Applicants may not request reconsideration of a coverage denial prior to six months from the date of the denial.

B. Reconsideration of a denial decision shall only be based upon new or previously unavailable relevant and objective information not already considered by the committee.

C. Within six months of the date of receipt, the MNDRC shall review an application for re-consideration which is complete.

VR 460-05-2000.1000. New Drugs Not Covered by Medicaid.

New Drugs Not Covered by Medicaid.

At such time as the Board of Medical Assistance Services makes decisions about which new drugs will not be covered by the Medicaid Program, those new drugs will be listed alphabetically by their chemical names.

BOARD OF MEDICINE

Title of Regulation: VR 465-02-01. Practice of Medicine, Osteopathy, Chiropractic, Podiatry, Clinical Psychology, and Acupuncture.

Statutory Authority: § 54.1-2400 and Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia

Effective Date: December 20, 1989

Summary:

The amendments to the regulation establish a period of time during which no additional charges or fees may be made by the practitioner when a patient responds to public advertisement for free services that include professional examinations or other medical services by a licensed practitioner regulated by the Board of Medicine; establish a new fee for taking the special purpose examination administered by the board; establish a fee for withdrawing an application for licensure by endorsement; and establish a fee for applicants who have passed one component of the

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licensure examination for medicine or osteopathy in another state and request to take the failed component in Virginia.

VR 465-02-01. Practice of Medicine, Osteopathy, Chiropractic, Podiatry, Clinical Psychology, and Acupuncture.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

A. The following words and terms, when used in these regulations, shall have the meaning ascribed to them in 54.1-2900 of the Code of Virginia:

Acupuncture

Board

Clinical psychologist

Practice of clinical psychology

Practice of medicine or osteopathy

Practice of chiropractic

Practice of podiatry

The healing arts.

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

"American institution" means any accredited licensed medical school, college of osteopathic medicine, school of podiatry, chiropractic college, or institution of higher education offering a doctoral program in clinical psychology, located in the United States, its territories, or Canada.

"Approved foreign institution" means any foreign institution that is approved by the board under the provisions of VR 465-02-02, Regulations for Granting Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts.

"Foreign institution" means any medical school, college of osteopathic medicine, school of podiatry, chiropractic college, or institution of higher education offering a doctoral program in clinical psychology, located elsewhere than in the United States, its territories, or Canada.

"Home country" means the country in which a foreign institution's principal teaching and clinical facilities are located.

"Principal site" means the location in the home country

where a foreign institution's principal teaching and clinical facilities are located.

§ 1.2. A separate Virginia State Board of Medicine regulation, VR 465-02-02, Requirements for Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts, is incorporated by reference in these regulations. Prospective applicants for licensure in Virginia who studied at a foreign institution should refer to that regulation in addition to the regulations contained here.

§ 1.3. A separate board regulation, VR 465-01-01, entitled Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia State Board of Medicine, is incorporated by reference in these regulations.

§ 1.4. Advertising ethics.

Any statement specifying a fee for professional services which does not include the cost of all related procedures, services and products which, to a substantial likelihood will be necessary for the completion of the advertised service as it would be understood by an ordinarily prudent person, shall be deemed to be deceptive or misleading, or both. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of prices for specifically described services shall not be deemed to be deceptive or misleading.

Advertising free services, examinations, or treatment and charging for any type of service, examination, or treatment which is performed as a result of and within 72 hours of the initial office visit in response to such advertisement is unprofessional conduct unless such professional services rendered are as a result of a bonafide emergency.

§ 1.5. Vitamins, minerals and food supplements.

A. The use or recommendations of vitamins, minerals or food supplements and the rationale for that use or recommendation shall be documented by the practitioner. The rationale for said use must be therapeutically proven and not experimental.

B. Vitamins, minerals, or food supplements, or a combination of the three, shall not be sold, dispensed, recommended, prescribed, or suggested in toxic doses.

C. The practitioner shall conform to the standards of his particular branch of the healing arts in the therapeutic application of vitamins, minerals or food supplement therapy.

PART II. LICENSURE: GENERAL REQUIREMENTS AND LICENSURE BY EXAMINATION.

§ 2.1. Licensure, general.

A. No person shall practice medicine, osteopathy, chiropractic, podiatry, acupuncture, or clinical psychology in the Commonwealth of Virginia without a license from this board, except as provided in § 4.3, Exemption for temporary consultant, of these regulations.

B. For all applicants for licensure by this board except those in clinical psychology, licensure shall be by examination by this board or by endorsement, whichever is appropriate.

C. Applicants for licensure in clinical psychology shall take the examination of the Virginia State Board of Psychology, which will recommend those qualifying to the Board of Medicine for licensure.

§ 2.2. Licensure by examination.

A. Prerequisites to examination.

1. Every applicant for examination by the Board of Medicine for initial licensure shall:

- a. Meet the educational requirements specified in subdivision 2 or 3 of this subsection;
- b. File the complete application and credentials required in subdivision 4 of this subsection with the executive director of the board not less than 75 days prior to the date of examination; and
- c. Pay the appropriate fee, specified in § 7.1 of these regulations, at the time of filing the application.

2. Education requirements: Graduates of American institutions.

Such an applicant shall be a graduate of an American institution that meets the criteria of subdivision a, b, c, or d of § 2.2 A.2, whichever is appropriate to the profession in which he seeks to be licensed:

- a. For licensure in medicine. The institution shall be a medical school that is approved or accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association, or by the Committee for the Accreditation of Canadian Medical Schools or its appropriate subsidiary agencies or any other organization approved by the board.
- b. For licensure in osteopathy. The institution shall be a college of osteopathic medicine that is approved or accredited by the Committee on Colleges and Bureau of Professional Education of the American Osteopathic Association or any other organization approved by the board.
- c. For licensure in podiatry. The institution shall be a school of podiatry approved and recommended by

the Council on Podiatry Education of the American Podiatry Medical Association or any other organization approved by the board.

d. For licensure in chiropractic.

(1) If the applicant matriculated in a chiropractic college on or after July 1, 1975, he shall be a graduate of a chiropractic college approved by the Commission on Accreditation of the Council of Chiropractic Education or any other organization approved by the board.

(2) If the applicant matriculated in a chiropractic college prior to July 1, 1975, he shall be a graduate of a chiropractic college approved by the American Chiropractic Association or the International Chiropractic Association or any other organization approved by the board.

3. Educational requirements: Graduates and former students of foreign institutions.

a. No person who studied at or graduated from a foreign institution shall be eligible for board examination unless that institution has been granted approval by the board according to the provisions of VR 465-02-02, Regulations for Granting Approval of Foreign Medical Schools and Other Foreign Institutions That Teach the Healing Arts.

b. A graduate of an approved foreign institution applying for board examination for licensure shall also present documentary evidence that he:

(1) Was enrolled and physically in attendance at the institution's principal site for a minimum of two consecutive years and fulfilled at least half of the degree requirements while enrolled two consecutive academic years at the institution's principal site.

(2) Received a degree from the institution; and

(3) Has fulfilled the applicable requirements of §§ 54.1-2930 and 54.1-2935 of the Code of Virginia.

c. A graduate of an approved foreign institution applying for examination for licensure in medicine or osteopathy shall also possess a standard Educational Council of Foreign Medical Graduates certificate (ECFMG), or its equivalent. Proof of licensure by the board of another state or territory of the United States or a Province of Canada may be accepted in lieu of ECFMG certification.

d. An applicant for examination for licensure in medicine who completed all degree requirements except social services and postgraduate internship at an approved foreign institution shall be admitted to examination provided that he:

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(1) Was enrolled at the institution's principal site for a minimum of two consecutive years and fulfilled at least half of the degree requirements while enrolled at the institution's principal site;

(2) Has qualified for and completed an appropriate supervised clinical training program as established by the American Medical Association;

(3) Has completed the postgraduate hospital training required of all applicants for licensure as defined in §§ 54.1-2930 and 54.1-2935 of the Code of Virginia; and

(4) Presents a document issued by the approved foreign institution certifying that he has met all the formal requirements of the institution for a degree except social services and postgraduate internship.

These regulations are promulgated pursuant to § 54.1-2958 of the Code of Virginia and shall not be deemed to apply to graduates of foreign medical schools who matriculated before July 1, 1985. By resolution adopted at a public meeting on November 20, 1982, the board voted to promulgate the following regulations to be effective July 1, 1985, thereby placing potential foreign medical students on notice that such regulations would become effective on said date. Foreign medical students matriculating on and after July 1, 1985, should take care to determine whether their school satisfies these regulations before applying for licensure in Virginia. Inquiries may be directed to the board office at 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005, (804) 662-9908.

4. Credentials to be filed prior to examination.

Applicants shall file with the executive director of the board, along with their applications for board examination (and at least 75 days prior to the date of examination) the credentials specified in subdivisions a, b, or c of § 2.2 A.4, whichever are appropriate:

a. Every applicant who is a graduate of an American institution shall file:

(1) Documentary evidence that he received a degree from the institution; and

(2) A complete chronological record of all professional activities since graduation, giving location, dates, and types of services performed.

b. Every applicant who attended a foreign institution shall file:

(1) The documentary evidence of education required by subdivisions 3.b, c, or d of this subsection, whichever is or are appropriate;

(2) For all such documents not in the English

language, a translation made and endorsed by the consul of the home country of the applicant or by a professional translating service; and

(3) A complete chronological record of all professional activities since the applicant attended the foreign institution, giving location, dates, and types of services performed.

c. Every applicant discharged from the United States military service within the last 10 years shall in addition file with his application a notarized photostatic copy of his discharge papers.

B. Applicants for licensure by board examination shall take the appropriate examination prescribed by the board as provided in § 3.1 Examinations, of these regulations.

§ 2.3. Supervision of unlicensed persons practicing as psychologists in exempt settings.

A. Supervision.

Pursuant to subdivision 4 of § 54.1-3601 of the Code of Virginia, supervision by a licensed psychologist, shall mean that the supervisor shall:

1. Provide supervision of unlicensed personnel who are providing psychological services as defined in § 54.1-3600 and who are functioning in practice and title as a professional psychologist, including the review of assessment protocols, intervention plans and psychological reports, with review denoted by countersignature on all client records and reports as specified in the required protocols within 30 days of origination;

2. Determine and carry out instructional and evaluative consultation with supervisees appropriate to their levels of training and skill, and adjust their service delivery according to current standards of professional practice; and

3. Supervise only those psychological services that fall within the supervisor's area of competence as demonstrated by his own professional practice and experience.

B. Reporting.

A clinical psychologist who is providing supervision, as provided for in subdivision 4 of § 54.1-3601, shall:

1. Submit to the board, within 120 days of the effective date of this regulation, a copy of the supervisory protocol established for each unlicensed supervisee and signed by the supervisor, supervisee, and authorized representative of the institution or agency.

2. Notify the board of any changes in supervisory

relationships, including terminations or additions, prior to or within 10 days of such change, with copies of supervisory protocol for all new supervisory relationships to follow within 30 days of such notice.

PART III. EXAMINATIONS.

§ 3.1. Examinations, general.

The following general provisions shall apply for applicants taking Board of Medicine examinations:

A. Applicants may take Parts I and II of the Federation Licensing Examination (FLEX) separately or as a unit. However, in no case shall an applicant who has not passed Part I be eligible to sit for Part II as a separate examination.

B. A minimum score of 75 is required for passing each part of the examination for licensure administered or recognized by the board.

§ 3.2. Reexamination.

An applicant for licensure by examination who fails three consecutive attempts to pass the examination(s) administered by the board shall be eligible to sit for another series of three consecutive attempts upon presenting proof to the Credentials Committee of the board that he has fulfilled the requirements of subsection A, B, or C of this section, whichever is appropriate.

A. An applicant for licensure in medicine or osteopathy who fails three consecutive attempts to pass Part I and Part II of the FLEX examination in Virginia or any other state or territory of the United States, the District of Columbia, or Province of Canada, shall engage in one year of additional postgraduate training to be obtained in a hospital in the United States or Canada approved by the American Medical Association or the American Osteopathic Association.

B. An applicant for licensure in podiatry who fails three consecutive attempts to pass the Virginia examination administered by the board shall appear before the Credentials Committee of the board and shall engage in such additional postgraduate training as may be deemed appropriate by the Credentials Committee.

C. An unsuccessful candidate for chiropractic licensure after each series of three unsuccessful attempts for licensure by examination, shall engage in one year of additional professional training approved by the board before he will be eligible to retake another series of examinations.

§ 3.3. Administration of examination.

A. The board may employ monitors for the examination.

B. For examinations given by the board other than those for which answer sheets are furnished, plain paper shall be used, preferably white, and no reference shall be made indicating either school or date of graduation. One side of paper only may be written upon and as soon as each sheet is finished, it shall be reversed to prevent its being read by others.

C. Questions will be given out and papers collected punctually at the appointed time and all papers shall be handed in at once when expiration time is announced by the chief proctor.

D. Sections of the examination shall be in such sequence as may be determined by the Federation Licensure Examination (FLEX) Committee or appropriate testing agency.

E. The order of examination shall be posted or announced at the discretion of the board. If the board has no objections, the examiners may exchange hours or days of monitoring the examination.

F. For the guidance of examiners and examinees, the following rules shall govern the examination.

1. Only members of the board, office staff, proctors, and applicants shall be permitted in the examination room, except by consent of the chief proctor.

2. Applicants shall be seated as far apart as possible at desks or desk chairs and each shall have in plain view an admission card bearing his number and photograph.

3. No examinee shall have any compendium, notes or textbooks in the examination room.

4. Any conversation between applicants will be considered prima facie evidence of an attempt to give or receive assistance.

5. Applicants are not permitted to leave the room except by permission of and when accompanied by an examiner or monitor.

6. The use of unfair methods will be grounds to disqualify an applicant from further examination at that meeting.

7. No examiner shall tell an applicant his grade until the executive director has notified the applicant that he has passed or failed.

8. No examination will be given in absentia or at any time other than the regularly scheduled examination.

9. The chief proctor shall follow the rules and regulations recommended by the FLEX Test Committee or other testing agencies.

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§ 3.4. Scoring of examination.

Scores forwarded to the executive director shall be provided to the candidate within 30 days or receipt of the scores provided by the testing service.

PART IV. LICENSURE BY ENDORSEMENT.

§ 4.1. Licensure by endorsement.

A. An applicant for licensure by endorsement will be considered on his merits and in no case shall be licensed unless the Credentials Committee is satisfied that he has passed an examination equivalent to the Virginia Board of Medicine examination at the time he was examined and meets all other requirements of the Virginia Board of Medicine.

B. A Doctor of Medicine who meets the requirements of the Virginia Board of Medicine and has passed the examination of the National Board of Medical Examiners, FLEX, or the examination of the Licensing Medical Council of Canada may be accepted for licensure by endorsement without further examination.

C. A Doctor of Osteopathy who meets the requirements of the Virginia Board of Medicine and has passed the examination of the National Board of Osteopathic Examiners may be accepted for licensure by endorsement without further examination.

D. A Doctor of Podiatry who meets the requirements of the Virginia Board of Medicine and has passed the National Board of Podiatry Examiners examination and has passed a clinical competence examination equivalent to the Virginia Board of Medicine examination may be accepted for licensure by endorsement without further examination.

E. A Doctor of Chiropractic who meets the requirements of the Virginia Board of Medicine, who has passed the National Board of Chiropractic Examiners examination, and has passed an examination equivalent to the Virginia Board of Medicine Part III examination, may be accepted for licensure without further examination.

§ 4.2. Licensure to practice acupuncture.

Acupuncture is an experimental therapeutic procedure, used primarily for the relief of pain, which involves the insertion of needles at various points in the human body. There are many acupuncture points, and these points are located on most portions of the human body. Insufficient information is available regarding the general usefulness of acupuncture and the risks attendant. Among the risks that attend upon it are the possibilities of prolonged and inappropriate therapy. It is clear that the administration of acupuncture is accompanied by the possibility of serious side effects and injuries, and there are reported cases of such injuries. Possible complications and injuries include

peritonitis, damage from broken needles, infections, serum hepatitis, acquired immunity deficiency syndrome, pneumothorax, cerebral vascular accident (stroke), damage to the eye or the external or middle ear, and the inducement of cardiac arrhythmia.

In the judgment of the board, acupuncture shall be performed only by those practitioners of the healing arts who are trained and experienced in medicine, as only such a practitioner has (i) skill and equipment to determine the underlying cause of the pain; (ii) the capability of administering acupuncture in the context of a complete patient medical program in which other methods of therapeutics and relief of pain, including the use of drugs and other medicines, are considered and coordinated with the acupuncture treatment; and (iii) skill and training which will minimize the risks attendant with its use.

Based on the foregoing considerations, the board will license as acupuncturists only doctors of medicine, osteopathy, and podiatry, as only these practitioners have demonstrated a competence in medicine by passing the medicine/osteopathy licensure examination or podiatry licensure examination.

A. No person shall practice acupuncture in the Commonwealth of Virginia without being licensed by the board to do so.

B. The board shall license as acupuncturists only licensed doctors of medicine, osteopathy, and podiatry. Such licensure shall be subject to the following conditions:

The applicant shall first have obtained:

1. At least 100 hours of instruction in general and basic aspects, specific uses and techniques of acupuncture and indications and contraindications for acupuncture administration; and

2. At least 100 hours of supervised clinical experience approved by the Board of Medicine and under the supervision of a currently licensed physician in acupuncture.

C. A podiatrist may use acupuncture only for treatment of pain syndromes originating in the human foot.

D. The licensee shall maintain records of the diagnosis, treatment and patient response to acupuncture and shall submit records to the board upon request.

§ 4.3. Exemption for temporary consultant.

A. A practitioner may be exempted from licensure in Virginia if:

1. He is authorized by another state or foreign country to practice the healing arts;

2. Authorization for such exemption is granted by the

executive director of the board; and

3. The practitioner is called in for consultation by a licensee of the Virginia State Board of Medicine.

B. Such practitioner shall not open an office or designate a place to meet patients or receive calls from his patient within this Commonwealth, nor shall he be exempted from licensure for more than two weeks unless such continued exemption is expressly approved by the board upon a showing of good cause.

PART V. RENEWAL OF LICENSE; REINSTATEMENT.

§ 5.1. Renewal of license.

Every licensee who intends to continue his practice shall renew his license biennially during his birth month and pay to the board the renewal fee prescribed in § 7.1, Fees ..., of these regulations.

A. A practitioner who has not renewed his license by the first day of the month following the month in which renewal is required shall be dropped from the registration roll.

B. An additional fee to cover administrative costs for processing a late application shall be imposed by the board. The additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

§ 5.2. Reinstatement of lapsed license.

A practitioner who has not renewed his certificate in accordance with § 54.1-2904 of the Code of Virginia for two successive years or more and who requests reinstatement of licensure shall:

A. Submit to the board a chronological account of his professional activities since the last renewal of his license; and

B. Pay the reinstatement fee prescribed in § 7.1 of these regulations.

PART VI. ADVISORY COMMITTEES AND PROFESSIONAL BOARDS.

§ 6.1. Advisory committees to the board.

A. Advisory Committee on Acupuncture.

The board may appoint an Advisory Committee on Acupuncture from licensed practitioners in this Commonwealth to advise and assist the board on all matters relating to acupuncture. The committee shall consist of three members from the state-at-large and two members from the board. Nothing herein is to be construed to make any recommendation by the Advisory

Committee on Acupuncture binding upon the board. The term of office of each member of the committee shall be for one year or until his successor is appointed.

B. Psychiatric Advisory Committee.

1. The board may appoint a Psychiatric Advisory Committee from licensed practitioners in this Commonwealth to examine persons licensed under these regulations and advise the board concerning the mental or emotional condition of such person when his mental or emotional condition is an issue before the board. Nothing herein is to be construed to make any recommendations by the Psychiatric Advisory Committee binding upon the Board of Medicine.

2. The term of office for each member of the Psychiatric Advisory Committee shall be one year or until his successor is appointed.

PART VII. FEES REQUIRED BY THE BOARD.

§ 7.1. Fees required by the board are:

A. Examination fee for medicine or osteopathy: The fee for the Federation Licensing Examination (FLEX) for Component I shall be \$275 and Component II shall be \$275.

B. Examination fee for podiatry: The fee for the Virginia Podiatry Examination shall be \$250.

C. Examination fee for chiropractic: The fee for the Virginia Chiropractic Examination shall be \$250.

D. The fees for taking the FLEX, podiatry, and chiropractic examination are nonrefundable. An applicant may, upon request 21 days prior to the scheduled exam, and payment of a \$100 fee, reschedule for the next time such examination is given.

E. The fee for rescoring the Virginia Chiropractic Examination or the Virginia Podiatry Examination shall be \$75.

F. Certification of licensure: The fee for certification of licensure/grades to another state or the District of Columbia by the board shall be \$25. The fee shall be due and payable upon submitting the form to the board.

G. The fee for a limited license issued pursuant to § 54.1-2936 of the Code of Virginia shall be \$125. The annual renewal is \$25.

H. The fee for a duplicate certificate shall be \$25.

I. Biennial renewal of license: The fee for renewal shall be \$125, due in the licensee's birth month. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional

Final Regulations

fee for late renewal of licensure shall be \$25 for each renewal cycle.

J. The fee for requesting reinstatement of licensure pursuant to § 54.1-2921 of the Code of Virginia shall be \$750.

K. The fee for a temporary permit to practice medicine pursuant to § 54.1-2927 B of the Code of Virginia shall be \$25.

L. The fee for licensure by endorsement for medicine, osteopathy, chiropractic, and podiatry shall be \$300. *A fee of \$150 shall be retained by the board for a processing fee upon written request from the applicant to withdraw his application for licensure.*

M. The fee for licensure to practice acupuncture shall be \$100. The biennial renewal fee shall be \$80, due and payable by June 30 of each even-numbered year.

N. Lapsed license: The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904, which has expired for a period of two years or more, shall be \$250 and shall be submitted with an application for licensure reinstatement.

O. The fee for a limited license issued pursuant to § 54.1-2937 shall be \$10 a year. An additional fee for late renewal of licensure shall be \$10.

