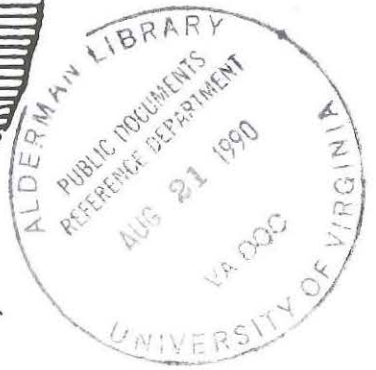


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# THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME SIX • ISSUE TWENTY-TWO

July 30, 1990

# 1990

Pages 3427 Through 3628

## 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 (1) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

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to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

### EMERGENCY REGULATIONS

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

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

### STATEMENT

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

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# PROPOSED REGULATIONS

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## Symbol Key

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

## DEPARTMENT OF CONSERVATION AND RECREATION

**Title of Regulations:** VR 215-02-00. Stormwater Management Regulations.

**Statutory Authority:** §§ 10.1-104 and 10.1-603.4 of the Code of Virginia.

**Publication Date:** 6:12 V.A.R. 1733-1739 March 12, 1990 and Errata 6:14 V.A.R. 2224 April 9, 1990.

**NOTICE:** The Department is WITHDRAWING the proposed regulation titled "Stormwater Management Regulations (VR 215-02-00)" published in the 6:12 V.A.R. 1733-1739 March 12, 1990 and Errata published in the 6:14 V.A.R. 2224 April 9, 1990. The regulation is repropose as follows:

\* \* \* \* \*

**Title of Regulation:** VR 215-02-00. Stormwater Management Regulations.

**Statutory Authority:** §§ 10.1-104 and 10.1-603.4.

**Public Hearing Date:** August 21, 1990 - 10 a.m.

### Summary:

The proposed regulations specify minimum technical criteria and administrative procedures for stormwater management programs which local governments are authorized to adopt to achieve the effective control of precipitation runoff from land development projects. These regulations also establish minimum technical criteria and administrative procedures that apply to land development projects that are conducted by state agencies.

VR 215-02-00. Stormwater Management Regulations.

## PART I GENERAL

### § 1.1. Definitions.

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

"Act" means Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping

the channel banks nor causing erosive damage to the channel bed or banks.

"Applicant" means any person submitting a stormwater management plan for approval.

"Channel" means a natural stream or manmade waterway.

"Department" means the Department of Conservation and Recreation.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

"Director" means the Director of the Department of Conservation and Recreation.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

"Infiltration facility" means a stormwater management facility which temporarily impounds runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility may also be equipped with an outlet structure to discharge impounded runoff, such discharge is normally reserved for overflow and other emergency conditions. Since an infiltration facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

"Inspection" means an on-site review of the project's compliance with the approved plan, the local stormwater management program, and any applicable design criteria.

"Land development" or "land development project" means a manmade change to the land surface that potentially changes its runoff characteristics.

"Local stormwater management program" or "local program" means a statement of the various methods employed by a locality to manage the runoff from land development projects and may include such items as local ordinances, policies and guidelines, technical materials, inspections, enforcement and evaluation.

"Locality" means a county, city, or town.

"Nonpoint source pollution" means pollution whose



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sources cannot be pinpointed but rather is washed from the land surface in a diffuse manner by stormwater runoff.

“Onsite stormwater management facilities” means facilities which are designed to control stormwater runoff emanating from a specific site.

“Person” means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body or any other legal entity.

“Post-development” refers to conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

“Pre-development” refers to the land use that exists at the time that plans for the land development are submitted to the locality. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing land use at the time the first item is submitted shall establish pre-development conditions.

“Regional (watershed wide) stormwater management facility” means a facility or series of facilities designed to control stormwater runoff from a large contributing area, although only portions of the watershed may experience land development.

“Regional stormwater management plan” or “regional plan” means a document containing material describing how runoff from open space, existing development and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

“Runoff” or “stormwater runoff” means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

“State project” means the construction of any facility or expansion of an existing facility including, but not limited to land clearing, soil movement, or land development, which is undertaken by any state agency, board, commission, authority or any branch of state government, including state supported institutions of higher learning, which disturbs more than one acre of land area.

“Stormwater detention basin” or “detention basin” means a stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility’s design. Since

a detention facility impounds runoff only temporarily, it is normally dry during nonrainfall periods.

“Stormwater management facility” means a device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

“Stormwater management plan” or “plan” means a document containing material for describing how existing runoff characteristics will be maintained by a land development project and comply with the requirements of the local program or these regulations.

“Stormwater retention basin” or “retention basin” means a stormwater management facility which, similar to a detention basin, temporarily impounds runoff and discharges its outflow through a hydraulic outlet structure to a downstream conveyance system. Unlike a detention basin, however, a retention basin also includes a permanent impoundment and, therefore, is normally wet, even during nonrainfall periods. Storm runoff inflows are temporarily stored above this permanent impoundment.