P. The fee for a letter of good standing/verification to another state for a license shall be \$10.

Q. *The fee for taking the Special Purpose Examination (SPEX) shall be \$350. The fee shall be nonrefundable.*

R. *Any applicant having passed one component of the FLEX examination in another state shall pay \$325 to take the other component in the Commonwealth of Virginia.*

HRB-3006
11-1987

COMMONWEALTH of VIRGINIA
DEPT. OF HEALTH PROFESSIONS
BOARD OF MEDICINE
100 ROLLING HILLS DR.
RICHMOND, VA 22203-6005

EXAM _____
END _____

**APPLICATION
FOR A
CERTIFICATE
TO PRACTICE
MEDICINE/OSTEOPATHY**

SECURELY PASTE A PASSPORT-TYPE
PHOTOGRAPH NOT LESS THAN
2 1/4" x 2 1/4" IN THIS SPACE

PLEASE SIGN PHOTO

TO THE BOARD OF MEDICINE OF VIRGINIA:
I HEREBY MAKE APPLICATION FOR A CERTIFICATE TO PRACTICE
MEDICINE/OSTEOPATHY IN THE STATE OF VIRGINIA AND SUBMIT
THE FOLLOWING STATEMENTS:

1. NAME IN FULL (PLEASE PRINT OR TYPE)

| | | | | | | | |
|---|------------|---------------------|---------|--------------------------|---------|--------------------|--|
| (LAST) | | (FIRST) | | (MIDDLE/MAIDEN) | | (GENDER) | |
| (STREET) | | | | (CITY) | | (STATE) (ZIP CODE) | |
| (DATE OF BIRTH) | | (PLACE OF BIRTH) | | (SOCIAL SECURITY NUMBER) | | | |
| (GRADUATION DATE) | | (PROF. SCH. DEGREE) | | (SCHOOL, CITY, STATE) | | | |
| PLEASE INDICATE SPECIALTIES: IS IT YOU ARE BOARD CERTIFIED--IF YOU ARE NOT (FOREIGN GRADS ONLY) ECFMG CERT. NO. | | | | | | | |
| 1. OPLNATE | 2. OPLNATE | 3. OPLNATE | 4. SPEC | 5. SPEC | 6. SPEC | | |

APPLICANTS DO NOT USE SPACES BELOW THIS LINE -- FOR OFFICE USE ONLY

APPROVED BY: _____

| | | | | | | |
|------------------|---------------|-------------------|-------------|---------------|------------|--------------|
| (CLASS) | (LICENSE NO.) | (SUFFIX) | (SCH. CODE) | (FEE) | (HOW REG.) | (BASE STATE) |
| (LICENSE NO.) | | (EXPIRATION DATE) | | (DATE ISSUED) | | |
| (ADDRESS CHANGE) | | | | | | |
| (STREET) | | (CITY) | | (STATE) | | (ZIP CODE) |

PLEASE SUBMIT ADDRESS CHANGES IN WRITING IMMEDIATELY
**PLEASE ATTACH (BY FIRST CHECK OR MONEY ORDER APPLICATIONS WILL NOT BE PROCESSED WITHOUT THE APPROPRIATE FEE

FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES, INC.
 APPLICATION FOR FLEX: COMPONENT 1 AND/OR COMPONENT 2
PART A — To Be Completed By Applicant.

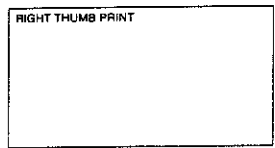
PAGE 4

AFFIDAVIT OF APPLICANT:

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present) and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia State Board of Medicine any information, files, or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my license to practice medicine and surgery in the state of Virginia.



 SIGNATURE OF APPLICANT
 * * * — THIS MUST BE NOTARIZED — * * *

IF RIGHT THUMB IS MISSING, USE LEFT AND SO INDICATE.

NOTARY: City/County of _____ State of _____ Subscribed and Sworn to before me this _____ day of _____ 19____

My Commission Expires _____ NOTARY PUBLIC

NOTARY SEAL

CERTIFICATE OF MEDICAL EDUCATION

It is hereby certified that _____ of _____ matriculated in _____ at _____ date _____ attended _____ courses of lectures of _____ months each, and received a diploma from _____ conferring the degree of _____

DATE

SCHOOL SEAL

(PRESIDENT, SECRETARY or DEAN)

FOREIGN MEDICAL GRADUATES — Attach a notarized copy of your diploma and transcript of grades from medical school, with an ENGLISH translation.

Print all information. Complete all 12 items and return this form to the state medical board for which you are taking FLEX.

| | | | | | | | |
|---|--|---|--|----------------------------------|--|--|--|
| 1. NAME | | Last (Surname) | | First and Middle Name or Initial | | ALTERNATE SURNAME: To be filled out only by individuals who used another name for FLEX previously. | |
| 2. DATE OF BIRTH | | 3. SOCIAL SECURITY NUMBER | | 4. SEX | | Used to assure identification. | |
| 5. CITIZENSHIP UPON ENTERING MEDICAL SCHOOL | | 6. MEDICAL EDUCATION | | 7. SPECIALTY | | 8. PREVIOUSLY TAKEN FLEX? | |
| 9. OTHER EXAMINATIONS TAKEN | | 10. FEDERATION IDENTIFICATION NUMBER (FIN) IF KNOWN | | 11. DATE OF THIS APPLICATION | | 12. APPLICATION STATEMENT & SIGNATURE | |

PART B — To Be Completed By State Board.

| | |
|--|--------------------------------------|
| 1. STATE FOR WHICH FLEX IS BEING TAKEN | 2. APPLICANT'S STATE BOARD ID NUMBER |
| 3. TEST CENTER & DATE OF EXAMINATION | 4. LICENSURE HISTORY |
| 5. EXAMINATION(S) FOR WHICH REGISTERED | |

Exam

Please complete top portion and forward one form to each State Medical Board where you hold or have held a medical license. Extra copies may be xeroxed if needed.

NOTE: Some states require a fee, paid in advance, for providing clearance information. To expedite, you may wish to contact the applicable state/s.

CLEARANCE FROM OTHER STATE BOARDS

I was granted license # _____ on _____ by the state of _____. The Virginia Board of Medicine requests that I submit evidence that my license in the state of _____ is in good standing. You are hereby authorized to release any information in your files, favorable, or otherwise, directly to the Virginia Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia. Your early attention is appreciated.

Signature _____

(Please print or type name)

EXECUTIVE OFFICE OF STATE BOARD:

Please complete and return this form to the Virginia Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005.

State of _____ Name of Licensee _____

Graduate of _____ License # _____

Issued _____ by reciprocity/endorsement _____

by examination _____ License is current _____ lapsed _____

Has applicant's license ever been suspended or revoked? _____

If so, for what reason? _____

Derogatory information, if any _____

Comments, if any _____

(BOARD SEAL)

Signature _____

Title _____

MC _____

END _____

EXAM X

EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES
3624 Market Street
Philadelphia, PA 19104

Please certify that the following applicant for licensure in Virginia has a Standard ECFMG Certificate.

(Name of Applicant) ECFMG # _____

APPLICANTS DO NOT COMPLETE BELOW - - - FOR ECFMG USE ONLY

This is to certify that _____
(Full Name of Applicant)

was granted the Commission for Foreign Medical Graduates Standard Certificate

Number _____ on the _____ day of _____, 19 _____

This certificate is:

- 1. _____ Valid Indefinitely
- 2. _____ Under Investigation
- 3. _____ Recertified (Date)
- 4. _____ Other (Explain)

Signature _____
Executive Director

Date _____

Please return directly to:

Virginia State Board of Medicine
1601 Rolling Hills Drive
Richmond, Virginia 23229-5005

(Seal of ECFMG)

FLEX STATUS REPORT

TO THE FLEX APPLICANT:

As a part of your application to sit the FLEX, you are required to request that a report verifying your current FLEX status be sent directly to this board by the Federation of State Medical Boards of the United States. This status report will indicate if and when you previously sat FLEX. It will also include information on any disciplinary action taken against you by any medical licensing jurisdiction. (FLEX scores from previous sittings, if any, will not be reported.)

The fee for the FLEX Status Report is \$15, payable by a cashier's check or money order made to the Federation of State Medical Boards of the United States. Personal checks are not accepted.

Complete the form below and mail it, along with the \$15 fee, to the address indicated. The Federation will report directly to this board.

(MUST BE PRINTED OR TYPED)

MAIL TO:

FEDERATION OF STATE MEDICAL BOARDS, INC.
2630 West Freeway, Suite 138
Fort Worth, Texas 76102-7199

I am applying to take the FLEX in the state of _____ and hereby request that you forward a FLEX Status Report to that state medical board. The board requires the report be submitted by _____ / _____ / _____
(MONTH) (DAY) (YEAR)

FULL NAME: _____
(FIRST) (MIDDLE) (LAST)

OTHER NAMES USED/MAIDEN NAME: _____

ADDRESS: _____

DATE OF BIRTH: _____ / _____ / _____ COUNTRY OF BIRTH: _____
(MONTH) (DAY) (YEAR)

MEDICAL SCHOOL: _____

YEAR GRADUATED: _____ COUNTRY IN WHICH MEDICAL SCHOOL IS LOCATED: _____

SOCIAL SECURITY NUMBER: _____ - _____ - _____ ECFMG NUMBER (if any): _____

(MUST BE PRINTED OR TYPED)

- THIS IS NOT A REQUEST FOR FLEX TRANSCRIPTS OR SCORES -

VIRGINIA

REQUEST FOR PHYSICIAN PROFILE

This form is to be completed by the physician (whether a member or not) and mailed directly to one of the following:

American Medical Association
Department of Data Release
535 N. Dearborn
Chicago, Illinois 60610

OR

American Osteopathic Association
Dept. of Membership and Info. Services
212 East Ohio Street
Chicago, Illinois 60611

PLEASE PRINT OR TYPE

FULL NAME: _____
First Middle Last

ADDRESS: _____
Street City State Zip

DATE OF BIRTH: _____ PLACE OF BIRTH: _____

MEDICAL/OSTEOPATHIC SCHOOL: _____

DATE OF GRADUATION: _____

ECFMG # IF FOREIGN MEDICAL GRADUATE: _____

STATE(S) IN WHICH LICENSE(S) ARE HELD: 1) _____ 2) _____

LICENSE NUMBER(S): 1) _____ 2) _____

DATE(S) ISSUED: 1) _____ 2) _____

Requesting organization: VIRGINIA BOARD OF MEDICINE
1601 Rolling Hills Drive
Richmond, Virginia 23229

(AMA/ADA -- Please return information to above address.)

Purpose of Request for information: _____

Final Regulations

DEPARTMENT OF MOTOR VEHICLES (COMMISSIONER OF)

Title of Regulation: VR 485-50-8901. Virginia Commercial Driver's License Regulations.

Statutory Authority: §§ 46.2-203 and 46.2-341.5 of the Code of Virginia.

Effective Date: January 1, 1990

Summary:

These regulations establish certain licensing requirements and standards for commercial drivers, as permitted or required by the Virginia Commercial Driver's License Act (House Bill 1675, enacted by the 1989 General Assembly), and the federal Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-750).

These licensing requirements and standards relate to: (i) the licensing of new residents and nonresidents; (ii) the satisfaction of vision requirements; and (iii) the administration of commercial driver's license skills tests by third parties, or persons other than DMV employees.

Changes made after publication of the proposed regulations were made to clarify existing provisions.

VR 485-50-8901. Virginia Commercial Driver's License Regulations.

PART I. PURPOSE AND DEFINITIONS.

§ 1.1. Purpose.

The purpose of these regulations is to establish certain rules and standards which govern the licensing of drivers of commercial motor vehicles by the Department of Motor Vehicles. Part II of these regulations establishes guidelines for determining whether a new Virginia resident, who holds a commercial driver's license from another state, will be required to take the knowledge and skills tests to obtain a Virginia commercial driver's license. Part III of these regulations establishes the requirements for obtaining a "nonresident commercial driver's license" in Virginia. Part IV sets forth special rules for demonstrating that CDL applicants meet the vision standards established for commercial driver's as well as rules for obtaining a waiver of such standards. Part V sets forth rules and procedures for the administration of third party testing programs, by which persons other than employees of the Department of Motor Vehicles will be permitted to administer the skills test required of commercial driver's license applicants.

§ 1.2. Definitions.

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

"CDL" means a commercial driver's license as defined in Title 46.2 of the Code of Virginia.

"Department" means the Virginia Department of Motor Vehicles.

"DOT" means Federal Department of Transportation.

"Employee" means a payroll employee or person employed under lease or contract, or a person who has applied for employment and whose employment is contingent upon obtaining a CDL.

"Employer" means a person who owns or leases commercial motor vehicles and assigns employees to drive such vehicles.

"FMCSR" means the Federal Motor Carrier Safety Regulations adopted by the United States Department of Transportation pursuant to the Motor Carrier Safety Act of 1984 (49 U.S.C. § 2501 et seq.).

"Person" means a natural person, firm, partnership, association, corporation, or a governmental entity including a school board.

"Third party tester" means a person certified by the department to administer a skills test program for testing CDL applicants in accordance with these regulations.

"Third party examiner" means an individual who is [a payroll an] employee of a third party tester and who is certified by the department to conduct the skills test required for a CDL.

"Va. MCSR" means the Virginia Motor Carrier Safety Regulations adopted by the Virginia Department of State Police pursuant to § 52-8.4 of the Code of Virginia.

PART II. WAIVER OF CERTAIN TEST REQUIREMENTS FOR PERSONS WITH COMMERCIAL DRIVER'S LICENSES FROM OTHER STATES.

§ 2.1. Any person who holds a valid CDL from another state, who moves to Virginia and who intends to operate commercial motor vehicles, must apply to the department for a Virginia CDL within 30 days after becoming domiciled in Virginia.

Except as provided in § 2.2 of these regulations, if the department determines that such applicant is otherwise eligible for a CDL, the department will issue him a Virginia CDL with the same classification and endorsements as his CDL from another state, without requiring him to take the knowledge or skills test required for such CDL.

§ 2.2. Any such applicant who seeks to obtain a Virginia CDL with a hazardous materials endorsement will be required to take the hazardous materials knowledge test unless his CDL from another state, which bears a hazardous materials endorsement, was either issued or renewed within the two year period preceding his application for a Virginia CDL.

**PART III.
REQUIREMENTS FOR "NONRESIDENT CDL" FOR
PERSONS DOMICILED OUTSIDE THE UNITED
STATES.**

§ 3.1. Any person who is (i) domiciled in a jurisdiction outside of the United States which does not have commercial motor vehicle testing and licensing standards that meet the requirements of the Federal Highway Administration, (ii) has resided in Virginia for a minimum of six weeks, and (iii) is employed in a position that requires him to have a CDL, may apply to the department for a "nonresident CDL."

§ 3.2. Any such person must satisfy all statutory and regulatory requirements for obtaining a CDL and, in addition, must appoint his employer as his agent for the purpose of receiving notices and other legal process from the department.

**PART IV.
RULES RELATING TO VISION REQUIREMENTS FOR
COMMERCIAL DRIVER'S LICENSE APPLICANTS.**

§ 4.1. Optional method of demonstrating satisfaction of visual standard's for commercial driver's license applicants.

Any person who applies for a CDL and who is required as a part of his examination to demonstrate that his vision meets the standards of [~~§ 46.1-357.2(b)~~ § 46.2-311 B] of the Code of Virginia may satisfy that requirement by submitting to the department a copy of the medical examination report form which was used as the basis for the Medical Examiner's Certificate, which is required of most commercial drivers by the FMCSRs [;] and the VA MCSR's. The Medical Examiner's Certificate must also be submitted with the medical examination report form. [The provisions of this section shall not limit the department's authority to require an examination pursuant to § 46.2-322.]

§ 4.2. Waiver of vision standards for CDL applicant pursuant to [~~§ 46.1-357.2(e)~~ § 46.2-311 E] .

A. The department may waive the vision requirements of [~~§ 46.2-357.2(b)~~ § 46.2-311 B] for any CDL applicant who either (i) is subject to the FMCSRs, but is exempt from the vision standards of those regulations pursuant to 49 C.F.R. [§] 391.71, or (ii) is not [~~subject to~~ required to meet the vision standards specified in 49 C.F.R. § 391.41 of] the FMCSRs.

B. In order to determine whether such a waiver would unduly endanger the public safety, the department shall require such CDL applicant to submit a special waiver application and to provide all medical information relating to his vision which may be requested by the department. The department may require such CDL applicant to take a road test [administered by the department,] before determining whether to grant a waiver. If a waiver is granted, the department may subject the applicant's use of a commercial motor vehicle to reasonable restrictions, which shall be noted on the CDL. If a waiver is granted, the department may also limit the validity period of the CDL, and the expiration date shall be noted on the CDL.

**PART V.
THIRD PARTY SKILLS TESTING FOR COMMERCIAL
DRIVERS.**

§ 5.1. Purpose.

The purpose of this Part is to establish procedures to permit persons other than employees of the department to conduct the skills test required of CDL applicants. Third party testers will be authorized to issue skills test certificates which will be accepted by the department as evidence of satisfaction of the skills test component of the CDL examination. Authority to issue skills test certificates will be granted only to third party testers certified by the Department.

§ 5.2. Requirements for third party testers.

A. To qualify for certification, a third party tester must:

1. Make application to and enter into an agreement with the department as provided in § 5.4 of these regulations;
2. Maintain a place of business in Virginia;
3. Have at least one certified third party examiner in his employ;
4. Ensure that all third party examiners in his employ are certified and comply with the requirements of §§ 5.3 and 5.8 of these regulations;
5. Permit the department and the Federal Highway Administration of the Department of Transportation to examine records that relate to the third party testing program and to audit his testing program;
6. Maintain at a Virginia location, for a minimum of two years after a skills test is conducted, a record of each driver for whom the third party tester conducts a skills test, whether or not the driver passes or fails the test. Each such record shall include:
 - a. The complete name of the driver;
 - b. The driver's social security number or other

Final Regulations

driver's license number and the name of the state or jurisdiction that issued the license held by driver at the time of the test;

c. The date the driver took the skills test;

d. The test score sheet(s) showing the results of the skills test, and a copy of the skills test certificate, if issued;

e. The name and certification number of the third party examiner conducting the skills test; and

f. Evidence of the driver's employment with the third party tester at the time the test was taken. If the third party tester is a school board which tests drivers who are trained but not employed by the school board, evidence that (i) the driver was employed by a school board at the time of the test, and (ii) the third party tester trained the driver in accordance with the Virginia School Bus Driver Training Curriculum Guide.

7. Maintain at a Virginia location, a record of each third party examiner in the employ of the third party tester. Each record shall include:

a. Name and social security number;

b. Evidence of the third party examiner's certification by the department;

c. A copy of the third party examiner's current driving record, which must be updated annually;

d. Evidence that the third party examiner is [a payroll an] employee of the third party tester; and

e. If the third party tester is a school board, a copy of the third party examiner's certification of instruction, issued by the Virginia Department of Education;

8. Retain the records required in paragraph 7 above for at least two years after the third party examiner leaves the employ of the third party tester;

9. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance with the requirements of [§ 10 §§ 5.9] and [§ 11 5.10] of these regulations and the instructions provided by the department; and

10. Maintain compliance with all applicable provisions of these regulations and the third party tester agreement executed pursuant to § 5.4.

B. In addition to the requirements listed in subsection A above, all third party testers who are not governmental entities must:

1. Be engaged in a business involving the use of commercial motor vehicles, which business has been in operation in Virginia for a minimum of one year;

2. Employ at least 75 Virginia licensed drivers of commercial motor vehicles, during the 12 month period preceeding the application, including part time and seasonal drivers. This requirement may be waived by the department pursuant to [§ 12 § 5.11];

3. If subject to the FMCSRs [; and rated by the federal Department of Transportation,] maintain a [DOT] rating of "satisfactory"; and

4. Comply with the Va MCSRs.

§ 5.3. Requirements for third party examiners.

A. Third party examiners may be certified to conduct skills tests on behalf of only one third party tester at any given time. If a third party examiner leaves the employ of a third party tester he must be recertified in order to conduct skills tests on behalf of a new third party tester.

B. To qualify for certification as a third party examiner, an individual must:

1. Make application to the department as provided in [§ 5 § 5.4] of these regulations;

2. Be [a payroll an] employee of the third party tester;

3. Possess a valid Virginia CDL with the classification and endorsements required for operation of the class and type of commercial motor vehicle used in skills tests conducted by the examiner;

4. Satisfactorily complete third party examiner training course(s) required by the department;

5. Within three years prior to application have had no driver's license suspensions, revocations or disqualifications;

6. At the time of application have no more than six demerit points on his driving record and not be on probation under the Virginia Driver Improvement Program;

7. Within three years prior to application, have had no conviction for any offense listed in [§§ 46.1-372.17 or 46.1-372.18 § 46.2-341.18 or § 46.2-341.19] of the Code of Virginia, whether or not such offense was committed in a commercial motor vehicle;

8. If the examiner is employed by a school board, be certified by the Virginia Department of Education as a school bus training instructor; and

9. Conduct skills tests on behalf of the third party

tester, in accordance with these regulations and in accordance with current instructions provided by the department.

§ 5.4. Application for certification by the department.

A. Application for third party tester certification.

1. An applicant for certification shall provide the following information upon a form provided by the department:

a. Name and address and telephone number of principle office or headquarters;

b. Name, title, address and telephone number of an individual in Virginia who has been designated to be applicant's contact person with the department;

c. Description of the vehicle fleet owned or leased by the applicant, including the number of commercial motor vehicles by class and type;

d. Classes and types of commercial motor vehicles for which the applicant seeks to be certified as a third party tester;

e. Total number of Virginia licensed drivers employed during the preceeding 12 months to operate commercial motor vehicles, and the number of such drivers who are full time, part-time and seasonal;

f. Name, driver's license number and home address of each [payroll] employee who is to be certified as a third party examiner. If any employee has previously been certified as an examiner by the department, the examiner's certification number;

g. The address of each Virginia location where the third party tester intends to conduct skills tests, and a map, drawing or written description of each driving course which satisfies the department's requirements for a skills test course;

h. If the applicant is not a governmental entity, it shall also provide:

(1) A decription of the applicant's business and length of time in business and length of time in business in Virginia;

(2) If subject to the FMCSRs, the applicant's Interstate Commerce Commission [number] or [~~DOT~~ the applicant's federal Department of Transportation] number and [~~DOT~~] rating; and

(3) Applicant's State Corporation Commission number; and

i. Any other relevant information required by the

department.

2. An applicant for certification shall also execute an agreement form provided by the department in which the applicant agrees, at a minimum, to comply with the regulations and instructions of the department for third party testers, including audit procedures, and agrees to hold the department harmless from liability resulting from the third party tester's administration of its CDL skills test program.

B. Application for third party examiner certification.

1. An applicant for certification shall provide the following information on a form provided by the department:

a. Name and home and business addresses and telephone numbers;

b. Driver's license number;

c. Name, address, and telephone number of the principle office or headquarters of the applicant's employer, who has applied for or received certification as a third party has applied for or received certification as a third party tester;

d. Job title and description of duties and responsibilities;

e. Length of time employed by present employer. If less than two years, list previous employer, address and telephone number;

f. Present employer's recommendation of the applicant for certification;

g. A list of the classes and types of vehicles for which the applicant seeks certification to conduct skills tests; and

h. Any other relevant information required by the department.

C. Evaluation of applicants by the department.

1. The department will evaluate the materials submitted by the third party tester applicant, and, if the application materials are satisfactory, the department will schedule an on-site inspection and audit of the applicant's third party testing program to complete the evaluation.

2. The department will evaluate the materials submitted by the third party examiner applicant as well as the applicant's driving record. If the application materials and driving record are satisfactory, the department will schedule the applicant for third party examiner training. Training may be waived if the applicant is seeking

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recertification only because he has changed employers.

3. No more than two applications will be accepted from any one third party tester or examiner applicant in any 12 month period [, excluding applications for recertification because of a change in employers] .

§ 5.5. Certification by the department.

A. Upon successful application and evaluation, a third party tester will be issued a letter or certificate which will evidence his authority to administer a third party testing program and issue skills test certificates for the classes and types of vehicles listed.

B. Upon successful application, evaluation and training, a third party examiner will be issued a letter or certificate which will evidence his authority to conduct skills tests for the classes and types of commercial motor vehicle listed.

C. Certification will remain valid until cancelled by the department or voluntarily relinquished by the third party tester or examiner.

§ 5.6. Terminating certification of third party testers and examiners.

A. Any third party tester or examiner may relinquish certification upon 30 days notice to the department. Relinquishment of certification by a third party tester or examiner shall not release such tester or examiner from any [responsibility or] liability that arises from his activities as a third party tester or examiner.

B. The department reserves the right to cancel the third party testing program established by these regulations, in its entirety.

C. The department may cancel the certification of an individual third party tester or examiner upon the following grounds:

1. Failure to comply with or satisfy any of the provisions of these regulations, the department's instructions or the third party tester agreement;

2. Falsification of any records or information relating to the third party testing program; or

3. Commission of any act which compromises the integrity of the third party testing program.

D. If the department determines that grounds for cancellation exist for failure to comply with or satisfy any of these regulations or the third party tester agreement, the department may postpone cancellation and allow the third party tester or examiner 30 days to correct the deficiency.

§ 5.7. On-site inspections and audits.

A. Each applicant for certification as a third party tester shall permit the department to inspect and audit its operations, facilities and records as they relate to its third party testing program, for the purpose of determining whether the applicant is qualified for certification. Each person who has been certified as a third party tester shall permit the department to periodically inspect and audit his third party testing program to determine whether it remains in compliance with certification requirements.

B. The department will perform its inspections and audits during regular business hours with or without prior notice to the third party tester.

C. Inspections and audits will include, at a minimum, an examination of:

1. Records relating to the third party testing program;

2. Evidence of compliance with the FMCSRs and Va MCSRs;

3. Skills testing procedures, practices and operations;

4. Vehicles used for testing;

5. Qualifications of third party examiners;

6. Effectiveness of the skills test program by either (i) testing a sample of drivers who have been issued skills test certificates by the third party tester or (ii) having department employees take the skills tests from a third party examiner; and

7. Any other aspect of the third tester's operation that the department determines is necessary to verify that the third party tester meets or continues to meet the requirements for certification.

D. The department will prepare a written report of the results of each inspection and audit. A copy of the report will be provided to the third party tester.

§ 5.8. Notification requirements.

A. Every third party tester must:

1. Notify the department in writing within 10 days of any change in:

a. The third party tester's name or address;

b. The third party examiners who are employed by the third party tester.

2. Notify the department in writing within 10 days of any of the following occurrences:

a. The third party tester ceases business operations in Virginia;

b. The third party tester fails to comply with any of the requirements set forth in these regulations; or

c. Any third party examiner fails to comply with any of the requirements set forth in these regulations.

3. Notify the department of any proposed change in the skills test route at least 30 days before the third party tester plans to change the route.

B. Every third party examiner shall notify the department within 10 days after leaving the employ of the third party tester, of his change in employment.

§ 5.9. Test administration.

A. Skills tests shall be conducted strictly in accordance with the provisions of these regulations and with current test instructions provided from time to time by the department. Such instructions will include test forms and directions for completing such forms.

B. Skills tests shall be conducted:

1. On test routes which are located at least in part in Virginia, and which have been approved by the department;

2. In a vehicle that is representative of the class and type of vehicle for which the CDL applicant seeks to be licensed and for which the third party examiner are certified to test; and

3. In vehicles that are inspected, licensed and insured, as required by law.

§ 5.10. The skills test certificate.

A. The department will accept a skills test certificate issued in accordance with this section as satisfaction of the skills test component of the CDL examination.

B. Skills tests certificates may be issued only to drivers who are employees of the third party tester who issues the certificate, except as otherwise provided herein. In the case of school boards certified as third party testers, certificates may be issued to employees and to other drivers who have been trained by the school board in accordance with the Virginia School Bus Driver Training Curriculum Guide.

C. Skills test certificates may be issued only to drivers who have passed the skills test conducted in accordance with these regulations and the instructions issued by the Department.

D. A skills test certificate will be accepted by the department only if it is:

1. Issued by a third party tester certified by the department in accordance with these regulations;

2. On a valid skills test certificate form provided by the department, completed in its entirety, without alteration;

3. Submitted to the department within 60 days of the date of the skills test; and

4. Signed by the third party [tester examiner] who conducted the skills test.

§ 5.11. Waiver of requirement that third party tester applicant employ 75 drivers.

A. Any applicant for certification as third party tester may submit with his application, a request for a waiver of the requirement that the third party tester employ at least 75 drivers within the 12 month period preceding the application [; upon the grounds that such waiver would be in the best interest of the community served by the third party tester] .

Such request shall include the following:

1. [~~Distance from the department's nearest branch office.~~ A statement of need. This statement should explain why the applicant should be certified as a third party tester. The statement should also include reasons why the testing facilities or programs offered by the department will not meet the applicant's business requirements.]

2. [~~Estimated~~ An estimate of the] number of employees per year who will require CDL skills testing [after April 1, 1992. If the waiver request is filed prior to April 1, 1992, the request should also include an estimate of the number of employees who will require skills testing prior to that date] .

[~~3. Reasons why the community, the applicant and the department would best be served if the applicant becomes a third party tester.~~]

C. The department will [~~consider the request and notify the applicant in writing of its decision after reviewing and evaluating the application.~~ review the applicant's waiver request and will evaluate the department's testing and third party monitoring resources. The department will decide whether to grant the waiver request after balancing the stated needs of the applicant and the available resources of the department. The department will notify the applicant in writing of its decision.]

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DL 64 (1/90)
CERTIFICATE OF COMPLETION
COMMERCIAL DRIVER'S LICENSE SKILLS TEST
(Expires 60 Days From Test Date)

DATE _____

CERTIFICATE NO. **S 000001**

| | | |
|---|---------------------------------------|-------------|
| DRIVER'S NAME | | |
| SOCIAL SECURITY NUMBER | BIRTHDATE | SEX |
| <p><i>This certifies that on _____, the above driver passed the Commercial Driver's License Skills Test consisting of the Pre-trip Inspection and Road Tests for the following type(s) of vehicle(s):</i></p> <p><input type="checkbox"/> CLASS A -- Combination vehicle with a gross vehicle weight rating (GVWR) or combination weight rating (GCWR) of 26,001 or more.</p> <p><input type="checkbox"/> CLASS B -- Single vehicle with a GVWR of 26,001 pounds or more, or any such vehicle towing a vehicle not more than 10,000 pounds GVWR.</p> <p><input type="checkbox"/> CLASS C -- Single vehicle less than 26,001 pounds GVWR, or any such vehicle towing a vehicle less than 10,000 pounds GVWR.</p> <p><input type="checkbox"/> Endorsement S -- School bus designed to carry 16 or more occupants.</p> <p><input type="checkbox"/> Endorsement P -- Passenger Bus designed to carry 16 or more occupants.</p> <p><input type="checkbox"/> Vehicle with Air Brakes.</p> | | |
| COMPLETED BY THIRD PARTY TESTER ONLY | | |
| NAME OF THIRD PARTY TESTER | | CODE |
| EXAMINER'S NAME | EXAMINER'S SIGNATURE | |
| COMPLETED BY DMV REPRESENTATIVE ONLY | | |
| DMV REPRESENTATIVE'S NAME | | |
| POSITION NO. | DMV REPRESENTATIVE'S SIGNATURE | |

EMERGENCY REGULATIONS

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Title of Regulation VR 240-02-2. Privacy and Security of Criminal History Record Information Checks for Firearm Purchases.

Statutory Authority: § 18.2-308.2:2 of the Code of Virginia.

Effective Date: October 30, 1989 through October 29, 1990

Preamble

Nature of Emergency

The 1989 General Assembly enacted legislation amending Chapter 7, Article 7, Section 18.2-308.2:2 which will become effective on November 1, 1989. The legislation requires that prior to the sale of certain firearms, the seller or dealer, with the consent of the purchaser, must obtain a criminal history record information check from the Department of State Police.

The legislation further directs in subsection H of Section 18.2-308.2:2 of the Code of Virginia that the Department of Criminal Justice Services promulgate regulations which will establish methods and procedures to ensure the confidentiality and security of all records and data provided by the Department of State Police. However, since the legislation becomes effective on November 1, 1989, the regulations that will guide the implementation of these legislatively mandated procedures must be adopted before this date.

Necessity for Action

Due to the relatively short time period before the regulations must be adopted, it will not be possible to promulgate regulations in accordance with the steps and procedures required by the Administrative Process Act. It has been the experience of the Department that the requirements of the Act demand approximately nine to twelve months. Accordingly, the Department finds it to be necessary to promulgate these regulations under provisions of the emergency procedures as provided by Section 9-6.14:4.1 C 5 of the Code of Virginia. Failure to adopt the regulations by November 1, 1989, will result in the absence of regulatory procedures to guide the Department of State Police and firearms dealers across the state of the proper and correct implementation of the required record check procedures.

Review and Expiration of Regulations

While preparing these emergency regulations, the Department has made several efforts to receive and consider comments and suggestions from legislators and firearms dealers. Similarly, at any time, the Department of Criminal Justice Services will receive, consider, and respond to petitions by any interested person concerning the reconsideration or revision of the emergency regulations set forth hereinafter. These emergency

regulations shall expire on October 29, 1990, unless other regulations are adopted prior to this time.

Request for Approval

The Governor's approval is requested to adopt the regulations governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchase, pursuant to § 18.2-308.2:2 H under the emergency procedure provisions of the Administrative Process Act.

VR 240-02-2. Privacy and Security of Criminal History Record Information Checks for Firearm Purchases.

PART I. GENERAL.

Pursuant to the provisions of Section 18.2-308.2:2 of the Code of Virginia, criminal history record information checks are required prior to the sale, rental, trade or transfer of certain firearms. A criminal history record information check shall be requested by licensed dealers from the Department of State Police to determine the eligibility of a prospective purchaser to possess or transport certain firearms under state or federal law. The Department of Criminal Justice Services hereby promulgates the following regulations governing these criminal history record information checks as required under Section 18.2-308.2:2 H of the Code of Virginia. The purpose of these regulations is to ensure that criminal history record information checks are conducted in a manner which ensures the integrity of criminal history record information, guarantees individual rights to privacy, and supports the needs of law enforcement, while allowing nearly instantaneous sales of firearms to the law abiding public.

§ 1.1. Definitions.

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

"Antique handgun or pistol" means any handgun or pistol, including those with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898, and any replica of such a handgun or pistol, provided such replica: (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals, consisting of notations of arrests, detentions, indictments, informations, or other formal charges and any disposition arising therefrom.

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"Criminal history record information check" (also "criminal record check" and "record check") means a review of a potential purchaser's criminal history record information, to be conducted by the Department of State Police at the initiation of a dealer in order to establish a prospective purchaser's eligibility to possess or transport a firearm, as defined herein, under state or federal law.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. Section 921 et seq.

"Dealer Identification Number" (DIN) means a unique identifying number assigned by the Department of State Police to each individual dealer as defined in § 18.2-308.2:2 G of the Code of Virginia, in order to identify such dealers when they request criminal history record information to determine the eligibility of a prospective purchaser to possess or transport a firearm.

"Department" means the Virginia Department of State Police.

"Firearm" means (i) any handgun or pistol having a barrel length of less than five inches which expels a projectile by action of an explosion; or (ii) any semi-automatic centerfire rifle or pistol which expels a projectile by action of an explosion and is provided by the manufacturer with a magazine which will hold more than 20 rounds of ammunition, or is designed by the manufacturer to accommodate a silencer or bayonet or is equipped with a bipod, flash suppressor or folding stock.

"Handgun" means any firearm including a pistol or revolver designed to be fired by the use of a single hand.

"Prospective purchaser" means an individual who intends to buy, rent, trade, or transfer a firearm or firearms as defined herein, and has notified a dealer of his intent.

"Resident of Virginia" means a person who resides and has a present intent to remain within the Commonwealth, as shown by an ongoing physical presence and a residential address within Virginia. If a person does not reside in Virginia, but is on active duty as a member of the U.S. Armed Forces and Virginia is the person's permanent duty station, the person shall, for the purpose of these regulations, be considered a resident of Virginia.

"Transfer" means to sell, rent, trade, or transfer a firearm as defined herein.

"Virginia Firearms Transaction Record Form" means the form issued by the Department of State Police provided to dealers and required for obtaining a criminal history record check, also known as "SP-65," the "VFTR form" or the "VFTR."

PART II. REGULATIONS.

§ 2.1. Applicability of regulations concerning criminal history record checks for firearm purchase.

A. These regulations apply to:

1. All licensed dealers in firearms; and
2. The Department of State Police.

B. These regulations shall not apply to:

1. Transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.;
2. Purchases by or sale to any law enforcement officer or agent of the United States, Commonwealth or any local government;
3. Antique handguns or pistols; or
4. Transactions in any county, city or town that has a local ordinance adopted prior to January 1, 1987, governing the purchase, possession, transfer, ownership, conveyance or transportation of firearms which is more stringent than Section 18.2-308.2:2.

§ 2.2. Responsibilities of dealers.

It shall be the responsibility of dealers that transfer firearms in Virginia to comply with the following:

A. Register with the Department and obtain from the Department a Dealer Identification Number (DIN) and the toll-free telephone number to participate in the criminal history record check program.

B. Prior to selling, renting, trading or transferring (hereinafter referred to as transfer) any firearm determine if the firearm is a "firearm" as defined in these regulations and Section 18.2-308.2:2 of the Code of Virginia.

C. Collect a fee from the prospective purchaser for the criminal history record check.

D. Complete the VFTR form.

E. Request a criminal history record information check prior to the transfer of any such firearms.

F. Maintain required forms and records according to the procedures outlined in these regulations.

G. Deny the transfer of a firearm if advised by the Department of State Police that the prospective purchaser is ineligible to possess such a firearm and the Department disapproved the transfer of a firearm to the prospective purchaser.

H. Allow the Department of Criminal Justice Services

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access to all forms and records required by these regulations.

§ 2.3. Responsibilities of the Department of State Police.

A. The Department of State Police shall operate a telephone and mail response system to provide dealers in firearms (as defined herein) with information on the legal eligibility of prospective purchases to possess or transport firearms covered under these regulations. This information shall be released only to authorized dealers whose identity can be verified, and when the identity of the prospective purchaser can be reasonably established.

B. In no case shall the Department release to any dealer actual criminal history record information as defined herein. The dealer shall only receive from the Department a statement of the Department's approval or disapproval of the transfer, and an approval code number, if applicable, unique to the transaction. A statement of approval or disapproval shall be based on the Department's review of the prospective purchaser's criminal history record information and restrictions on the transfer of firearms to felons enumerated in § 18.2-308.2 of the Code of Virginia or federal law. This statement shall take one of the following two statuses: (i) approval with an approval code number or (ii) disapproval with no approval code number.

C. The Department shall provide to dealers a supply of VFTR forms, a DIN, and a toll-free number to allow access to the telephone criminal record check system available for approval of firearms purchases by Virginia residents.

D. The Department shall supply all dealers in the Commonwealth with VFTR forms in a manner which allows the Department to use the forms to identify dealers and monitor dealers' use of the system to avoid illegal access to criminal history records and other Department information systems.

E. The Department shall hire and train such personnel as are necessary to administer criminal history record information checks, ensure the security and privacy of criminal histories used in such records checks, and monitor the record check system.

F. Allow the Department of Criminal Justice Services access to all forms and records required by these regulations.

§ 2.4. Preparing for a criminal history records check.

A. General procedures.

1. If any firearm which a prospective purchaser intends to obtain in transfer is a firearm as defined herein, the dealer shall request that the Department of State Police conduct a criminal history record check on the purchaser. The dealer may obtain the

required record check from the Department for purchasers who are residents of Virginia by telephoning the Department, using the provided toll-free number, and requesting the record check. For purchasers who are out-of-state residents, the dealer may only request the record check from the Department by mail. However, Virginia residents may, if they elect, request the dealer to obtain a record check by mail. The initial required steps of completion of the VFTR form, obtaining consent of the purchaser, determining residency, verifying identity and collecting the required fee are common to both telephone and mail methods of obtaining the record check.

2. The dealer shall request a criminal history record check and obtain the prospective purchaser's signature on the consent portion of the form for each new transfer of a firearm or firearms to a given purchaser. One record check is sufficient for any number of firearms in a given transfer, but once a transaction has been completed, no transfer to the same purchaser shall proceed without a new record check.

3. A criminal history records check shall be conducted immediately prior to the actual transfer of a firearm.

B. Completing section A of the Virginia Firearms Transaction record: Obtaining consent for a criminal history record information check for firearms purchase.

As a condition of any sale, the dealer shall advise the prospective purchaser to legibly complete and sign Section A of a VFTR form.

1. The dealer shall require the prospective purchaser to complete Section A of the VFTR form in the prospective purchaser's own handwriting, and without the dealer's assistance. The purchaser shall answer the questions listed and shall complete the items that establish residency and describe identity, including name, sex, height, weight, race, date of birth and place of birth.

2. The dealer shall also obtain the prospective purchaser's signature or, if he cannot read or write, his mark, following the consent paragraph at the bottom of Section A, which shall certify that the information supplied by the purchaser in Section A is true and correct.

3. If the prospective purchaser cannot read or write, Section A of the VFTR form may be completed by any person other than the dealer or any employee of the dealer according to the procedures specified on the reverse side of the VFTR form.

C. Completing Section B of the Virginia Firearms Transaction Record: Establishing purchaser identity and residency, dealer identity and collecting the fee.

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Prior to making a request for a criminal history record information check, the dealer shall complete all of Section B of the VFTR form for which the dealer is responsible. Information recorded on the VFTR form shall be sufficient to: (i) reasonably establish a prospective purchaser's identity and determine whether the prospective purchaser is a Virginia resident; and (ii) identify the dealer.

1. Identify prospective purchaser and determine residency.

a. The dealer shall determine residency and verify the prospective purchaser's identity as required in Section B of the VFTR, by requiring at least two forms of identification. Only the forms of identification listed below shall be acceptable forms of identification. At least one of the following forms of identification shall include a recent photograph of the prospective purchaser. Accordingly, the dealer shall require the prospective purchaser to furnish one form of identification that contains a recent photograph of the prospective purchaser and at least one other form of identification included in the list below:

(1) a valid and current Virginia driver's license or photo identification card provided by the Virginia Department of Motor Vehicles or another state's issuing authority;

(2) a military identification card;

(3) an immigration card;

(4) an employment identification card, provided the card shows at least the prospective purchaser's name and place of employment;

(5) a social security card;

(6) a voter registration card;

(7) evidence of paid personal property tax or real estate taxes;

(8) other identification allowed as evidence of residency by Part 178.124 of Title 27, Code of Federal Regulations, and ATF Ruling 79-7; or

(9) a current automobile registration.

b. The dealer will ensure that the forms of identification support the listing of the identifying characteristics and the resident's address as supplied by the prospective purchaser in Section A.

c. If the dealer discovers any unexplained discrepancy between the two forms of identification (different birth dates, different names), the dealer shall not request a criminal history records check until the prospective purchaser can be adequately

identified with two acceptable forms of identification as required.

d. The dealer shall name and identify on the VFTR form the documents used to verify the prospective purchaser's identity and residence, and shall record all pertinent identifying numbers on the VFTR form.

e. While the dealer is required to collect sufficient information to establish the prospective purchaser's identity and residency from the documents listed above, in no case is the dealer authorized to collect more information on the prospective purchaser than is reasonably required to establish identity and state of residence.

2. Identify dealer. The dealer or his employee shall note on Section B of the form:

a. the dealer's or employee's signature;

b. his position title (owner, employee);

c. the trade or corporate name and business address; and

d. the dealer's federal firearms license number.

D. Collecting the required fee.

Prior to requesting a criminal history records check based on the information the dealer has collected in Sections A and B of the VFTR form, a fee shall be collected from the prospective purchaser for each criminal history record information check to be requested for a Virginia resident or an out-of-state resident in the amounts specified in Section 18.2-308.2:2 of the Code of Virginia. Prospective purchasers who cannot establish their Virginia residency by furnishing the forms of identification as required above shall be charged as non-Virginia residents and shall conform to the procedures required for non-residents as outlined below.

§ 2.5. Procedures for requesting a criminal history record information check by telephone (Virginia residents only).

A. Once the prospective purchaser has completed Section A of the VFTR form and the dealer has completed the necessary portions of the VFTR form and determined that the prospective purchaser is a resident of Virginia and collected the fee, the dealer shall call the Department of State Police and request a criminal history record information check by telephone for the firearm transfer. The dealer shall use the toll-free number provided by the Department of State Police. However, nothing in these regulations shall prohibit a Virginia resident from obtaining a written record check through the dealer for any firearm transfer.

B. The dealer shall identify himself to the Department by providing his DIN and the printed number on the

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upper right-hand corner of the VFTR form prepared by the prospective purchaser.

C. The dealer shall allow the Department to verify this identifying information. The Department of State Police may disapprove a firearm purchase if the Department determines that the identifying information supplied by the dealer is incomplete, incomprehensible or in error, raises a reasonable doubt as to the origin of the call, or is otherwise unusable.

D. The dealer shall then supply to the Department over the telephone all identifying data on the prospective purchaser which is recorded on Section A of the VFTR, in the order requested by the Department. If the dealer cannot provide sufficient information to allow the Department to conduct a criminal history record check, the Department will not accept the request on the basis of insufficient information to conduct a check. The Department may adopt procedures to appropriately address such occurrences.

E. The Department of State Police will respond to the dealer's request for a criminal history records check by consulting the criminal history record information indexes and files, during the dealer's call. In the event of electronic failure or other difficulties, the Department shall immediately advise the dealer of the reason for such delay and provide to the dealer an estimate of the length of such delay.

F. If no evidence of a criminal record or other information is found that would preclude the purchaser from possessing or transporting a firearm under state or federal law, the Department will immediately notify the dealer that the transfer may proceed, and will provide the dealer with a unique approval code number, which the dealer shall enter in a clear, visible, and convenient manner on the original of the VFTR form.

G. If the initial search discloses that the prospective purchaser may not be eligible to possess a firearm, the Department will notify the dealer that a further check must be completed before the end of the dealer's next business day, to determine if the prospective purchaser has a criminal record that makes him ineligible to possess or transport a firearm under state or federal law.

H. In any circumstances in which the Department must return the dealer's telephone call, whether due to electronic or other failure or in order to allow a further search, the dealer shall await the Department's call and make no transfer of a firearm to the individual whose record is being checked until:

1. The dealer receives notification of approval of the transfer by telephone from the Department; or
2. The Department fails to disapprove the transaction of the prospective purchaser before the end of the next business day.

3. Exception: If the Department knows at the time of the dealer's telephone call that it will not be able to respond to the request by the end of the dealer's next business day, it will so notify the dealer. The dealer may in such cases complete the transfer immediately after his telephone call.

I. If the dealer is notified by the Department that the prospective purchaser is not eligible to possess or transport a firearm or firearms under state or federal law, and the transfer is disapproved, and if he is so notified before the end of the next business day after his accepted telephone request, the dealer shall not complete the transfer.

J. Within 24 hours of any transfer of a firearm covered by these regulations to a resident of Virginia on the basis of a telephone inquiry, the dealer shall send by mail or shall deliver to the Department two copies of the VFTR other than the original, with Section A and B properly completed. No information on the type, caliber, serial number, or characteristics of the firearms transferred shall be noted on the copies of the VFTR submitted to the Department, but the forms shall otherwise be complete. The dealer shall note the date of mailing on the form, or shall have the form date stamped or receive a dated receipt if the dealer delivers the form.

After sale check.

1. Following the receipt of the required two copies of a completed VFTR form recording a transfer to a Virginia resident, the Department shall immediately initiate a search of all data bases in order to verify that the purchaser was eligible to possess or transport the firearm(s) under state or federal law.

2. If the search discloses no criminal record that would make the purchaser ineligible to possess or transport a firearm, the Department shall mark "approved" on one copy of the VFTR submitted by the dealer after the transfer, and return the form by mail to the dealer.

3. However, if the search discloses that the purchaser is ineligible to possess or transport a firearm, the Department will return one copy of the VFTR to the dealer marked "disapproved."

§ 2.6. Procedures for requesting a criminal history record check by mail (required for all non-Virginia residents).

A. All transfers of firearms to non-Virginia residents require a written request for a record check. For non-Virginia residents, a criminal history record check for firearm transfer cannot be conducted by telephone. However, at the request of a Virginia resident, a dealer may request a record check by mail for any firearm transfer. In either case, the dealer shall follow the procedures as set forth below.

B. If a prospective purchaser is not a resident of

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Virginia or cannot supply sufficient information to establish or verify residency, the dealer shall obtain a records check by mailing or delivering a completed VFTR form to the Department.

C. The dealer shall mail or deliver to the Department the appropriate two copies of the completed VFTR form according to procedures established by the Department (which shall not describe, list, or note the actual firearms to be transferred) within 24 hours of the prospective purchaser's signing and dating of the consent paragraph in Section A of the VFTR form. This shall be evidenced by the dealer's record of the mailing date on the VFTR, if mailed, or the date stamp of the Department on the VFTR form or a receipt provided to the deliverer, if delivered. The original of the completed VFTR form shall be retained at the dealer's place of business.

D. The Department will initiate a search only upon receipt of the appropriate two copies of the VFTR form at Department headquarters. The Department may challenge and refuse to accept any VFTR form if there is an unreasonable, extended time period between the date of the mailing and the date of receipt of the copies of the form at the Department.

E. Following its search of Virginia and national criminal history record indexes and files, the Department will return to the dealer a copy of the VFTR form, marked "approved," or "not approved." When a dealer receives approval, he may transfer any firearm or firearms, as listed on the VFTR form that initiated the request for a records check, to the prospective purchaser, up to seven calendar days after his receipt of the approval. If the transfer is disapproved, he is not authorized to transfer any firearm to the prospective purchaser.

F. In the case of written requests for criminal history record checks, initiated by the submission of VFTR forms, the dealer shall wait up to 10 days after the mailing date (noted on the form) or delivery date stamp (if not mailed) of the request for written approval from the Department, prior to transferring a firearm as defined herein.

G. However, if 10 days elapse from the date the VFTR form was mailed (as noted on the VFTR form) or delivered to the Department of State Police (as indicated by the date stamped by the Department), and the Department has not responded to the request initiated by the form by approving or disapproving the transaction proposed, the dealer may complete the transfer to the prospective purchaser on his next business day, after the tenth day, or thereafter, and not be in violation of the law or these regulations. After completion of the transfer in this case, as in all cases, any new or further transfer or firearms not listed on the VFTR form that initiated the request for a record check to the same purchaser will require a new criminal history record check.

§ 2.7. Proper use of the Components of the Criminal

History Record Check System: Forms, records, toll-free telephone number and DIN.

A. The VFTR forms will be provided to the dealer by the Department. VFTR forms shall not be transferred from one dealer to another. All VFTR forms partially completed, torn, defaced or otherwise rendered unuable shall be marked "VOID" and disposed of in a manner which will not allow its reuse. All unused forms shall remain the property of the Department of State Police and shall be returned to the Department in the event that a dealer ceases to engage in the transfer of firearms in a manner which is regulated by the Department of Criminal Justice Services.

B. The dealer will retain the original of the VFTR form for his own files.

C. The dealer shall keep all blank and completed VFTR originals and all returned copies in a secure area, which will restrict access to the information contained on the VFTR forms to authorized employees only.

D. The Department shall retain a copy of all VFTR forms received from dealers according to the procedures outlined below.

a. Approved transfers: thirty days after the Department has notified the dealer of an approved transfer by mailing to the dealer a copy of the VFTR form submitted by the dealer with the approved box duly marked, the Department shall destroy the VFTR form still in its possession and all identifiable information collected pertaining to a prospective purchaser.

b. Disapproved transfers: VFTR forms recording a transfer that was not approved shall be maintained by the Department in a separate file, maintained by name of prospective purchaser.

(1) The information contained in these forms shall be used by the Department for legitimate law enforcement purposes only, and shall be governed by existing regulations concerning the privacy and security of criminal history record information.

(2) The Department may maintain any other printouts or reports with these copies of the VFTR form, provided they are treated as criminal history record information.

c. The Department shall ensure that, in all cases, the VFTR marked "approved" or "disapproved," is returned to the dealer prior to destruction or storage of the VFTR copies in the Department's possession, and so logged.

E. The Department of State Police shall maintain a running log of all requests for criminal history record information checks for firearms transfer, which shall

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include the following:

1. DIN and name of requester;
2. Dealer's Transaction Number;
3. Approval Code Number, if sale is approved;
4. Date of telephone request or mailing or delivery date of form initiated request;
5. Notation of type of record request-either telephone or mail request;
6. Approved or Not Approved status; and
7. Date of clearance from Department file through mailing of VFTR form to the dealer or other final action.

F. A log shall be retained at the Department on each request which leads to approvals of firearms transfers for 12 months from the date of each request.

G. Requests which lead to disapprovals shall be maintained by the Department on a log for a period of two years from the date when the request was accepted by the Department for processing.

H. The Department shall monitor and distribute all VFTR forms in an appropriate manner to ensure their proper control and use. This includes designing, redesigning, numbering, distributing, tracking, and processing all VFTR forms.

I. No dealer shall provide his DIN or the toll-free number to another party for any reason.

J. The DIN's and the toll-free number may be changed periodically to ensure that these numbers are not improperly used by unauthorized dealers or unauthorized parties.

§ 2.8. Audits.

A. The Department of State Police shall continuously observe compliance with requirements regarding VFTR form completion, notification of the Department of State Police following firearm transfers, form management and storage, and confidentiality and proper use of the DIN and the toll-free telephone number for Virginia resident telephone record checks.

B. The Department of State Police shall notify the Department of Criminal Justice Services if a dealer has used or may have used the criminal history record information check system improperly in a manner that may jeopardize the confidentiality and security of criminal history record information systems.

C. Upon such notification, the Department of Criminal

Justice Services shall audit the dealership in question and recommend corrective action without delay.

D. The Department of Criminal Justice Services shall annually audit the Department of State Police to ensure the following:

1. That records, VFTR's and other materials, except for the maintenance of the log as out-lined above, on purchasers found to be eligible to possess or transport firearms (approved) are being routinely destroyed 30 days from the mailing or delivery date of the accepted request for a records check;

2. That VFTR's and other materials gathered on persons found to be ineligible to purchase a firearm (disapproved) are governed by the regulations for criminal history record information, and

3. That logs recording the approvals and disapprovals of firearm transfers are being correctly maintained according to the provisions of these regulations.

APPROVED:

/s/ Richard N. Harris
Director
Department of Criminal Justice Services
Date: October 26, 1989

/s/ Vivian E. Watts
Secretary of Transportation and Public Safety
October 26, 1989

/s/ Gerald L. Baliles
Governor
Commonwealth of Virginia
Date: October 29, 1989

/s/ Joan W. Smith
Registrar of Regulations
Commonwealth of Virginia
Date: October 30, 1989

BOARD OF SOCIAL WORK

Title of Regulation: VR 620-01-2. Regulations Governing the Practice of Social Work.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Effective Date: November 2, 1989 through November 1, 1990

Summary:

In order to afford relief to applicants seeking licensure in Virginia, the Board of Social Work has determined that within the regulations which became effective on July 6, 1989, there is a need to amend

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Section 2.2.B.2.c.1 - (Experience). If Section 2.2.B.2.c.1 is not amended, non-registered supervised experience obtained prior to July 6, 1989, will not be considered for the purposes of licensure.

The Emergency Regulations will permit non-registered supervision obtained prior to July 6, 1989 to be acceptable towards licensure, if the supervision met the Board's requirements at the time it was rendered. The Board has been allowing non-registered supervision to be accepted toward licensure if the individual worked in a setting where licensure or registered supervision was not required or if the individual received their training in clinical social work in another jurisdiction. The Board's current regulations permit the Board to accept the supervisory experience that was registered prior to July 6, 1989 and conformed to the requirements for supervision under the former regulations. There is no provision that allows non-registered supervision received prior to July 6, 1989, that met the same conditions, to be considered applicable towards licensure. Through an emergency regulation, the Board will consider a trainee's supervised experience that was not registered with the Board prior to July 6, 1989. Failure to implement the emergency regulations will present a financial hardship for trainees who may be required to pay for additional supervised experience in an effort to meet the Board's new regulation.

VR 620-01-2. Regulations Governing the Practice of Social Work.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Accredited school of social work" is defined as a school of social work accredited by the Council on Social Work Education.

"Applicant" is defined as a person who has submitted a completed application for licensure as a social worker with the appropriate fees.

"Board" is defined as the Virginia Board of Social Work.

"Candidate for licensure" is defined as a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for the required examinations.

"Clinical course of study" is defined as graduate course work which includes courses in human behavior and social environment, social policy, research, clinical practice with individuals, families, groups and a clinical practicum which

focuses on diagnostic, prevention and treatment services.

"Supervision" is defined as the relationship between a supervisor and supervisee which is designed to promote the development of responsibility and skill in the provision of social work services. Supervision is the inspection, critical evaluation, and direction over the services of the supervisee. Supervision shall include, without being limited to, the review of case presentations, audio tapes, video tapes, and direct observation.

§.2. Public participation guidelines.

A. Mailing List. The Board of Social Work will maintain a list of persons and organizations who will be mailed the following documents as they become available.

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "Informational proceeding," the subject of which is proposed or existing regulations.
3. Final regulation adopted.

B. Being Placed on List. Any person or organization wishing to be placed on the mailing list may be added by writing the Board. In addition, the Board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons and organizations on the list will be provided all information stated in subsection A of these guidelines. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

C. Notice of Intent. At least 30 days prior to publication of the notice of intent to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the Board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person or organization to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in the Virginia Register.

D. Information Proceedings or Public Hearings for Existing Rules. At least once each biennium, the Board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceedings will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceedings will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceedings may be held separately or in conjunction with their informational proceedings.

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E. Petition for Rulemaking. Any person may petition the Board to adopt, amend, or delete any regulation. Any petition received shall appear on the next agenda of the Board. The Board shall have sole authority to dispose of the petition.

F. Notice of Formation and Adoption. After any meeting of the Board or any subcommittee or advisory committee where the formulation or adoption of regulations occurs, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

G. Advisory committees. The Board may appoint committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations.

§ 1.3. Fees.

A. The board has established fees for the following:

1. Registration of supervision \$25
2. Annual renewal of supervision 25
3. Application processing 65
4. Examinations and reexaminations:
Written 85
Oral (for first specialty) 65
(for second specialty) 65
5. Initial license: prorated portion
..... of biennial license
..... fee for unexpired
..... part of biennium
6. Biennial license
a. Registered social worker 30
b. Associate social worker 30
c. Licensed social worker 120
d. Licensed clinical social worker 120
7. Penalty for late renewal 10
8. Name change 10
9. Endorsement to another jurisdiction 10
10. Additional or replacement wall
certificates 15
11. 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.

PART II. REQUIREMENTS FOR LICENSURE.

§ 2.1. General requirements.

A. No person shall practice as a social worker or clinical social worker in the Commonwealth of Virginia except as provided for in the Code of Virginia or these regulations.

B. Licensure by this board to practice as a social worker or clinical social worker shall be determined by examination.

C. Every applicant for examination for licensure by the board shall:

1. Meet the education and experience requirements prescribed in § 2.2 of these regulations for the category of practice in which licensure is sought.
2. Have official transcripts documenting required academic coursework and degrees attained submitted directly from the appropriate institutions of higher education to the board not less than 60 days prior to the date of the written examination.
3. Submit to 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; and
 - c. The application fee prescribed in § 1.2 of these regulations.

§ 2.2. Education and experience requirements.

A. For a licensed social worker:

1. Education. The applicant shall hold a bachelor's or a master's degree from an accredited school of social work, documented as prescribed in § 2.1 C 2. Graduates of foreign institutions shall establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

2. Experience. Applicants shall meet applicable requirements for experience depending on their educational background, as provided in subdivisions a and b of this subdivision.

a. Bachelor's degree applicants shall have had two

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years of full-time post-bachelor's degree experience or the equivalent in part-time experience in casework management and supportive services under supervision satisfactory to the board.

(1) Full-time experience in casework management and supportive services is defined as a total of 3000 hours of work experience acquired in no less than two years.

(2) Part-time equivalent experience in casework management and supportive services is defined as at least 3000 hours of work experience acquired in no less than four years.

b. Master's degree applicants are not required to have professional experience in the field.

c. Registration of supervised post-bachelor's degree experience may be required as provided in subdivisions (1) and (2) of this subdivision.

(1) Experience in a nonexempt setting:

(a) An individual who proposes to obtain supervised post-bachelor's degree experience in a nonexempt setting in Virginia shall, prior to the onset of such experience and annually thereafter for each succeeding year of such experience: (i) be registered on a form provided by the board and completed by the supervisor and supervised individual; and (ii) pay the annual registration-of-supervision fee as prescribed by the board.

(b) The supervisor providing supervision under this subsection shall: (i) be a licensed social worker with a Master's degree or a social worker who holds a Master's degree in social work and who has had at least two years of experience prior to performing such supervision or a licensed clinical social worker; and (ii) be responsible for the social work practice of the prospective applicant once the supervisory arrangement is accepted by the board.

(c) The supervised experience shall include at least 100 hours of weekly face-to-face supervision during the two-year period.

(d) Peer supervision shall not be substituted for any of the required hours of supervision.

(e) Group supervision shall constitute no more than 30 hours of the 100 hours required for supervision.

(f) Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

(g) The individual acting as supervisor: (i) shall be knowledgeable about the diagnostic assessment and

treatment plan of cases assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision; (ii) shall not provide supervision of activities for which the applicant has not had appropriate education; (iii) shall not provide supervision for activities for which the supervisor is not qualified; and (iv) shall, on an annual basis, provide to the board documentation of the hours attained by the supervisee of social work practice for which the supervisor has been responsible. On the same form on which this information is recorded, the supervisor shall list the number of hours of face-to-face supervision or group supervision, or both, received during the reporting period as well as evaluate the supervisee in the areas of professional ethics and professional competency.

(h) At the time of application, applicants shall provide to the board documentation of the supervised experience from all supervisors, or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board: (i) applicants whose former supervisor is deceased or whose whereabouts is unknown shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation, or partnership in which the applicant was supervised; and (ii) the affidavit shall specify dates of employment, job responsibilities, the supervisor's name (and last known address), and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

(2) Experience in an exempt setting. Persons who wish to register their exempt setting supervised experience as the supervised experience required for licensure must meet the requirements of these regulations as prescribed in § 2.2 A 2 c.

B. For a licensed clinical social worker:

1. Education. The applicant shall hold a minimum of a master's degree from an accredited school of social work, documented as prescribed in § 2.1 C 2. Graduates of foreign institutions shall establish the equivalency of their education to this requirement through the Foreign Equivalency Determination Service of the Council on Social Work Education.

a. The degree program shall have included graduate *clinical* course of study.

b. The applicant shall provide documentation of having completed specialized experience, coursework or training acceptable to the board as equivalent to such sequence of courses.

2. Experience. The applicant shall have had three years of full-time post-master's degree experience in the delivery of clinical services as prescribed in

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subdivision a of this subdivision, or the equivalent in part-time experience. The post-master's experience, whether full- or part-time, shall be under supervision satisfactory to the board as prescribed in § 2.2 B 2 c. A doctorate degree in clinical social work may be counted as one-third of the time required.

a. Full-time experience in the delivery of clinical services is defined as a total of 4,500 hours of work experience required in no less than three years.

(1) Of these 4,500 hours, 15 hours per week shall be spent in fact-to-face client contact, for a total of 2,070 hours in the three-year period.

(2) The remaining hours may be spent in activities supporting the delivery of clinical services.

b. Part-time equivalent experience in the delivery of clinical services is a total of 4,500 hours of work experience acquired in no more than six years. Of the 4,500 hours, 2,070 hours shall be spent in face-to-face client contact.

c. Registration of supervised post-graduate degree experience may be required as provided in subdivisions (1) and (2) of this subdivision.

(1) Experience in a nonexempt setting:

(a) An individual who proposes to obtain supervised post-graduate experience in a nonexempt setting in Virginia shall, prior to the onset of such experience and annually thereafter for each succeeding year of such experience: (i) be registered on a form provided by the board and completed by the supervisor and the supervised individual; and (ii) pay the annual registration-of-supervision fee prescribed by the board.

(b) The supervisor providing supervision under this subsection shall: (i) be a licensed clinical social worker, psychologist (clinical), professional counselor, clinical psychologist, or psychiatrist; (ii) persons who do not meet the requirements of 2.2 B 2 c (1)(b)i but were approved by the board prior to the implementation of these regulations to provide supervision to prospective applicants for licensure may continue to provide supervision to those individuals provided that the supervisory arrangements were registered with the board; and (iii) be responsible for the clinical activities of the prospective applicant once the supervisory arrangement is accepted by the board.

(c) Applicants must document successful completion of their supervised experience on appropriate forms at the time of application. Supervised experience obtained prior to July 6, 1989 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 and supervision was rendered.

(d) An individual who does not become a candidate for licensure after six years of supervised training in a nonexempt setting shall submit evidence to the board showing why the training should be allowed to continue.

(e) The experience shall include at least 150 hours of face-to-face supervision during the three-year period as follows: (i) a minimum of one hour of individual face-to-face supervision per week shall be provided during the first two years. (ii) a minimum of 50 hours of the 150 hours of face-to-face supervision shall be provided by a licensed clinical social worker; and (iii) at least 25 hours of supervision shall be provided in each specialty area (Casework, Groupwork) for which the applicant is seeking licensure.

(f) Supervision between members of the immediate family (to include spouses, parents, and siblings) will not be approved.

(g) The individual obtaining the three years of required experience shall not call himself a licensed clinical social worker, solicit clients, bill for his services, or in any way represent himself as a clinical social worker until such a license has been issued.

(h) Group supervision involving six or fewer supervised persons will be acceptable for not more than one-third of the required 150 hours of face-to-face supervision, on the basis of two hours of group supervision as considered equivalent to one hour of individual supervision. Group supervision cannot be substituted for the required one hour of face-to-face individual supervision per week during the first two years.

(i) Peer supervision will not be counted toward the 150 hours of supervision required during the three-year period.

(j) The individual acting as supervisor: (i) shall be knowledgeable about the diagnostic assessment and treatment plan of cases assigned to the applicant and shall be available to the applicant on a regularly scheduled basis for supervision; (ii) shall not provide supervision of activities for which the applicant has not had appropriate education; (iii) shall not provide supervision for activities for which the supervisor is not qualified; and (iv) shall, on an annual basis, provide to the board documentation of the supervisee's direct client contact and supervisory hours for which the supervisor was responsible. The supervisor shall evaluate the supervisee in the areas of professional ethics, knowledge of theory base, and professional competency, noting any limitations

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observed regarding the supervisee's skills and practice.

(k) Applicants shall provide to the board documentation of the supervised experience from all supervisors, or, if a supervisor is unavailable, shall provide a satisfactory explanation of such circumstances to the board: (i) applicants for licensure who have worked full-time for a minimum of three years in the delivery of clinical social work services need document only their full-time employment as long as the requirement in § 2.2 B 2 a (1) has been met; (ii) applicants for licensure who have worked part-time in the delivery of clinical services will need to document the experience prescribed in both subdivisions (1) and (2) of § 2.2 B 2 a, covering a period not more than six year; (iii) applicants whose former supervisor is deceased, or whose whereabouts is unknown, shall submit to the board a notarized affidavit from the present chief executive officer of the agency, corporation or partnership in which the applicant was supervised; and (iv) the affidavit shall specify dates of employment, job responsibilities, supervisor's name (and last address, if known), and the total number of hours spent by the applicant with the supervisor in face-to-face supervision.

(2) Experience in an exempt setting. Persons who wish to register their exempt setting supervised experience as the supervised experience required for licensure must meet the requirements of these regulations as prescribed in § 2.2 B 2 c.

§ 2.3. Applicant for licensure in an additional specialty.

An applicant seeking licensure in an area of practice other than that listed in the original application shall present documentation of 25 hours of supervised experience in the additional specialty for which licensure is sought and shall take the required examinations in this specialty area.

PART III. EXAMINATIONS.

§ 3.1. General examination requirements.

A. The board may waive the written examination in whole or in part, if the applicant has been certified or licensed in another jurisdiction by standards and procedures equivalent to those of the board.

B. An applicant for licensure by the board as a social worker shall take a written examination and an applicant for licensure as a clinical social worker shall take a written and oral examination at times prescribed by the board.

C. Examination schedules.

A written examination and an oral examination shall be administered 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, and of the fees for these examinations.

2. The candidate shall submit the applicable fees.

3. If the candidate fails to appear for the examination without providing written notice at least two weeks before the examination, the examination fee shall be forfeited.

§ 3.2. Written examination.

A. The written examination comprises an examination consisting of standardized multiple-choice questions. These questions may cover all or some of the following areas: social sciences, human growth and development, social work practice, social groupwork, supervision, legislation, administration, social research, community planning, and social work knowledge and concerns.

B. The board will establish passing scores on the written examination.

§ 3.3. Oral examination: clinical social worker candidates only.

Successful completion of the written examination requirements shall be a prerequisite to taking the oral examination for the clinical social worker license.

A. Candidates who sit for the clinical social worker written licensure examination shall submit to the board office a work sample prepared in accordance with the requirements outlined in subsection D of this Section.

B. Candidates who pass the written examination will be notified by the board of the time and place of the oral examination.

C. 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 applicant's professional competency and emotional maturity, the extent and nature of the applicant's professional identity, the candidate's knowledge of ethical professional behavior, and demonstrated competency to successfully apply such knowledge in clinical practice, and

3. Determining the candidate's clinical skills as

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demonstrated in a work sample or through another examination format as prescribed by the board.

D. The work sample(s) of a candidate for examination for licensure as a clinical social worker shall conform to the following requirements:

1. The work sample(s) shall:

a. Present material drawn from the candidate's practice within the last 12 months immediately preceding the date of the written examination;

b. Be typical of the practice specialty area in which the candidate intends to engage as a clinical social worker; and

c. State the area(s) of specialty in which the candidate seeks licensure to practice, specifying whether the planned specialty will be casework (including individual, family, and marital); or groupwork.

2. A candidate who plans to practice in both specialty areas shall submit a separate work sample for each area. Each sample shall be reflective of the candidate's work in the applicable specialty area.

3. Each work sample shall be typed, double-spaced, on one side of the paper only, and within an absolute limit of six pages in length. Six clearly readable copies of each work sample shall be submitted to the board.

4. A work sample on casework or groupwork shall present an orderly, sequential treatment based on the candidate's understanding of the problem described. The work sample shall:

a. State dates of treatment, including the frequency of the sessions;

b. Provide a clear statement of the problem in such a way as to demonstrate the client's description of the problem and to substantiate the therapist's interpretation of the problem;

c. Substantiate the diagnostic assessment made by the therapist and the relationship to relevant significant history;

d. Show clearly the flow of the treatment process based upon the therapist's conceptual understanding of the problem and the diagnosis; and

e. Demonstrate the role played by the therapist in facilitating the treatment process and the client's progress; the theory base from which the therapist is operating; and the social work principles the therapist has used.

5. Candidates who submit a work sample but do not take the next scheduled oral examination may use this sample for the subsequent oral examination period only.

E. A majority decision of the board will determine whether a candidate has passed the oral examination.

3.4. Reexamination.

Reexamination will be required on the failed examination as follows:

A. After paying the reexamination fee, a candidate may be reexamined once within a 12-month period.

B. The candidate may be reexamined on any scheduled examination date; and

C. A candidate who fails the examination twice shall reapply and submit documentation of education and experience as recommended by the board.

PART IV. LICENSURE RENEWAL; REINSTATEMENT; NAME CHANGE.

§ 4.1. Biennial renewal of licensure.

All licensees shall renew their licenses on or before June 30 of each odd-numbered year.

A. Along with the renewal application, the licensee shall submit:

1. A statement verifying completion of a minimum of 40 clock hours of continuing education in social work during the last biennium;

a. Acceptable categories of continuing educational activities:

(1) Academic social work courses taken for credit or audited.

(2) Continuing education offered by accredited social work education programs, other accredited educational programs, and other providers, including professional associations, agencies and private entrepreneurs:

(a) Seminars, institutes, workshops, or mini-courses oriented to the enhancement of social work practice, values, skills and knowledge; and

(b) Cross-disciplinary offering from medicine, law, and the behavioral sciences if they are clearly related to the enhancement of social work practice, values, skills and knowledge.

(3) Planned self-directed study in collaboration with

Emergency Regulations

other professionals; (i) independent study in a social work curriculum area or a closely related field. Examples include a planned reading program, individual supervision or consultation; and (ii) the content and plan of instruction developed by the licensee.

(4) Publication of books, papers, or presentations given for the first time at a professional meeting;

(5) Other professional activities, including: (i) preparation for the first time of an academic social work course, in-service training workshop or seminar, or other professional seminar; and (ii) research not resulting in publication.

(6) Social work-related academic courses such as mental health, administration, health and social research, psychology, sociology, human growth and development, child and family development, counseling and guidance.

2. The renewal fee prescribed by the board.

B. Failure to receive a renewal notice from the board shall not relieve the licensee from the renewal requirement.

§ 4.2. Late renewal.

A social worker or clinical social worker whose license has expired may renew that license within four years after its expiration date by:

A. Providing evidence of having met all applicable requirements, including the requirements for continuing education; and

B. Paying:

1. The penalty fee prescribed the board; and

2. The renewal fee prescribed by the board for each renewal period during which the license was expired.

§ 4.3. Reinstatement.

A social worker or clinical social worker who fails to renew the license for four years or more and who wishes to resume practice shall reapply and be reexamined for licensure.

§ 4.4. Legal change of name.

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 bearing the individual's new legal name;

4. Practice only under such new legal name.

§ 4.5. Renewal of registration for associate social workers and registered social workers.

The registration of every associate social worker and registered social worker with the former Virginia Board of Registration of Social Workers under § 54-775.4 of the Code of Virginia shall expire on June 30 of each odd-numbered year.

A. Each registrant shall return the completed application before the expiration date, accompanied by the payment of the renewal fee prescribed by the board.

B. Failure to receive the renewal notice shall not relieve the registrant from the renewal requirement.

PART V. COMMITTEES.

§ 5.1. Examining and advisory committees.

The board may establish advisory and examining committees to assist it in carrying out statutory responsibilities.

A. The committees may assist in evaluating the professional qualifications of applicants and candidates for licensure and renewal of licenses and in other matters the board deems necessary.

B. The committees may assist in the evaluation of the mental or emotional competency, or both, of any licensee or applicant for licensure when such competence is an issue before the board.

PART VI. DISCIPLINARY PROVISIONS.

§ 6.1. Standards of practice.

No person whose activities are regulated by the board shall:

A. Engage in professional conduct harmful to the public health, safety, and welfare or the best interest of the public.

B. Engage in professional conduct designed solely to further the financial interest of the licensee and not necessary for diagnostic or therapeutic purposes.

Emergency Regulations

C. Engage in any professional conduct unless qualified by training or experience, or both.

D. Violate or aid and abet another in violating any provision of statutes applicable to the practice of social work or any provision of these regulations.

E. Perform or attempt to perform professional functions outside the area of licensed competence.

§ 6.2. Grounds for revocation, suspension, or denial of renewal of licence.

Action by the board to revoke, suspend or decline to renew a license shall be in accordance with the following:

A. Conviction of a felony or of a misdemeanor involving moral turpitude;

B. Procurement of license by fraud or misrepresentation.

C. Conducting one's practice in such a manner so as to make the practice a danger to the health and welfare of one's clients or to the public; or is unable to practice social work with reasonable skill and safety to clients by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition.

D. Conducting one's practice in a manner contrary to the standards of ethics of social work or in violation of § 6.1, standards of practice;

E. Performing functions outside the board-licensed area of competency.

F. Violating or aiding and abetting another to violate any statute applicable to the practice of social work or any provision of these regulations.

§ 6.3. Reinstatement following disciplinary action.

Any person whose license has been suspended, 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 a license.

A. The board, at its discretion, may, after a hearing, grant the reinstatement.

B. The applicant for reinstatement, if approved, shall be licensed upon payment of the appropriate fees applicable at the time of reinstatement.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: October 6, 1989

/s/ Eva S. Teig
Secretary of Health and Human Resources

Date: October 23, 1989

/s/ Gerald L. Baliles
Governor
Date: October 30, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: November 2, 1989

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Title of Regulation: VR 447-02-2. On-Line Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Dates: October 24, 1989 through October 23, 1990

Summary:

1. REQUEST: The Governor's approval is hereby requested to adopt, on an emergency basis, § 1.6 of the On-Line Game Regulations affecting ticket cancellation.

2. RECOMMENDATION: The State Lottery Department recommends approval of the Department's request to adopt, on an emergency basis, § 1.6 of the On-Line Game Regulations to amend the requirements for ticket cancellation. The ticket cancellation policy provides that a lottery retailer must cancel an on-line ticket within 10 minutes from the time it was issued. This has caused numerous problems for our customers, our retailers and the department. For the convenience of all parties, the State Lottery Board has approved suspension of the time constraints required to cancel an on-line ticket. As provided in the Code of Virginia, § 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 447-02-2. On-Line Game Regulations.

§ 1.6. Ticket cancellation.

A ticket may be cancelled and a refund of the purchase price obtained at the request of the bearer of the ticket under the following conditions:

A. To be accepted for cancellation, the ticket must be presented to the lottery retailer location at which the ticket was sold [within ten minutes of the date and time at which the ticket was issued].

B. Cancellation may only be effected by inserting the ticket into the lottery terminal, whereupon the terminal must read the information from the ticket, cancel the

Emergency Regulations

transaction and brand the ticket with a mark or words indicating that the ticket is cancelled and void. Any ticket which cannot be cancelled by this procedure remains valid for the drawing for which purchased, and is to be returned to the person who presented the ticket for cancellation and no refund will be available. Any ticket which is mutilated, damaged or has been rendered unreadable, and cannot be inserted into or read by the lottery terminal, cannot be cancelled by any other means.

C. The cancelled ticket must be surrendered by the bearer to the retailer who must deliver the cancelled ticket to the lottery sales representative serving that location. Cancelled tickets will be returned to the department.

D. The lottery's internal auditor will audit cancelled tickets on a sample basis.

/s/ Kenneth W. Thorson
Director
State Lottery Department
Date: August 28, 1989

/s/ Gerald L. Baliles
Governor
Date: October 23, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: October 24, 1989

STATE CORPORATION COMMISSION

Bureau of Insurance

October 27, 1989

Administrative Letter 1989-12

TO: All Companies Licensed in Virginia to Provide Life Insurance and Accident and Sickness Insurance, All Licensed Health Services Plans, and All Licensed Health Maintenance Organizations

RE: Long-Term Care Insurance Consumer's Guide

The Virginia State Corporation Commission has adopted the attached long-term care insurance consumer's guide pursuant to § 38.2-5207 of the Code of Virginia, as amended. Companies are required to provide a copy of the consumer's guide at the time of delivery of a long-term care policy or certificate in Virginia. Consumers must receive this guide as a separate document and it may not be combined with any other information.

One copy of the guide is enclosed for use by your company. It is to be reproduced verbatim, with a format matching the sample as closely as possible. The type size should be no less than is used in the enclosed copy. It is not necessary for the paper stock or color to match the enclosed copy. The guide must be identified as a publication of the Virginia State Corporation Commission's Bureau of Insurance, although the name and/or logo of the insurer may be added.

Use of this guide is to be implemented by your company by no later than January 1, 1990.

/s/ Steven T. Foster
Commissioner of Insurance

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

BOARD OF CORRECTIONS

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

Governor's Comment:

I concur with the substance of these regulations as minimum architectural standards for jail facilities. Approval of the final regulations will depend upon a review of the comments received during the public hearing process and incorporation of the changes agreed to with the Department of Planning and Budget. The VA Board of Corrections should, however, promulgate proposed "Regulations for State Reimbursement of Local Correctional Facility Construction Costs" by December 1, 1989, so that the requests for reimbursement made after that date may be evaluated as provided in Sections 53.1-80 through 53.1-83, Code of Virginia, as amended.

/s/ Gerald L. Baliles
Date: October 8, 1989

STATE LOTTERY DEPARTMENT

Title of Regulation: VR 447-01-2. Administration Regulations.

Governor's Comment:

The amendment changing the maximum amount considered to be a small purchase from \$10,000 to \$25,000 is not in conformance with legislative policies reflected in amendments to the Public Procurement Act adopted by the 1989 General Assembly (Section 11-41.F of the Code). I recommend that these regulations conform to the new provisions of the Public Procurement Act and that the amount of a small purchase be amended to \$15,000. Pending public comment, I recommend approval of the other amendments to these regulations.

/s/ Gerald L. Baliles
October 30, 1989

Title of Regulation: VR 447-02-1. Instant Game Regulations.

Governor's Comment:

The amendments bring the regulations into conformity with changes to the Code and clarify existing standards and procedures. Pending public comment, I recommend

approval of the amended regulations.

/s/ Gerald L. Baliles
Date: October 23, 1989

Title of Regulation: VR 447-02-2. On-Line Game Regulations.

Governor's Comment:

The new regulations set forth the general parameters and operating requirements for on-line games. I have no objection to the form or content of the proposal, with the exception that the standards for cancellation of an on-line ticket should be amended to conform with recent emergency regulations deleting the 10-minute window for the cancellation period. My final assessment of these regulations will depend upon comment received during the public comment period.

/s/ Gerald L. Baliles
Date: October 23, 1989

BOARD OF MEDICINE

Title of Regulation: VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: October 30, 1989

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Title of Regulation: VR 385-01-08. Subdivision Street Requirements.

Governor's Comment:

The final Subdivision Street Requirements Regulations of the Virginia Department of Transportation ensure that new streets resulting from subdivision development will be constructed in a manner to provide adequate roadway facilities for the projected traffic without undue cost to the Commonwealth for subsequent maintenance or improvement. Substantial changes made as a result of public comments have strengthened the regulations.

/s/ Gerald L. Baliles
Date: October 25, 1989

GENERAL NOTICES/ERRATA

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| Symbol Key † |
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† 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 115-02-01. Reporting Requirements for Contagious and Infectious Diseases of Livestock in Virginia.** The purpose of the proposed action is to expand disease-reporting requirements to include diseases of poultry and to require this reporting not just by veterinarians but also by diagnostic laboratories and any other reporting entity by the State Veterinarian.

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

Written comments may be submitted until November 24, 1989, to W.D. Miller, D.V.M., 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, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-2483

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 115-02-07. Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia.** The purpose of the proposed action is to establish testing requirements for *Salmonella enteritidis* in commercial laying flocks and breeder flocks of poultry.

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

Written comments may be submitted until November 24, 1989, to W.D. Miller, D.V.M., 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, Department of Agriculture and Consumer Services, Division of Animal Health, Washington

Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483

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 promulgating regulations entitled: **VR 115-02-17. Rules and Regulations Establishing a Monitoring Program for Avian Influenza and Other Poultry Diseases.** The purpose of the proposed regulation is to establish rules and regulations for the early detection of infectious and contagious diseases of poultry.

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

Written comments may be submitted until November 24, 1989, to W.D. Miller, D.V.M., 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, Department of Agriculture and Consumer Services, Division of Animal Health, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483

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 promulgating regulations entitled: **VR 115-02-18. Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry.** The purpose of the proposed regulation is to establish requirements for the disposal of entire flocks of dead poultry.

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

Written comments may be submitted until November 24, 1989, to W.D. Miller, D.V.M., 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, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483

General Notices/Errata

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider amending regulations entitled: VR 125-01-1 through VR 125-01-7. Regulations of the Virginia Alcoholic Beverage Control Board. The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending or repealing the board's regulations.

Notice to the Public

A. Pursuant to the Virginia Alcoholic Beverage Control Board's "Public Participation Guidelines For Adoption Or Amendment of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Alcoholic Beverage Control Board), the Board will conduct a public meeting on January 17, 1990, at 10 a.m. in its Hearing Room, First Floor, A.B.C. Board, Main Offices, 2901 Hermitage Road, City of Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of Board regulations. Any group or individual may file with the Board a written petition for the adoption, amendment or repeal of any regulation. Any such petition shall contain the following information, if available.

1. Name of petitioner.
2. Petitioner's mailing address and telephone number.
3. Recommended adoption, amendment or repeal of specific regulation(s).
4. Why is change needed? What problem is it meant to address?
5. What is the anticipated effect of not making the change?
6. Estimated costs and/or savings to regulate entities, the public, or others incurred by this change as compared to current regulations.
7. Who is affected by recommended change? How affected?
8. Supporting documents.

The Board may also consider any other request for regulatory change at its discretion. All petitions or requests for regulatory change should be submitted to the Board no later than November 17, 1989.

B. The Board will also be appointing an Ad Hoc Advisory Panel consisting of persons on its General Mailing List who will be affected by or interested in the adoption, amendment or repeal of Board regulations. This panel will

study requests for regulatory changes, make recommendations, and suggest actual draft language for a regulation, if it concludes a regulation is necessary. Anyone interested in serving on such panel should notify the undersigned by November 17, 1989, requesting that their name be placed on the General Mailing List.

C. Applicable laws or regulation (authority to adopt regulations): Sections 4-11, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103 and 9-6.14:1 et seq., Virginia Code; VR 125-01-1, Part V, Board Regulations.

D. Entities affected: (1) all licensees (manufacturers, wholesalers, importers, retailers) and (2) the general public.

A public meeting will be held on January 17, 1990, at 10 a.m., in the First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia, to receive comments from the public.

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14 and 4-103(b) of the Code of Virginia.

Written comments may be submitted until 10 a.m., January 17, 1990.

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

VIRGINIA DEPARTMENT OF AVIATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Aviation intends to consider repealing existing regulations and promulgating new regulations entitled: Rules and Regulations of the Department of Aviation and Virginia Aviation Board. The purpose of the proposed action is to govern the licensing and operation of aircraft and airports, and to govern and permit structures in the airspace of the Commonwealth.

Statutory Authority: § 5.1-2.2 of the Code of Virginia.

Written comments may be submitted until December 20, 1989, to Kenneth A. Rowe, Director, Virginia Department of Aviation, 4508 South Laburnum Avenue, Richmond, VA 23231-2422.

Contact: Keith F. McCrea, AICP, Aviation Planner, 4508 S. Laburnum Ave., Richmond, VA 23231-2422, telephone (804) 786-1365 or toll-free 1-800-292-1034

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Criminal Justice Services intends to consider promulgating regulations entitled: **McGruff House Regulations**. The purpose of the proposed action is to provide procedural instruction for the sponsorship and operation of McGruff House Program.

Statutory Authority: § 9-173.4 of the Code of Virginia.

Written comments may be submitted until December 18, 1989.

Contact: Patrick D. Harris, Crime Prevention Center Program Manager, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8467

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 Board of Education intends to consider amending regulations entitled: **Standards for Accrediting Public Schools in Virginia**. The purpose of the proposed action is to provide a foundation for quality education and to provide guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests, and aspirations of all students.

Statutory Authority: § 22.1-19 of the Code of Virginia.

Written comments may be submitted until November 28, 1989.

Contact: Dr. Robert B. Jewell, Associate Director, Accreditation and Evaluation, Department of Education, P.O. Box 6-Q, Richmond, VA 23216-2060, telephone (804) 225-2105

DEPARTMENT OF HEALTH (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Governing the Newborn Screening and Treatment Program**. The purpose of the proposed action is to (i) revise the regulations to include diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia and (ii) clarify the critical time periods for submitting newborn screening tests in order to more accurately test for diseases that are mandated.

Statutory Authority: § 32.1-12 and Article 7 of Chapter 2 of Title 32.1 of the Code of Virginia.

Written comments may be submitted until January 6, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics Program Director, Department of Health, Division of Maternal and Child Health, James Madison Bldg., 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-7367 or SCATS 786-7367

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Rules and Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualification for Noncommercial and Commercial Blood Banks**. The purpose of the proposed action is to update the 1980 regulations to reflect change in federal regulations, American Association of Blood Bank guidelines and current blood banking technology.

Statutory Authority: §§ 32.1-2, 32.1-12, 32.1-42 and 32.1-140 of the Code of Virginia.

Written comments may be submitted until January 8, 1990.

Contact: Dr. Martin A. Cader, Director, Division of Communicable Disease Control, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-6261 or SCATS 786-6261

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider promulgating regulations entitled: **VR 355-34-01. Private Well Regulations**. The proposed regulations will provide construction and location standards for all private wells drilled, whether intended as a potable water supply source or for other purposes. Water quality standards are established for potable water supplies.

A notice of intended regulatory action was originally published on November 24, 1986.

Statutory Authority: § 32.1-176.4 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water Services, Department of Health, Room 500, Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-1750 or SCATS 786-1750

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

General Notices/Errata

public participation guidelines that the Board of Health intends to consider amending regulations entitled: **VR 355-34-02. Sewage Handling and Disposal Regulations**. The purpose of this action is to repeal portions of Article 11 of these regulations that duplicate the construction, location, and quality requirements of the Private Well Regulations.

Statutory Authority: § 32.1-176.4 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water Services, Department of Health, Room 500, Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-1750 or SCATS 786-1750

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1987 Edition**. The purpose of the proposed action is to amend the VSFPC to authorize fire officials to enforce the provisions of the 1987 VUSBC, Volume II, Building Maintenance Code pertaining to the installation of fire suppression and alarm systems in existing institutional buildings (Use Group I).

The 1987 edition of the Virginia Statewide Fire Prevention Code is a set of regulations adopted by the Board of Housing and Community Development pursuant to § 27-94 of the Code of Virginia. This code is a mandatory, statewide set of regulations that must be complied with for the protection of life and property from the hazards of fire or explosion. Local governments are empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in erection, alteration, repair, or use of a building or structure. Local enforcement of this code is optional.

Statutory Authority: §§ 27-94 and 27-97 of the Code of Virginia.

Written comments may be submitted until December 15, 1989.

Contact: Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing

and Community Development intends to consider amending regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II Building Maintenance Code/1987 Edition**. The purpose of the proposed action is to amend those portions of the USBC pertaining to the installation of fire suppression and alarm systems in existing buildings to include nursing homes, homes for adults, hospitals and other institutional uses (Use Group I).

Volume II - Building Maintenance Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Local enforcement of this code is optional.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Written comments may be submitted until December 15, 1989.

Contact: Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

LIBRARY BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Library Board intends to consider amending regulations entitled: **Requirements Which Must be Met in Order to Receive Grants-In-Aid**. The purpose of the proposed action is to consider changes to the local minimum expenditure requirement and to other criteria libraries must meet in order to receive grant-in-aid.

Statutory Authority: § 42.1-52 of the Code of Virginia.

Written comments may be submitted until February 20, 1990.

Contact: Ella Gaines Yates, State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

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 465-03-01. Regulations Governing the Practice of Physical Therapy**. The purpose of the proposed action is to amend Part I, definitions for relicensure trainee and unlicensed

graduate trainee; § 2.4 technical amendments to 6 (b) and 12; § 4.1 endorsement (B); § 7.2 professional hours of practice; § 8.1 Traineeship required in (A) and (B)(1)(2); § 8.2 additional traineeship required for examination; and § 8.4 traineeship for unlicensed graduates.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 20, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

VIRGINIA RACING COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intendsto consider promulgating regulations entitled: **Definitions, Licensure, Pari-Mutuel Wagering and Purse Distribution**. The purpose of the proposed regulation is to establish criteria for owner's, owner-operator's, and operator's licenses; establish procedures for the sale and cashing of pari-mutuel tickets and calculation of pools; and establish procedures for the distribution of purse money to participants.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until December 6, 1989, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **Degree Requirement for Social Work/Social Work Supervision Classification Series**. The purpose of the proposed regulation is to initiate the requirement of possession of a degree from an accredited college/university for applicants for position vacancies in the Social Work/Social Work Supervision classification series.

Statutory Authority: § 63.1-26 of the Code of Virginia.

Written comments may be submitted until November 30,

1989, to Eddie L. Perry, Human Resources Director Senior, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Peggy Friedenber, Agency Regulatory Liaison, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217 or SCATS 662-9217

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-20-1. Financial Assurance Regulations of Solid Waste Facilities**. The purpose of the proposed regulation is to establish financial assurance requirements for privately-owned waste management facilities, providing for the closure and post-closure care of the facilities.

The Department of Waste Management is considering amendment of these regulations and solicits the comments and recommendations of the public concerning all aspects of the regulations. The considerations and reasons for amendment of the regulations include, but are not limited to, the following: (i) to update the regulations to include recent developments and policies; (ii) to coordinate the requirements of these regulations, other regulations of the department, other Virginia regulations and Code of Virginia; (iii) to consider modification of the requirements relating to several issues, among which are: a) adequacy of the financial assurance required, b) the title of the regulations, and c) the content and form of the financial instruments required; (iv) to clarify the application and implementation of the regulations; and (v) to improve readability, eliminate inconsistencies and correct typographical and other errors.

Statutory Authority: § 10.1-1410 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Robert G. Wickline, PE, Director of Research and Development - DTS, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2321 or SCATS 225-2321

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-20-10. Solid Waste Management Regulations**. The purpose of the proposed

General Notices/Errata

regulation is to establish construction and operational requirements for solid waste management facilities including the closure and permitting of the facilities.

The Department of Waste Management is considering amendment of these regulations and solicits the comments and recommendations of the public concerning all aspects of the regulations. The considerations and reasons for amendment of the regulations include, but are not limited to, the following: (i) to update the regulations to include recent developments and policies, such as the appropriate requirements of the United States Environmental Protection Agency Guidelines for Solid Waste Management; (ii) to coordinate the requirements of these regulations, other regulations of the department, other Virginia regulations and Code of Virginia; (iii) to consider modification of the requirements relating to several issues, among which are: a) open burning of solid waste, b) issuance of a variance, c) issuance of a facility permit, d) landfill liner construction and installation, e) municipal solid waste incinerator ash disposal, and f) application of the requirements to recycled solid waste; (iv) to develop "reserved" sections of the regulations; and (v) to improve clarity, eliminate inconsistencies and correct typographical and other errors.

Statutory Authority: Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Robert G. Wickline, PE, Director of Research and Development - DTS, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2321 or SCATS 225-2321

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-15-01. Water Withdrawal Reporting.** The purpose of the proposed action is to consider amending the existing Regulation No. 11 to require reporting of withdrawals which exceed one million gallons in any single month for use for crop irrigation, to conform with the style requirements of the Virginia Registrar of Regulations, and to make such other changes as may be necessary for obtaining adequate information on water withdrawals.

The proposed amendments will impact all withdrawals which exceed one million gallons in any single month for use for crop irrigation. Applicable laws and regulations are § 62.1-44.36 et seq. of the Code of Virginia and Regulation No. 11.

Statutory Authority: § 62.1-44.38 C of the Code of Virginia.

Written comments may be submitted until 4 p.m., December 5, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Dale F. Jones, Officer of Water Resources Planning, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6422

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-15-02. Virginia Water Protection Permit.** The purpose of the proposed action is to establish a Virginia Water Protection Permit for any activity requiring a Section 401 Certification under the Clean Water Act and for ensuring that the proposed activity is consistent with the provisions of the State Water Control Law and the Clean Water Act.

If adopted, these regulations will establish the Virginia Water Protection Permit and will impact any activity requiring a Section 401 Certification under the Clean Water Act. Applicable laws and regulations include the State Water Control Law; Procedural Rule No. 3; and Sections 301, 302, 303, 306, 307, and 401 of the Clean Water Act. A public meeting has been scheduled, see Calendar of Events section for additional information.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 12, 1990, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Chester C. Bigelow, Office of Water Resources, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6406

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-15-03. Surface Water Management Areas.** The purpose of the proposed regulation is to promulgate general regulations necessary for declaration of surface water management areas, and the permitting of water withdrawals, for areas where there is, in the judgment of the board, reason to believe that the conditions of § 62.1-246 of the Code of Virginia exist and the public welfare, health and safety require that regulatory efforts be initiated.

Regulations, if adopted, will establish the framework for declaration of surface water management areas which, if declared, would subject surface water withdrawals of

300,000 gallons or more per month for consumptive use to permitting and reporting requirements. Applications law is § 62.1-242 et seq. of the Code of Virginia. A public meeting has been scheduled for 2 p.m., January 3, 1990. See Calendar of Events section for additional information.

Statutory Authority: § 62.1-242 et seq. of the Code of Virginia.

Written comments may be submitted until 5 p.m., January 12, 1990, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Joe Hassell, Office of Water Resources Management, State Water Control Board, 2111 N. Hamilton St., Richmond, VA 23230, telephone (804) 367-6435

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-16. Richmond-Crater Interim Water Quality Management Plan.** The purpose of the proposed action is to amend the Plan to provide a basis for long-term implementation of a Combined Sewer Overflow (CSO) Control Plan for the City of Richmond.

The amendment will affect the VPDES permit of the City of Richmond. The approved CSO Control Plan is a technology based solution designed to minimize the impacts of the City's CSOs on the James River. Concerns have been raised that the plan may not be protective of water quality in the river. Applicable laws and regulations include the State Water Control Law; Water Quality Standards (VR 680-21-00); Permit Regulation (VR 680-14-01); Title 40, Parts 35 and 130 of the Code of Federal Regulations; and Section 208 of the Clean Water Act.

Statutory Authority: § 62.1-44.15(3a) and (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., November 27, 1989.

Contact: Curtis J. Linderman, Piedmont Regional Office, State Water Control Board, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-1006

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed amendment is to conduct the review of water quality standards required by federal and state law every three years.

Possible changes to the standards have the potential to

impact every VPDES permit holder in the Commonwealth. The range of impact varies from one of additional monitoring costs through upgrades to existing wastewater treatment facilities. Applicable laws and regulations include the State Water Control Law, Permit Regulation (VR 680-14-01), Policy for Nutrient Enriched Waters (VR 680-14-02), Toxics Management Regulation (VR 680-14-03), and Sections 303(c)(2)(B) and 307(a) of the Clean Water Act. Public meetings have been scheduled. See Calendar of Events section for additional information.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., January 12, 1990.

Contact: Eleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed amendment is to promulgate a numerical water quality standard which will ensure the protection of saltwater and freshwater aquatic life that are sensitive to the toxic effects of ammonia.

If adopted, the amendment will incorporate a water quality standard for ammonia in VR 680-21-01.14 of the water quality standards.

The proposed changes have the potential to impact most municipal VPDES permit holders and meat processing industries in Virginia. The impact varies from one of additional monitoring costs through upgrades or installation of biological wastewater treatment facilities.

Applicable laws and regulations include the State Water Control Law, VR 680-14-01 (Permit Regulation) and VR 680-14-03 (Toxics Management Regulation).

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until November 27, 1989.

Contact: Alex Barron, Environmental Program Analyst, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0387

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control

General Notices/Errata

Board intends to consider amending regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposed amendment is to address guidance given by EPA regarding partial compliance with the Clean Water Act § 303(c)(2)(B). This guidance states that human health criteria to support designated uses must be adopted and when a state adopts a human health criterion for a carcinogen, the state needs to select a risk level. The carcinogen proposed for adoption is dioxin.

If adopted, the amendment will incorporate a water quality standard for dioxin and an accompanying risk level in VR 680-21-01.14 of the water quality standards.

The proposed changes have the potential to impact every VPDES permit holder involved with the bleached pulp, paper and timber industries in Virginia. The impact varies from one of additional monitoring costs through upgrades or installation of wastewater treatment facilities.

Applicable laws and regulations include the State Water Control Law, VR 680-14-01 (Permit Regulation), VR 680-14-03 (Toxics Management Regulation), and §§ 303(c)(2)(B) and 307(a) of the Clean Water Act.

Statutory Authority: § 62.44-15(3a) of the Code of Virginia.

Written comments may be submitted until November 27, 1989.

Contact: Alan J. Anthony, Assistant Director of Operations, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0791

GENERAL NOTICES

NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, 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 at the above address.

ERRATA

ALCOHOLIC BEVERAGE CONTROL BOARD

Title of Regulation: VR 125-01. Rules and Regulations of the Alcoholic Beverage Control Board.

Publication: 6:2 V.A.R. 192 October 23, 1989

Correction to the Final Regulation:

Page 192, VR 125-01-7, § 9 A, text was omitted at the end of the paragraph and should read:

.... *their records* [: , *provided the records so stored are readily subject to retrieval and made available for viewing on a screen or in hard copy by the board or its agents.*]

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
Ⓜ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT FOR THE AGING

Long-Term Care Ombudsman Program Advisory Council

November 30, 1989 - 9:30 a.m. - Open Meeting
Department for the Aging, 700 East Franklin Street, 10th Floor, Conference Room, Richmond, Virginia. Ⓜ

A semi-annual meeting to include election of new officers and a report of recent program activities.

Contact: Virginia Dize, State Ombudsman, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD ☎, toll-free 1-800-552-3402 or SCATS 225-2271

DEPARTMENT OF AIR POLLUTION CONTROL

† November 22, 1989 - 7 p.m. - Public Briefing
† November 22, 1989 - 7:30 p.m. - Public Hearing
Broadway High School Auditorium, Broadway, Virginia

A meeting to allow public comments on a permit application from Rockingham Poultry, Inc., to construct and operate a replacement rendering plant at their Timberville Poultry Processing Plant. Two additional gas/oil boilers to be added.

Contact: Donald L. Shepherd, Director, Department of Air Pollution Control, Region II, 5338 Peters Creek Rd., Suite D, Roanoke, VA, telephone (703) 982-7328

† November 30, 1989 - 6:30 p.m. - Public Briefing
† November 30, 1989 - 7:30 p.m. - Public Hearing
Altavista High School Auditorium, Bedford Avenue, Altavista, Virginia

A meeting to allow public comment on a request for a permit from Hadson Power 12-Altavista to construct and operate a steam-electricity cogeneration plant on Route 29 next to the Town and Country Shopping Center.

† December 6, 1989 - 6 p.m. - Public Briefing
† December 6, 1989 - 7 p.m. - Public Hearing
Glade Hill Elementary School Gymnasium, Glade Hill, Virginia

A meeting to allow public comments on a permit application from Rockydale Quarries Corporation to construct and operate a stone crushing plant with a maximum annual production of 1,200,000 tons per year at Jacks Mountain in Franklin County.

Contact: Thomas Henderson, Director, Department of Air Pollution Control, Region III, 7701-03 Timberlake Rd., Lynchburg, VA 24502, telephone (804) 947-6641

ALEXANDRIA ALCOHOL SAFETY ACTION PROGRAM POLICY BOARD

November 21, 1989 - 4 p.m. - Open Meeting
Circuit Court Judges Chambers, 520 King Street, Alexandria, Virginia Ⓜ

Locally based policy advisory board which controls and/or gives direction to the program's activities. This board is used as a channel for input to the program as to local needs and direction. Alexandria ASAP Policy Advisory Board is comprised of members from judiciary, bar, enforcement, medical and business community, interested in transportation safety and local drunk driving problems.

Contact: Paul A. Fearson, Executive Director, Suite 210, 421 King St., Alexandria, VA 22314, telephone (703) 838-4266

BOARD FOR ARCHITECTS, LAND SURVEYORS, PROFESSIONAL ENGINEERS AND LANDSCAPE ARCHITECTS

† December 1, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,

Calendar of Events

Richmond, Virginia. ☒

A meeting to (i) approve minutes of the September 29, 1989 board meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Board for Land Surveyors

November 30, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) approve minutes of August 11, 1989, meeting; (ii) review applications; (iii) review and discuss correspondence; 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

COMMISSION FOR THE ARTS

† **November 28, 1989 - 9 a.m. - Open Meeting**
† **November 29, 1989 - 9 a.m. - Open Meeting**
Radisson Hotel Lynchburg, 601 Main Street, Lynchburg,
Virginia. ☒

A quarterly meeting.

Contact: Commission for the Arts, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-3132

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

† **December 12, 1989 - 3 p.m. - Open Meeting**
† **December 13, 1989 - 9 a.m. - Open Meeting**
Best Western Williamsburg Outlet Inn, Route 60,
Williamsburg, Virginia. ☒

A work session for regulatory review.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9111

BOARD FOR BRANCH PILOTS

December 13, 1989 - 10 a.m. - Open Meeting
Virginia Port Authority, World Trade Center, Suite 600,
Norfolk, Virginia. ☒

A quarterly business meeting to conduct routine business.

Contact: Florence R. Brassier, Deputy Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8500 or toll-free 1-800-552-3016

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **December 13, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Senate Room
A, Richmond, Virginia. ☒ (Interpreter for deaf provided if
requested)

A regular quarterly meeting. The board will elect officers and conduct general business. The agenda will be mailed to persons on the board mailing list on or about December 4, 1989, and may be obtained by calling Tina Halsted.

Contact: Tina Halsted, Staff Specialist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☒

CHILD DAY-CARE COUNCIL

December 14, 1989 - 9 a.m. - Open Meeting
Koger Executive Center, West End, Blair Building,
Conference Rooms A and B, 8007 Discovery Drive,
Richmond, Virginia. ☒ (Interpreter for deaf provided if
requested)

A meeting to discuss issues, concerns, and programs that impact licensed child care centers. A public comment period is scheduled at 9 a.m.

Contact: Peggy Friedenber, 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

VIRGINIA COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† **November 21, 1989 - 10 a.m. - Open Meeting**
Washington Building, 1100 Bank Street, Room 1116,
Richmond, Virginia. ☒

A biennial plan subcommittee.

Contact: Linda Sawyers, Director, Virginia Council on Child Day Care and Early Childhood Programs, Washington Bldg., 1100 Bank St., Suite 1116, Richmond, VA 23219, telephone (804) 371-8603

CONSORTIUM ON CHILD MENTAL HEALTH

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

Advisory Board

December 1, 1989 - 10 a.m. – Open Meeting
Department for Children Conference Room, 11th Floor, 805 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Regular meeting of the advisory board.

Contact: Martha Norris Gilbert, Director, Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-5991 or (804) 786-8732/TDD ☎

Child Abuse Fatalities Study Committee

† **November 20, 1989 - 3 p.m. – Open Meeting**
Department for Children's Conference Room, 805 East Broad Street, 11th Floor, 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., Richmond, VA 23219, telephone (804) 786-5399

State-Level Runaway Youth Services Network

† **January 18, 1990 - 10:30 a.m. – Open Meeting**
Department of Corrections, 6900 Atmore Drive, Room 3056, Richmond, Virginia. ☒

A regular business meeting open to the public.

Contact: Martha Frickert, Human Resources Developer, Department for Children, 805 E. Broad St., 11th Floor, Richmond, VA 23219, telephone (804) 786-5994

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

December 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

DEPARTMENT OF COMMERCE

† **January 10, 1989 - 10 a.m. – Public Hearing**
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to amend regulations entitled: **VR 190-05-01. Asbestos Licensing Regulations.** The amendments to the Virginia Asbestos Licensing Regulations include RFS contractor licensure requirements, qualifications for inspector and management planner license, contractor notification requirements and revisions of license application procedures.

STATEMENT

Purpose: Statutory changes enacted following the 1989 session of the General Assembly added a category of licensure for roofing, flooring and siding contractors known as "RFS contractors." This license requirement became effective July 1, 1989, as required in § 54.1-503 and § 54.1-501 further requires that training requirements for supervisors and workers employed by licensed RFS contractors be ratified in accordance with the Administrative Process Act prior to July 1, 1990.

The regulations apply directly to approximately 267 licensed asbestos contractors, 24 licensed RFS contractors and 8,683 individuals licensed as asbestos workers, supervisors, inspectors, management planners and project designers.

Proposed revisions to the regulations outline contractor notification procedures and expand the licensure requirements for Inspector and Management Planners to include experience and education criteria. The sections providing for interim licensure have been deleted. In addition to these substantive changes, many of the proposed regulations contain minor language revisions.

Impact: The RFS contractor license regulations apply directly to approximately 24 roofing, flooring and siding contractors and indirectly to the clients utilizing their services.

Calendar of Events

The revisions to the inspector and management planner licensing requirements apply directly to approximately 1,545 individual licensees and to those individuals wishing to become licensed in either category. These revisions will upgrade the licensing standards to the level of competency required in other state regulations specifically the Asbestos Survey Standards promulgated by the Department of Housing and Community Development and provide for consistency with regard to the requirements between the agencies with regulatory responsibility over asbestos projects.

Basis: The legal authority for the Department of Commerce to promulgate the regulations is found in §§ 54.1-500 through 54.1-517 of Title 54.1 of the Code of Virginia.

Statutory Authority: § 54.1-500 et seq. of the Code of Virginia.

Written comments may be submitted until January 19, 1990.

Contact: Peggy J. Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595

BOARD FOR CONTRACTORS

† **December 21, 1989 - 10 a.m. – Open Meeting**
Council Chambers, Municipal Building, 215 Church Avenue, Roanoke, Virginia

The board will meet to conduct a formal hearing:

File Numbers 87-00516, 87-00575
Board for Contractors v. Jack R. Black, Jr.
and Application for License Renewal

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

BOARD OF CORRECTIONS

December 13, 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

BOARD FOR COSMETOLOGY

† **November 20, 1989 - 9 a.m. – Open Meeting**

Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review correspondence, (ii) review applications, (iii) review enforcement cases, and (iv) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

CRIMINAL JUSTICE SERVICES BOARD

Committee on Criminal Justice Information Systems

† **December 7, 1989 - 10 a.m. – Open Meeting**
Governor's Cabinet Conference Room, Ninth Street Office Building, 9th and Grace Streets, 6th Floor, Richmond, Virginia. ☒

A meeting to discuss projects and business of the committee.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

BOARD OF DENTISTRY

† **December 6, 1989 - 11 a.m. – Open Meeting**
Boar's Head Inn, Route 250 West, Charlottesville, Virginia

Informal conferences.

† **December 7, 1989 - 8:30 a.m. – Open Meeting**
Boar's Head Inn, Route 250 West, Charlottesville, Virginia

Formal hearings.

† **December 8, 1989 - 8:30 a.m. – Open Meeting**
† **December 9, 1989 - 8:30 a.m. – Open Meeting**
Boar's Head Inn, Route 250 West, Charlottesville, Virginia

Regular board business and committee meetings.

Contact: N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9906

STATE EDUCATION ASSISTANCE AUTHORITY

Board of Directors

November 21, 1989 - 10 a.m. – Open Meeting
State Education Assistance Authority, 6 North 6th Street, Suite 300, Richmond, Virginia

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

December 4, 1989 - 8 a.m. - Open Meeting
December 5, 1989 - 8 a.m. - Open Meeting
January 11, 1990 - 8 a.m. - Open Meeting
January 12, 1990 - 8 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

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, Community Relations Office, Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540

DEPARTMENT OF EDUCATION (BOARD OF)

† December 4, 1990 - 2 p.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Rooms C and D, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to repeal existing regulations and promulgate new regulations entitled: **VR 270-01-0033. Regulations Governing Driver Education.** The current Board of Education Regulations need to be clarified in the Code of Virginia to specify what is a "standardized program of driver education for public and nonpublic schools" and for commercial schools, how "comparable content and quality" is defined.

STATEMENT

These proposed regulations set forth the requirements for a standardized program for public, nonpublic and commercial schools. They also contain requirements for paraprofessional training.

Issues: Constitutes a "standardized program" and, for commercial schools, the meaning of "comparable content and quality."

Purpose: To provide for consistent interpretation of the requirements for public, nonpublic and commercial schools.

Statutory Authority: § 22.1-205 of the Code of Virginia.

Written comments may be submitted until February 5,

1990.

Contact: Jeane L. Bentley, Associate Director, Health, Physical Education and Driver Education, Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2866

LOCAL EMERGENCY PLANNING COMMITTEE OF CHARLES CITY COUNTY

November 30, 1989 - 7 p.m. - Open Meeting
Charles City Neighborhood Facility Building, Board of Supervisors Conference Room, Charles City, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to conduct a review of the local plan.

Contact: Fred A. Darden, County Administrator, P.O. Box 128, Charles City, VA 23030, telephone (804) 829-9201

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

December 7, 1989 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ☒

The committee will meet to discuss the requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Dept., P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236

STATE BOARD OF ELECTIONS

† November 27, 1989 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A meeting to ascertain and certify the results of the November 7, 1989, general and special elections.

Contact: Lisa M. Strickler, Executive Secretary Sr., 101 Ninth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6551 or toll-free 1-800-552-9745/TDD ☒

VIRGINIA EMPLOYMENT COMMISSION

January 3, 1990 - 10 a.m. - Public Hearing
Virginia Employment Commission, 703 East Main Street, Administrative Office Courtroom, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Employment Commission intends to amend regulations entitled: **VR**

Calendar of Events

300-01-3. Virginia Employment Commission Regulations and General Rules - Benefits. The regulations are being amended to provide guidance for the processing of claims for unemployment compensation in the areas of total and part-total unemployment, partial unemployment, interstate claims, combined wage claims, and miscellaneous benefit provisions.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until December 26, 1989.

Contact: Joseph L. Hayes, Manager Administration/Appeals, 703 E. Main St., Room 302, Richmond, VA 23211, telephone (804) 786-7554

COUNCIL ON THE ENVIRONMENT

† **November 21, 1989 - 7 p.m. - Open Meeting**
Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. ☒

A quarterly meeting to discuss environmental issues in the Commonwealth. The public is invited and will be given the opportunity to comment or ask questions during the public forum segment of the meeting. An agenda is being developed and will be available prior to the meeting.

Contact: David J. Kinsey, Special Projects Coordinator, Council on the Environment, 202 North Ninth St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500

Executive Council of the Chesapeake Bay Program

† **December 19, 1989 - 10:30 a.m. - Open Meeting**
U.S. Navy Yard, Washington, D.C.

An annual meeting of the executive council of the regional, intergovernmental Chesapeake Bay Program. Primary purpose of the meeting is to report on progress made in 1989 and to look ahead to 1990. (In order to obtain entrance to the Washington Navy Yard an identification card with a photograph (driver's license, etc.) is required.)

Contact: Sharon Anderson, Assistant Administrator for Chesapeake Bay and Coastal Programs, Virginia Council on the Environment, 202 N. 9th St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500

VIRGINIA FIRE SERVICES BOARD

† **December 8, 1989 - 10 a.m. - Open Meeting**
Sheraton Park South Hotel, 9901 Midlothian Turnpike, Richmond, Virginia. ☒

The Training and EMS Committee will hear presentations, consider requests and decide on recommendations to be made to the Fire Services Board on applications for funds to construct, improve or expand regional fire training centers.

Contact: Carl N. Cimino, Executive Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2681

DEPARTMENT OF GAME AND INLAND FISHERIES

November 15, 1989 - 7 p.m. - Open Meeting
Courtland High School, Spotsylvania County, Virginia. ☒

A meeting to receive public comment on the initial draft report of the use of airboats in the Commonwealth as requested by SJR 166 of the 1989 session of the General Assembly.

Contact: Charles A. Sledd, Chief, Education Division, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-6481, toll-free 1-800-252-7717/TDD ☎ or SCATS 367-6481

† **December 9, 1989 - 8 a.m. - Open Meeting**
† **December 10, 1989 - 8 a.m. - Open Meeting**
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia

A staff working session to discuss long range planning for the agency.

Contact: Nancy B. Dowdy, Agency Regulatory Coordinator, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

† **December 1, 1989 - 10 a.m. - Open Meeting**
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, 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 & Drause, Architects, P.O. Box 1817, Newport News, VA 23601, telephone (804) 687-8030

BOARD OF HEALTH

December 13, 1989 - 9 a.m. - Open Meeting
Department of Health, James Madison Building, 109 Governor Street, Richmond, Virginia. ☒

Calendar of Events

A working session will be held.

December 14, 1989 - 9 a.m. — Open Meeting
Department of Health, James Madison Building, 109
Governor Street, Richmond, Virginia. ☐

A regular business meeting will be held.

Contact: Sarah H. Jenkins, Secretary to the Board,
Department of Health, 109 Governor St., Richmond, VA
23219, telephone (804) 786-3561

DEPARTMENT OF HEALTH (STATE BOARD OF)

December 7, 1989 - 2 p.m. — Public Hearing
James Madison Building, Room 1000, 10th Floor
Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-11-02.02. Regulations Governing the Newborn Screening and Treatment Program.** The rules and regulations governing the newborn screening and treatment program have been revised and amended to include genetic, metabolic, and other diseases of the newborn as specified in §§ 33.1-12 and 32.1-65 et seq. of the Code of Virginia. They specifically clarify the critical time periods for submitting newborn screening tests in an effort to more accurately screen and diagnose newborn diseases.

Statutory Authority: § 32.1-12 and Article 7 of Chapter 2 (§ 32.1-65 et seq.) of the Code of Virginia.

Written comments may be submitted until January 6, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics Director, Maternal and Child Health, 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-7367, SCATS 786-7367

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December 8, 1989 - 10 a.m. — Public Hearing
James Madison Building, Main Floor Conference Room,
109 Governor Street, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **VR 355-12-02. State Plan for the Provision of Children's Specialty Services.** The proposed plan will revise the present State Plan of May 1, 1987. The proposals include clarification of covered services, the setting of eligibility resources, limitation for patients receiving large awards through litigation, modified eligibility criteria and addition of Child Development Services Program.

Statutory Authority: §§ 32.1-12 and 32.1-77 of the Code of Virginia.

Written comments may be submitted until January 5, 1990.

Contact: Nancy R. Bullock, R.N., Nurse Consultant, Children's Specialty Services, Virginia Department of Health, 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-3691, SCATS 786-3691

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November 30, 1989 - 10 a.m. — Public Hearing
James Madison Building, 109 Governor Street, Main Floor
Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-27-01.01. Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualifications for Noncommercial and Commercial Blood Banks.** These regulations define the licensure standards and procedures for commercial and noncommercial blood banks.

Statutory Authority: §§ 32.1-12 and 32.1-140 of the Code of Virginia.

Written comments may be submitted until January 8, 1990.

Contact: A. Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-6261

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November 24, 1989 — Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulations entitled: **VR 355-28-01.02. Regulations for Disease Reporting and Control.** The regulations are being amended to comply with current disease control policies and statutory requirements.

Statutory Authority: §§ 32.1-12 and 32.1-35 through 32.1-38 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: Diane Woolard, M.P.H., Senior Epidemiologist, Department of Health, 109 Governor St., Room 701, Richmond, VA 23219, telephone (804) 786-6261

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November 21, 1989 - 7 p.m. — Public Hearing

Calendar of Events

Norfolk Health Department, Auditorium, 401 Colley Avenue, Norfolk, Virginia

November 28, 1989 - 7 p.m. – Public Hearing
Washington County Public Library, Oak Hill and East Valley Streets, Abingdon, Virginia

November 29, 1989 - 7 p.m. – Public Hearing
Roanoke County Administrative Office, Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to adopt regulations entitled: **VR 355-34-01. Private Well Regulations.** These proposed regulations establish location, construction and water quality standards for private wells.

Statutory Authority: § 32.1-176 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water Services, Department of Health, James Madison Bldg., 109 Governor St., Room 500, Richmond, VA 23219, telephone (804) 786-1750

VIRGINIA HEALTH PLANNING BOARD

January 8, 1990 - 9 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-01-01. Guidelines for Public Participation in Developing Regulations.** This regulation sets forth the mechanism by which interested parties may assist the Virginia Health Planning board in developing its regulations.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

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January 8, 1990 - 9 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled:

VR 359-02-01. Regulations for Designating Health Planning Regions. This regulation establishes the process for designating health planning regions and sets forth the characteristics required as a condition of such designations.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

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January 8, 1990 - 9 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-02. Regulations Governing the Regional Health Plannings Boards.** This regulation establishes the required characteristics of a regional health planning board.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

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January 8, 1990 - 9 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-02-03. Regulations for Designating Regional Health Planning Agencies.** This regulation establishes the process for designating regional health planning agencies and sets forth the characteristics that are required for such designation.

Statutory Authority: § 32.1-122.02 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

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January 8, 1990 - 9 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor
Conference Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Planning Board intends to adopt regulations entitled: **VR 359-03-01. Administration of State Funding for Regional Health Planning.** This regulation establishes the administrative rules for distributing state funds appropriated for regional health planning.

Statutory Authority: §§ 32.1-122.02 and 32.1-122.06 of the Code of Virginia.

Written comments may be submitted until January 9, 1990.

Contact: John P. English, Health Planning Consultant, Department of Health, 109 Governor St., Room 1010, Richmond, VA 23219, telephone (804) 786-4891

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **November 27, 1989 - 2 p.m. - Open Meeting**
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

Council Technical Task Force meeting to consider proposed changes to the council's rules and regulations and the criteria for filings by health care institutions.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

November 28, 1989 - 9:30 a.m. - Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

Monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Executive Director, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION

† **December 6, 1989 - 10 a.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, 9th Floor, Richmond, Virginia. ☒

A monthly meeting. Agenda available upon request.

Contact: Dr. Barry M. Dorsey, Associate Director, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2632

HOPEWELL INDUSTRIAL SAFETY COUNCIL

December 5, 1989 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

December 11, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒

This meeting is being held to receive public input regarding the Board of Housing and Community Development's intent to amend the 1987 editions of the Virginia Uniform Statewide Building Code, Volume II Building Maintenance Code, and the Virginia Statewide Fire Prevention Code, regarding the installation of fire suppression and alarm systems in existing buildings to include nursing homes, homes for adults, hospitals and other institutional uses (Use Group I).

Contact: Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

† **December 7, 1989 - 9 a.m. - Open Meeting**
Jefferson-Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia. ☒

A working/planning session of the council.

Virginia Apprenticeship Council/Safety and Health Codes Board

† **December 6, 1989 - 2 p.m. - Open Meeting**
Jefferson-Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia. ☒

An orientation session for the council and board members.

Contact: Lilla Williams, Information Director, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 371-8589

Calendar of Events

LIBRARY BOARD

January 18, 1990 - 9:30 a.m. - Open Meeting
Virginia State Library and Archives, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

LONGWOOD COLLEGE

† **December 8, 1989 - 10 a.m. - Open Meeting**
Ruffner Building, Longwood College, Virginia Room, Farmville, Virginia. ☒

A meeting to conduct business pertaining to the governance of the institution.

Contact: William F. Dorrill, President, Longwood College, Farmville, VA 23901, telephone (804) 395-2001

STATE LOTTERY BOARD

November 21, 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

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November 21, 1989 - 10 a.m. - Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Lottery Board intends to amend regulations entitled: **VR 447-01-2. Administration Regulations.** The purpose of the proposed action is to amend certain portions of the Administration Regulations which deal with ineligible players, Operations Special Reserve Fund, procedures for small purchases and vendor background checks.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until November 21, 1989.

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

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November 21, 1989 - 10 a.m. - Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Lottery Board intends to amend regulations entitled: **VR 447-02-1. Instant Game Regulations.** The purpose of the proposed action is to amend certain portions of the Instant Game Regulations in order to conform to the State Lottery Law and to refine sections which deal with general operational parameters.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until November 21, 1989.

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

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November 21, 1989 - 10 a.m. - Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Lottery Board intends to adopt regulations entitled: **VR 447-02-2. On-Line Game Regulations.** The purpose of the proposed regulation is to set out general parameters for the on-line game. This includes setting standards and requirements for licensing of on-line lottery retailers, ticket validation, setting the framework for the operations of on-line lottery games and the payment of prizes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until November 21, 1989.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433 or SCATS 367-9433

VIRGINIA MARINE PRODUCTS BOARD

† **December 6, 1989 - 5:30 p.m.** – Open Meeting
Virginia Institute of Marine Science, Watermen's Hall,
Director's Conference Room, Gloucester Point, Virginia

The board will meet to receive reports from the Executive Director of the Virginia Marine Products Board on financing, marketing, past and future program planning, publicity/public relations, and old/new business.

Contact: Shirley Estes Berg, 97 Main St., Suite 103, Newport News, VA 23601, telephone (804) 594-7261

BOARD OF MEDICINE

November 24, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-03-01. Regulations Governing the Practice of Physical Therapy.** The proposed amendments to the regulations establish provisions for specific institutions, upon approval to utilize more than three physical therapist assistants under the supervision of a single physical therapist, and establish a new fee for reinstatement of an expired license.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

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November 24, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-05-01. Regulations Governing the Practice of Physicians' Assistants.** The proposed amendments are to more clearly define a physician's supervisory responsibilities when delegating to the assistant and establish environment required for specific procedures.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director,

Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

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December 8, 1989 - 9 a.m. – Public Hearing
Department of Health Professions, 1601 Rolling Hills Drive, 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 of Medicine intends to adopt regulations entitled: **VR 465-07-01. Certification of Optometrists.** The proposed regulations establish requirements for postgraduate training in therapeutic and pharmaceutical agents, clinical training, and examinations necessary to certify licensed optometrists to administer therapeutic pharmaceutical agents in the treatment of diseases of the eye.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until December 22, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925

Ad Hoc Committee on Optometry

December 8, 1989 - 1 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 1, Richmond, Virginia. ☒

The committee will review public comments received during the public hearing and discuss the postgraduate training programs and review the Request for Proposal for development of the certification examination of optometrists to treat certain diseases of the human eye with certain therapeutic pharmaceutical agents, and other items which may come before the committee.

Contact: Eugenia K. Dorson, Deputy Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

Credentials Committee

December 9, 1989 - 8:15 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

A meeting to (i) conduct general business, (ii) conduct interviews, (iii) review medical credentials of applicants applying for licensure in Virginia, and (iv) discuss any other items which may come before this committee.

Calendar of Events

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

Advisory Board on Occupational Therapy

† **January 12, 1990 - 10 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 2, 2nd Floor, Richmond, Virginia. ☒

A meeting to review the Administrative Process Act and the Freedom of Information Act and to develop bylaws for conducting business.

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 MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Virginia Interagency Coordinating Council

December 6, 1989 - 9 a.m. – Open Meeting
Williamsburg Hilton, 50 Kingsmill Road, Williamsburg, Virginia. (Interpreter for deaf provided if requested)

A meeting of the council according to P.L. 99-457, Part H early intervention program for disabled infants and toddlers and their families is meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services, as lead agency, to develop and implement a statewide interagency early intervention program.

Contact: Michael FehI, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710

Mental Retardation Advisory Council

† **December 5, 1989 - 9:30 a.m.** – Open Meeting
James Madison Building, 109 Governor Street, 10th Floor Conference Room, Richmond, Virginia. ☒

A quarterly meeting to conduct business relative to the council's responsibility for advising the State Mental Health, Mental Retardation and Substance Abuse Services Board on issues pertaining to mental retardation. Agenda will be available November 29, 1989.

Contact: Stanley J. Butkus, Ph.D., Director of Mental Retardation, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1746

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mineral Mining

† **November 28, 1989 - 7 p.m.** – Open Meeting
Glade Hill Elementary School, Franklin County, Virginia. ☒

A meeting to receive comments on Rockydale Stone Corporation's proposed surface mining operation in Franklin County.

Contact: William O. Roller, Director, Mineral Mining Division, P.O. Box 4499, Lynchburg, VA 24502, telephone (804) 239-0602 or SCATS 947-2169

DEPARTMENT OF MOTOR VEHICLES

December 4, 1989 - 9:30 a.m. – Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Cafeteria, Richmond, Virginia

† **December 5, 1989 - 10:30 a.m.** – Public Hearing
Springfield Volunteer Fire Department, 7011 Backlick Road, Springfield, Virginia

† **December 6, 1989 - 10:30 a.m.** – Public Hearing
James Madison University, Warren Campus Center, Harrisonburg, Virginia

† **December 7, 1989 - 10:30 a.m.** – Public Hearing
Norfolk Scope - Little Hall, St. Paul Boulevard and Brambleton Avenue, Norfolk, Virginia

† **December 12, 1989 - 10:30 a.m.** – Public Hearing
Virginia Highlands Community College, Abingdon, Virginia

† **December 13, 1989 - 10:30 a.m.** – Open Meeting
Holiday Inn - South, 1927 Franklin Road, Roanoke, Virginia

† **December 14, 1989 - 10:30 a.m.** – Public Hearing
Holiday Inn - South Hill, I-85 and U.S. 58, South Hill, 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 485-60-8901. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.** These regulations relate to (i) the violations of regulated advertising practices which could be considered unfair, deceptive or misleading acts or practices; (ii) the terms, conditions and disclaimers in all forms of advertising media; and (iii) the steps involved in the enforcement process (to include administrative and civil penalties, along with the judicial review process).

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 November 24,

1989.

Contact: William A. Malanima, Manager, Dealer and Records Division, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-0455 or SCATS 367-0455

Medical Advisory Board

† **December 13, 1989 - 12:30 p.m.** – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☒

A regular business meeting open to the public.

Contact: Karen Ruby, Assistant Division Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-0406

MOUNT ROGERS ALCOHOL SAFETY ACTION PROGRAM

Board of Directors

† **December 6, 1989 - 1 p.m.** – Open Meeting
Oby's Restaurant, Marion, Virginia. ☒ (Interpreter for deaf provided if requested)

The board meets every other month to conduct business. The order of business shall be as follows: (i) call to order, (ii) roll call, (iii) approval of minutes, (iv) unfinished business, (v) new business, and (vi) adjournment.

Contact: J. L. Reedy, Jr., Director, Mount Rogers ASAP, 1102 N. Main St., Marion, VA 23454, telephone (703) 783-7771

BOARD OF NURSING

November 27, 1989 - 9 a.m. – Open Meeting
November 28, 1989 - 9 a.m. – Open Meeting
November 29, 1989 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement, and other matters under the jurisdiction of the board. At 1:30 p.m. on November 27, 1989, the board will consider proposed regulations to establish a registry for clinical nurse specialists and may review comments received on existing regulations as part of the required review.

December 14, 1989 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon

request)

Special meeting to consider comments on existing regulations and to develop proposed new and amended regulations as described in the Notice of Intended Regulatory Action published in the Virginia Register of Regulations on July 31, 1989. Other matters under the jurisdiction of the board may be considered.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909

BOARD OF NURSING HOME ADMINISTRATORS

December 6, 1989 - 8 a.m. – Open Meeting
December 7, 1989 - 9 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: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9111

BOARD OF OPTOMETRY

† **December 8, 1989 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Surry Building, Richmond, Virginia

The board will conduct general business and informal conferences.

Contact: Catherine Walker Green, Executive Director, Board of Optometry, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9910

VIRGINIA OUTDOORS FOUNDATION

November 20, 1989 - 10:30 a.m. – Open Meeting
State Capitol, House Room 1, Richmond, Virginia. ☒

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-5539

Calendar of Events

PENINSULA ALCOHOL SAFETY ACTION PROGRAM POLICY BOARD

November 28, 1989 - 12:15 p.m. – Open Meeting
760 J. Clyde Morris Boulevard, Newport News, Virginia

A meeting to (i) review program statistical report; (ii) discuss countermeasure activities; and (iii) discuss concerns and issues of Peninsula ASAP.

Contact: T. L. Fitzgerald, Director, 760 J. Morris Blvd., Newport News, VA 23601, telephone (804) 595-3301

BOARD OF PHARMACY

November 29, 1989 - 9:30 a.m. – Public Hearing
Holiday Inn-West End, 6532 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to adopt regulations entitled: **VR 530-01-02. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The proposed regulation provides licensing and regulatory standards for practitioners of the healing arts to sell controlled substances.

Statutory Authority: §§ 54.1-2400(6), 54.1-2914 and 54.1-3302 of the Code of Virginia.

Written comments may be submitted until November 29, 1989.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9911

VIRGINIA RACING COMMISSION

† **December 20, 1989 - 9:30 a.m. – Public Hearing**
VRSR Building, 1204 East Main Street, Richmond, Virginia

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 662-01-02. Regulations Pertaining to Horse Racing with Pari-mutuel Wagering.**

STATEMENT

Purpose: The Virginia Racing Commission has promulgated proposed regulations which will allow for the licensure, construction, and operation of horse race meetings with pari-mutuel wagering in the Commonwealth of Virginia.

Legal basis: The Virginia Racing Commission is vested, by statute, with the "...control of all horse racing with pari-mutuel wagering in the Commonwealth, with plenary

power to prescribe regulations and conditions under which such racing and wagering shall be conducted, so as to maintain horse racing in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled practice and to maintain in such racing complete honesty and integrity."

Substance: The definitions contained within Part I and the regulations contained within Part II establish the requirements that an applicant for an owner's, owner-operator's, or operator's license shall meet to be considered for a license to construct, own or operate a horse racing facility with pari-mutuel wagering, and the criteria the Virginia Racing Commission will utilize in considering an application for a license.

Briefly, the applicant is required to sign an affidavit, disclose its ownership and control, and disclose background information relating to its character. The applicant is required to disclose the location and scope of the facility, plans for financing, and plans for the construction and operation of the facility. Further, the applicant is required to disclose its plans for safety and security, promotion and advertising, and assessing economic and environmental impacts.

Further, these proposed regulations establish the specific criteria that the Virginia Racing Commission will use in considering an application for owner's, owner-operator's and operator's licenses. The proposed regulations also specify the procedures, facilities and equipment that a licensee will have to provide to conduct horse racing with pari-mutuel racing. Finally, the proposed regulations establish fees and deadlines by which the fees must be paid.

Effects on small businesses: The construction of a quality horse racing facility offering pari-mutuel wagering of the highest integrity is estimated to cost between \$50 million to \$100 million. Some estimates indicate that there could be a one-time economic impact of \$83 million, and a construction project of this magnitude could create 1,250 temporary jobs.

Once construction is completed and the horse racing facility becomes operational, many permanent jobs will be created in the adjacent community supplying labor and services. Further, hotel and restaurant businesses can be expected to be positively affected by the operation of a horse racing facility.

Effects on agricultural economy: The proposed regulations providing for the construction and operation of a horse racing facility will only increase the investment in land and buildings devoted to horses. It is estimated that 200,000 acres of Virginia are devoted to horses and this acreage is conservatively estimated at a value of \$249 million. An additional \$477 million is estimated to be invested in buildings and equipment to maintain horses in the Commonwealth. Both of these estimated figures can be expected to rise with the advent of pari-mutuel horse

racing.

Virginia horse owners spend on an average of over \$3,900 per year to maintain a horse. Given a horse population estimated at 96,000, Virginians are spending \$378 million annually in stabling, equipment, feeding and training their horses. As this expenditure ripples throughout the Commonwealth's economy, it results in over \$631 million of associated economic impact. Again, these expenditures can be expected to rise with advent of pari-mutuel horse racing.

The horse industry is a significant employer within the Commonwealth. It is estimated that 6,000 persons are currently permanently employed in the horse industry and pari-mutuel horse racing will create additional jobs. Depending upon the duration of the race meetings, the experience of other state racing commissions indicates that many thousands of people will be issued permits to work directly on the backstretches, and many of these jobs will be permanent jobs.

Proposed effective date: At the end of the comment period, the Virginia Racing Commission will meet to review both the written comments submitted by interested parties and the transcript of the public hearing. The Virginia Racing Commission will at that time consider any changes to the proposed regulations and anticipates having the final regulations published in the February 12, 1990, issue of the Virginia Register. By adhering to this schedule, the regulations will become effective on March 12, 1990.

(NOTE: Statistics relating to the size and scope of the horse industry in the Commonwealth of Virginia were derived from Horse Industry In Virginia, a study by the Virginia Polytechnic Institute and State University, Blacksburg, Virginia, Summer, 1989.)

Statutory Authority: § 59.1-364 of the Code of Virginia.

Written comments may be submitted until January 20, 1990, to Donald Price, Executive Secretary, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

REAL ESTATE BOARD

† **November 28, 1989 - 10 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Board Room 1, Richmond, Virginia. ☐

The board will meet to conduct a formal hearing:

File Number 86-01589

Real Estate Board V. Vicki D. Newby

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

† **November 30, 1989 - 9 a.m.** – Open Meeting

† **December 1, 1989 - 9 a.m.** – Open Meeting

Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☐

A regular business meeting of the board. Agenda will consist of investigative cases (files) to be considered, files to be reconsidered, matters relating to Fair Housing, Property Registration and Licensing issues (e.g., reinstatement, eligibility requests).

Contact: Joan L. White, Assistant Director, Real Estate Board, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8552 or toll-free 1-800-552-3016

December 7, 1989 - 10 a.m. – Open Meeting

December 8, 1989 - 10 a.m. – Open Meeting

Council Chambers, Municipal Building, 215 Church Avenue, 4th Floor, Roanoke, Virginia

The board will meet to conduct a formal hearing:

File Numbers 86-00183, 87-01417, 88-01102

The Real Estate Board v. Floyd Earl Frith

and

File Numbers 86-00183, 87-01417

The Real Estate Board v. Kenneth Gusler, Jr.

December 15, 1989 - 10 a.m. – Open Meeting

Council Chambers, City Hall, Second Floor, 7th and Main Streets, Charlottesville, Virginia

The board will meet to conduct a formal hearing:

File Number 89-00696

The Real Estate Board V. James E. Craig

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

BOARD OF REHABILITATIVE SERVICES

† **November 30, 1989 - 9:30 a.m.** – Open Meeting

† **January 25, 1990 - 9:30 a.m.** – Open Meeting

4901 Fitzhugh Avenue, Richmond, Virginia. ☐ (Interpreter for deaf provided if requested)

The board will receive department reports, consider regulatory matters and conduct the regular business of the board.

Calendar of Events

Finance Committee

† November 29, 1989 - 2 p.m. - Open Meeting
† January 24, 1990 - 2 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review monthly financial reports and budgetary projections.

Legislation and Evaluation Committee

† November 29, 1989 - 4 p.m. - Open Meeting
† January 24, 1990 - 4 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review pending federal and state legislation and develop criteria for evaluation of department programs.

Program Committee

† November 29, 1989 - 3 p.m. - Open Meeting
† January 24, 1990 - 3 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review vocational rehabilitation regulation proposals and explore options for developing amendments to current VR regulations.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD ☎ or (804) 367-0280/TDD ☎

STATE BOARD OF SOCIAL SERVICES

† December 20, 1989 - 2 p.m. - Open Meeting
† December 21, 1989 - 9 a.m. - Open Meeting (If Necessary)
Department of Social Services, 8007 Discovery Drive, Richmond, 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

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

December 23, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social

Services intends to amend regulations entitled: VR 615-01-26. Aid to Dependent Children (ADC) Programs - Deprivation Due to the Incapacity of a Parent. The purpose of the proposed action is to amend Aid to Dependent Children (ADC) Program policy to require the limited employment opportunities of handicapped individuals to be considered in the determination of eligibility for ADC based on a parent's incapacity. The regulation is being amended in order to comport with federal regulations at 45 CFR § 233.90(a).

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until December 23, 1989, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, 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

December 6, 1989 - 9 a.m. - Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia

A regular bi-monthly meeting and joint meeting with the Virginia Association of Soil and Water Conservation Districts.

Contact: Donald L. Wells, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064

DEPARTMENT OF TAXATION

December 11, 1989 - 10 a.m. - Public Hearing
NOTE: CHANGE IN HEARING LOCATION
State Capitol, Capitol Square, House Room 4, Richmond, Virginia ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: Virginia Tire Tax Regulations (VR 630-27-640. Definitions; VR 630-27-641. Imposition of the Tax; VR 360-27-642. Collection of the Tax, Exemptions, Deductions; VR 630-27-643. Disposition of Revenue; VR 630-27-644. Provision of Chapter 6 of Title 58.1 to apply Mutatis Matundis). The regulations set forth the application of the Virginia Tire Tax to the retail sales of new tires.

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

Written comments may be submitted until December 11,

Calendar of Events

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

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January 5, 1990 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, Capitol Square, 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 630-1-1805.1. General Provisions: Padlocking Premises.**

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

Written comments may be submitted until January 5, 1990

Contact: Janie E. Bowen, Director, Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010

COMMONWEALTH TRANSPORTATION BOARD

† **December 21, 1989 - 10 a.m. - Open Meeting**
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A monthly meeting 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

TRANSPORTATION SAFETY BOARD

† **December 8, 1989 - 9:30 a.m. - Open Meeting**
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☒

A meeting to discuss various subjects which pertain to transportation safety.

Contact: John T. Hanna, Deputy Commissioner for Transportation Safety, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-6620 or (804) 367-1752/TDD ☎

TREASURY BOARD

† **November 29, 1989 (Tentative) - 9 a.m. - Open Meeting**

James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ☒

A special board meeting.

Contact: Laura Wagner-Lockwood, Department of Treasury, James Monroe Bldg., 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 225-4931

December 20, 1989 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ☒

A monthly meeting.

Contact: Betty A. Ball, Department of Treasury, 101 N. 14th St., James Monroe Bldg., 3rd Floor, Richmond, VA 23219, telephone (804) 225-2142

BOARD OF VETERINARY MEDICINE

† **December 6, 1989 - 8:30 a.m. - Open Meeting**
Koger Building, 8001 Franklin Farms Drive, Conference Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Informal conferences.

Contact: Terri H. Behr, 1601 Rolling Hills Dr., Richmond, VA, telephone (804) 662-9915

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

November 28, 1989 - 1 p.m. - Open Meeting
November 29, 1989 - 9 a.m. - Open Meeting
Sheraton Fredericksburg, 2801 Plank Road, Fredericksburg, Virginia. ☒

The second of four quarterly business meetings for 1989-90.

Contact: Donald R. Henck, Ph.D., Executive Director, Old City Hall Bldg., 1001 E. Broad St., Suite 245, Box 28, Richmond, VA 23219, telephone (804) 786-5896/TDD ☎ or SCATS 786-5896

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† **January 27, 1990 - 8:30 a.m. - Open Meeting**
Virginia Military Institute, Smith Hall, Board Room, Lexington, Virginia. ☒

A regular winter meeting of the VMI Board of Visitors to receive committee reports.

Calendar of Events

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

† November 28, 1989 - 1:30 p.m. - Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting of the 13 agency representatives that comprise the council. The council is designed to facilitate the timely delivery of appropriate services to handicapped children and youth in Virginia.

Contact: Glen R. Slonneger, Jr., Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140

VIRGINIA VOLUNTARY FORMULARY BOARD

November 30, 1989 - 10:30 a.m. - Open Meeting
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

A meeting to review (i) public hearing comments; (ii) correspondence; and (iii) other information submitted by pharmaceutical manufacturers for products being considered for inclusion in or deletion from the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326 or SCATS 786-3596

DEPARTMENT OF WASTE MANAGEMENT

November 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 Virginia Waste Management Board intends to amend regulations entitled: VR 672-10-1. Virginia Hazardous Waste Management Regulations. Amendment 10 updates the Virginia Hazardous Waste Management Regulations to retain the equivalency of the Virginia and federal programs.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until November 20, 1989.

Contact: W. Gulevich, Director, Division of Technical Services, Department of Waste Management, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2975 or SCATS 225-2975

STATE WATER CONTROL BOARD

November 20, 1989 - 7 p.m. - Public Hearing
Northampton Senior High School, Eastville, Virginia ☒

The State Water Control Board will hold a hearing to receive comments to determine whether four proposed new wells to withdraw 300,000 gallons per day of groundwater by Dicanio Residential Communities, Inc., for Quarterfields Water and Sewage Co., Inc., located in Northampton County will conflict with existing rights to use groundwater. Additionally, the hearing is being held to receive comments on the proposed issuance or denial of the groundwater withdrawal permit for Dicanio Residential Communities, Incorporated.

November 21, 1989 - 7 p.m. - Public Hearing
William Campbell High School Auditorium, Rt. 917 off of Rt. 501, Naruna, Virginia. ☒

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance or denial of the 401 certification 89-0868 for Ultra Cogen Systems, Incorporated, 12500 Fair Lakes Circle, Suite 260, Fairfax, Virginia 22033-3822 to withdraw 1.43 mgd from the Roanoke River with a return flow of 0.220 mgd, and the effect the withdrawal will have on water quality or beneficial uses of State waters.

November 27, 1989 - 7 p.m. - Public Hearing
Abingdon High School Auditorium, 705 Thompson Drive, Abingdon, Virginia. ☒

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance of a Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0081736 for J. C. Bailey Residence Sewage Treatment Plant, Rt. 8, Box 411, Abingdon, Virginia 24210. The purpose of the hearing is to receive comments on the proposed permit, the issuance or denial of the permit, and the effect of the discharge on water quality or beneficial uses of State waters.

† November 29, 1989 - 7 p.m. - Public Hearing
Halifax County High School, Highway 29 in South Boston, Virginia. ☒

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance or denial of the 401 Certification, its requirements and the proposed VPDES Permit VA0083097. The informal hearings are being held pursuant to §§ 9-6.14:12 and 62.1-44.15(5) of the Code of Virginia, as well as the

Calendar of Events

board's Procedural Rule Nos. 1 and 3.

† **December 4, 1989 - 7 p.m.** – Public Hearing
Smithfield Elementary School Auditorium, Intersection of
Routes 258 and 10, 800 Main Street, Smithfield, Virginia. ☐

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance or denial of the modification of a Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0059005 for Smithfield Foods, Inc., P.O. Box 447, Smithfield, VA 23430. The purpose of the hearing is to receive comments on the proposed permit, the issuance or denial of the modification of the permit, and the effect of the discharge on water quality or beneficial uses of state water.

Contact: Lori A. Freeman, Hearings Reporter, Office of Policy Analysis, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815

December 11, 1989 - 9 a.m. – Open Meeting
December 12, 1989 - 9 a.m. – Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☐

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, P.O. Box 11143, 2111 N. Hamilton St., Richmond, VA 23230, telephone (804) 367-6829

December 14, 1989 - 3:30 p.m. – Open Meeting
James City County Board of Supervisors Room, Building C, 101-C Mounts Bay Road, Williamsburg, Virginia

December 18, 1989 - 3:30 p.m. – Open Meeting
Warrenton Junior High School Auditorium, 244 Waterloo Street, Warrenton, Virginia

January 4, 1990 - 3 p.m. – Open Meeting
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

Public meeting to receive comments and suggestions which the agency will use in proposing specific changes in the Water Quality Standards that will be formally considered during the 1990 Triennial Review.

Contact: Elleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418

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December 14, 1989 - 7 p.m. – Public Hearing
James City County Board of Supervisors Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia

December 18, 1989 - 7 p.m. – Public Hearing

Warrenton Junior High School Auditorium, 244 Waterloo Street, Warrenton, Virginia

January 4, 1990 - 7 p.m. – Public Hearing
Roanoke County Administration Center Community Room, 3738 Brambleton Avenue, S.W., Roanoke, 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 adopt regulations entitled: **VR 680-13-03. Petroleum Underground Storage Tank Financial Requirements.** The proposed regulation requires that owners, operators, and vendors demonstrate sufficient financial responsibility to ensure that corrective action and third party liability responsibilities associated with petroleum UST releases are met.

Statutory Authority: §§ 62.1-44.34:10, 62.1-44.34:12 and 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., January 12, 1990.

Contact: Fred Cunningham, Office of Water Resources, Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0411

† **January 3, 1990 - 2 p.m.** – Open Meeting
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia. ☐

Public meetings will be held to receive views and comments and answer questions from the public on the promulgation of regulations to (i) establish a Virginia Water Protection Permit for any activity requiring a Section 401 Certification under the Clean Water Act and (ii) establish the framework for declaration of surface water management areas which, if declared, would subject surface water withdrawals of 300,000 gallons or more per month for consumptive use to permitting and reporting requirements.

Contact: Joe Hassell or Chester Bigelow, Office of Water Resources Management, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 367-6435 or 367-6406

LEGISLATIVE

ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

December 14, 1989 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

A public hearing to allow the committee to hear the

Calendar of Events

public's views on the AIDS problem. HJR 431

January 11, 1990 - 2 p.m. - Open Meeting
Site to be determined

A tentative date for a working session.

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING AFFORDABLE BANKING SERVICES FOR LOW AND MODERATE CONSUMERS

† **December 13, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia ☒

An open meeting. SJR 226

Contact: Arlen Bolstad, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Tommy Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION ACT

† **November 21, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittee is meeting to study the definition of a compensable injury and the funding mechanism of the Virginia Birth-Related Neurological Injury Compensation Act. HJR 297

Contact: Arlen Bolstad, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING DAYCARE AND EARLY CHILDHOOD EDUCATION

† **November 28, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A work session for the subcommittee and the opportunity to receive remarks from Honorable Eva S. Teig, Secretary of Health and Human Resources. HJR 27 (1988)

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Jeff Finch, House of

Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227

JOINT SUBCOMMITTEE STUDYING THE REGULATION OF ENGINEERS, ARCHITECTS, AND LAND SURVEYORS AND THE EXEMPTION FROM LICENSURE OF EMPLOYEES OF THE COMMONWEALTH AND ITS LOCALITIES

November 21, 1989 - 10 a.m. - Open Meeting
NOTE: CHANGE IN MEETING LOCATION
† **December 12, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room D, 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

VIRGINIA'S EXEMPTION STATUTES

† **December 15, 1989 - 9 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Sixth Floor Conference Room, Richmond, Virginia ☒

The joint subcommittee will meet to study Virginia's Exemption Statutes. SJR 284

Contact: Mary K. Geisen, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE FREEDOM OF INFORMATION ACT

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

INDIGENT DEFENSE SYSTEMS

† **December 6, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A regular meeting. SJR 279

Contact: Mary P. Devine, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

LOCAL AND STATE GOVERNMENT INFRASTRUCTURE AND REVENUE RESOURCES

November 29, 1989 - 11 a.m. – Public Hearing
Montgomery County Courthouse, Courtroom B (Third Floor), Christiansburg, Virginia

The commission is holding a public hearing to aid in their study of local and state government infrastructure and revenue resources. HJR 432

Contact: John Garka, Economist, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

LONG-TERM CARE INSURANCE MODEL REGULATION

† **December 4, 1989 - 2 p.m. – Open Meeting**
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☐

A working session. HJR 332

Contact: Mary P. Devine, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING REINSURANCE, INSURANCE ANTI-TRUST LAWS AND LIABILITY INSURANCE COVERAGE

November 20, 1989 - 1 p.m. – Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia

Work session for joint subcommittee.

Contact: Jeff Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227; additional information may be obtained from C. William Cramme, III, Deputy Director, Division of Legislative Services, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591

CREATION, MEMBERSHIP AND STANDARDS OF CONDUCT OF A NONPARTISAN FAIR CAMPAIGN PRACTICES COMMISSION

December 4, 1989 - 2 p.m. – Open Meeting
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☐

A joint subcommittee meeting. HJR 416

Contact: Mary Spain, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

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

COMMISSION TO STUDY ALTERNATIVE METHODS OF FINANCING CERTAIN FACILITIES AT STATE-SUPPORTED COLLEGES AND UNIVERSITIES

November 20, 1989 - 2 p.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

The third commission meeting will involve final discussions and a review.

December 14, 1989 - 2 p.m. – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

The fourth meeting of the commission will be held in order to finalize its report.

Contact: Kathleen G. Harris, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING CERTAIN PRACTICES OF PSYCHIATRIC PROFESSIONALS AND INSTITUTIONS

† **November 21, 1989 - 10 a.m. – Open Meeting**
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☐

An open meeting. SJR 191

Contact: Gayle Nowell, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869

Calendar of Events

JOINT COMMITTEE ON REAPPORTIONMENT

† **November 20, 1989 - 3 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Sixth Floor
Conference Room, Richmond, Virginia. ☒

A working session.

Contact: Mary Spain, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SURROGATE MOTHERHOOD

† **December 4, 1989 - 10 a.m.** – Open Meeting
State Capitol, Capitol Square, Senate Room 4, Richmond, Virginia. ☒

An open 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

TAXATION OF PUBLIC AND PRIVATE RETIREMENT BENEFITS

† **November 27, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

A regular meeting. HJR 6

Contact: Regina McNally, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

TOWING AND RECOVERY INDUSTRY JOINT SUBCOMMITTEE

† **November 27, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia. ☒

Open meeting. SJR 206.

Contact: Alan B. Wambold, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869

CHRONOLOGICAL LIST

OPEN MEETINGS

November 20

† Child Abuse Fatalities Study Committee
† Cosmetology, Board for
Outdoors Foundation, Virginia
† Reapportionment, Joint Committee on
Reinsurance, Insurance Anti-Trust Laws and Liability
Insurance Coverage, Joint Subcommittee Studying
State-Supported Colleges and Universities, Commission
to Study Alternative Methods of Financing Certain
Facilities at

November 21

Alexandria Alcohol Safety Action Program Policy
Board
† Birth-Related Neurological Injury Compensation Act,
Virginia
† Child Day Care and Early Childhood Programs,
Virginia Council on
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 Regulation of
† Environment, Council on the
Lottery Board, State
† Psychiatric Professionals and Institutions, Joint
Subcommittee Studying Certain Practices of

November 22

† Air Pollution Control, Department of

November 27

† Elections, State Board of
† Health Services Cost Review Council, Virginia
Nursing, Board of
† Public and Private Retirement Benefits, Taxation of
† Towing and Recovery Industry, Joint Subcommittee
Studying Laws Relating to

November 28

† Arts, Commission for the
† Daycare and Early Childhood Education, Joint
Subcommittee Studying
Health Services Cost Review Council, Virginia
† Mines, Minerals and Energy, Department of
- Division of Mineral Mining
Nursing, Board of
† Peninsula Alcohol Safety Action Program Policy Board
† Real Estate Board
Virginia Alcohol Safety Action Program, Commission
on the
† Visually Handicapped, Department for the
- Interagency Coordinating Council on Delivery of
Related Services to Handicapped Children

Calendar of Events

November 29

- † Arts, Commission for the Nursing, Board of
- † Rehabilitative Services, Board of
 - Finance Committee
 - Legislation and Evaluation Committee
 - Program Committee
- Local and State Infrastructure and Revenue Resources
- † Treasury Board
- Virginia Alcohol Safety Action Program, Commission on the

November 30

- Aging, Department for the
 - Long-Term Care Ombudsman Program Advisory Council
- † Air Pollution Control, Department of
- Architects, Land Surveyors, Professional Engineers and Landscape Architects, Board for
 - Board for Land Surveyors
- Charles City County Emergency Planning Committee
- Funeral Directors and Embalmers, Board of
- Population Growth and Development, Commission on
- † Real Estate Board
- † Rehabilitative Services, Board of
- Voluntary Formulary Board, Virginia

December 1

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Children, Department for
 - Advisory Board
- † General Services, Department of
 - Art and Architectural Review Board
- † Real Estate Board

December 4

- Education, State Board of
- † Long-Term Care Insurance Model Regulation
- Nonpartisan Fair Campaign Practices Commission, Creation, Membership and Standards of Conduct of a
- † Surrogate Motherhood, Joint Subcommittee Studying

December 5

- Education, State Board of
- Hopewell Industrial Safety Council
- † Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - Mental Retardation Advisory Council

December 6

- † Air Pollution Control, Department of
- Child Mental Health, Consortium on
- † Dentistry, Board of
- † Higher Education, State Council of
- † Indigent Defense Systems
- † Labor and Industry, Department of
 - Virginia Apprenticeship Council and Virginia Safety and Health Codes Board
- † Marine Products Board, Virginia
- Mental Health, Mental Retardation and Substance

- Abuse Services, Department of
 - Interagency Coordinating Council, Virginia
- † Mount Rogers Alcohol Safety Action Program
 - Board of Directors
- Nursing Home Administrators, Board of
- Soil and Water Conservation Board, Virginia
- † Veterinary Medicine, Board of

December 7

- † Criminal Justice Services Board
 - Committee on Criminal Justice Information Systems
- † Dentistry, Board of
- Emergency Planning Committee of Chesterfield County, Local
- † Labor and Industry, Department of
 - Virginia Apprenticeship Council
- Nursing Home Administrators, Board of
- Real Estate Board

December 8

- Children, Coordinating Committee for
- Interdepartmental Licensure and Certification of Residential Facilities for
- † Dentistry, Board of
- † Fire Services Board, Virginia
- † Longwood College
- Medicine, Board of
 - Ad Hoc Committee on Optometry
- † Optometry, Board of
- Real Estate Board
- † Transportation Safety Board

December 9

- † Dentistry, Board of
- † Game and Inland Fisheries, Department of
- Medicine, Board of
 - Credentials Committee

December 10

- † Game and Inland Fisheries, Department of

December 11

- Housing and Community Development, Department of
- † Taxation, Department of
- Water Control Board, State

December 12

- † Audiology and Speech Pathology, Board of
- Engineers, Architects, and Land Surveyors and the Exemption from Licensure of Employees of the Commonwealth and Its Localities, Joint Subcommittee Studying the Regulation of
- Water Control Board, State

December 13

- † Audiology and Speech Pathology, Board of
- † Banking Services for Low and Moderate Consumers, Joint Subcommittee Studying Affordable
- Branch Pilots, Board for
- † Chesapeake Bay Local Assistance Board
- Corrections, Board of

Calendar of Events

Health, Board of
† Motor Vehicles, Department of
- Medical Advisory Board

December 14

Child Day-Care Council
Health, Board of
Nursing, Board of
State-Supported Colleges and Universities, Commission
to Study Alternative Methods of Financing Certain
Facilities at
Water Control Board, State

December 15

† Exemption Statutes, Virginia's
Real Estate Board

December 18

Water Control Board, State

December 19

† Environment, Council on the
- Executive Council of the Chesapeake Bay Program

December 20

† Social Services, State Board of
Treasury Board

December 21

† Contractors, Board for
† Social Services, State Board of
† Transportation Board, Commonwealth

January 3, 1990

† Water Control Board, State

January 5

Water Control Board, State

January 11

Acquired Immunodeficiency Syndrome (AIDS)
Education, State Board of

January 12

Education, State Board of
† Medicine, Board of
- Advisory Board on Occupational Therapy

January 18

† Children, Department for
- State-Level Runaway Youth Services Network
Library Board

January 24

† Rehabilitative Services, Board of
- Finance Committee
- Legislation and Evaluation Committee
- Program Committee

January 25

† Rehabilitative Services, Board of

January 27

† Virginia Military Institute
- Board of Visitors

PUBLIC HEARINGS

November 20

Freedom of Information Act, Joint Subcommittee
Studying the
Water Control Board, State

November 21

Health, Department of
Lottery Department, State
Water Control Board, State

November 22

† Air Pollution Control, Department of

November 27

Water Control Board, State

November 28

Health, Department of

November 29

Health, Department of
Pharmacy, Board of
† Water Control Board, State

November 30

† Air Pollution Control, Department of
Health, Department of

December 4

† Education, Department of
Motor Vehicles, Department of
† Water Control Board, State

December 5

† Motor Vehicles, Department of

December 6

† Air Pollution Control, Department of
† Motor Vehicles, Department of

December 7

Health, Department of
† Motor Vehicles, Department of

December 8

Health, Department of
Medicine, Board of

December 11

Taxation, Department of

December 12

† Motor Vehicles, Department of

December 13

† Motor Vehicles, Department of

December 14

Acquired Immunodeficiency Syndrome (AIDS)

† Motor Vehicles, Department of
Water Control Board, State

December 18

Water Control Board, State

December 20

† Racing Commission, Virginia

January 3, 1990

Employment Commission, Virginia

January 4

Water Control Board, State

January 5

Taxation, Department of

January 8

Health Planning Board, Virginia

January 10

† Commerce, Department of

Calendar of Events