“Subdivision” unless otherwise defined in a local ordinance adopted pursuant to § 15.1-465 of the Code of Virginia, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

“Water quality volume” means the volume equal to the first 0.5 inch of runoff multiplied by the total area of the land development project.

“Watershed” means the total drainage area contributing runoff to a single point.

## § 1.2. Authority.

Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia authorizes the department to promulgate these regulations.

## § 1.3. Purposes.

The purposes of these regulations are to:

1. Inhibit the deterioration of existing waters and waterways of the Commonwealth by requiring that state agency and local stormwater management programs maintain post-development runoff characteristics, including both water quantity and quality, as nearly as practicable, equal to or better than the pre-development runoff characteristics;
2. Control nonpoint source pollution, localized flooding

and stream channel erosion, by establishing minimum acceptable technical criteria that must be met by state agencies and all stormwater management programs implemented by localities;

3. Establish minimum acceptable administrative procedures that must be met by all local stormwater management programs implemented by localities;

4. Require the provision of long-term responsibility for, and maintenance of, stormwater management facilities and other techniques specified to manage the quality and quantity of runoff;

5. Provide for the integration of stormwater management programs with erosion and sediment control, site plan review, flood insurance, floodplain management and other land development related programs and laws and regulations requiring compliance prior to authorizing construction; and

6. Provide for the periodic review and evaluation of local agency stormwater management programs and state agency compliance and for annual reporting to the General Assembly of the extent to which the state stormwater management program has reduced nonpoint source pollution and mitigated the detrimental effects of localized flooding.

## § 1.4. Applicability.

### A. These regulations are applicable to:

1. Every locality that establishes a local stormwater management program; and
2. Every state agency that, after January 1, 1991, undertakes any land clearing, soil movement, or construction activity involving soil movement or land development.

### B. The following activities are exempt from these regulations:

1. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia.
2. Tilling, planting or harvesting of agricultural, horticultural, or forest crops.
3. Single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures.
4. Land development projects that disturb less than one acre of land area, except that the governing body of a locality that has adopted a local stormwater management program may exempt a smaller area of

disturbed land or may qualify the conditions under which this exemption shall apply.

## PART II. TECHNICAL CRITERIA.

### § 2.1. Applicability.

Except as provided for in § 1.4 B of these regulations, all local stormwater management programs and state projects must comply with the general requirements and water quality requirements in this part.

### § 2.2. General requirements.

A. A stormwater management plan for a land development project shall be developed so that from the site, the post-development peak runoff rate from a two-year storm and a 10-year storm, considered individually, shall not exceed the pre-development rates.

B. These design storms shall be defined as either a 24-hour storm using the rainfall distribution recommended by the U.S. Soil Conservation Service when using U.S. Soil Conservation methods or as the estimated maximum rainfall for the estimated time of concentration of runoff at the site when using a design method such as the Rational Method.

C. For purposes of computing runoff, all lands in the site shall be assumed prior to development to be in good condition (if the lands are pastures, lawns, or parks), with good cover (if the lands are woods), or with conservation treatment (if the lands are cultivated); regardless of conditions existing at the time of computation.

D. Construction of stormwater management facilities or modifications to channels shall comply with all applicable laws and regulations. Evidence of approval of all necessary permits shall be presented.

E. Localities shall require impounding structures that are not covered by the Virginia Dam Safety Regulations to be checked for structural integrity and floodplain impacts for the 100-year storm event.

F. Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices and are acceptable to the locality.

G. Outflows from a stormwater management facility shall be discharged to an adequate channel, or velocity dissipators shall be placed at the outfall of all detention and retention basins and along the length of any outfall channel as necessary to provide a nonerosive velocity of flow from the basin to a channel.

H. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the land development as a whole. Individual

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lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.

I. New construction, including construction of stormwater management facilities, should be avoided in flood plains. When this is unavoidable, a special examination to determine adequacy of proposed stormwater management facilities during the 100-year flood shall be required. The purpose of this analysis is to ensure that the stormwater management facility will operate effectively.

J. In addition, such construction shall be in compliance with all applicable regulations under the National Flood Insurance Program.

K. Where deemed necessary by the locality, the applicant shall submit an analysis of the impacts of stormwater flows downstream in the watershed. Over detention of the design storms may be required to prevent flooding or stream erosion downstream.

L. Land development projects must comply with the Virginia Erosion and Sediment Control Act and attendant regulations.

## § 2.3. Water quality requirements.

The water quality volume shall be treated by one of the following methods.

A. For a detention basin, the water quality volume shall be detained and released over 30 hours.

1. The detention time is a brim-drawdown time and, therefore, shall begin at the time of peak storage of the water quality volume in the detention basin.

2. If the above requirement would result in an outlet pipe smaller than three inches in diameter or the equivalent cross sectional area, the period of detention shall be waived so that three inches will be the minimum pipe size used.

B. For a retention basin, the volume of the permanent pool must be at least three times greater than the water quality volume.

C. For an infiltration facility, the water quality volume must be completely infiltrated within 48 hours.

1. The invert of the infiltration facility must be at least four feet above the seasonal high groundwater elevation.

2. A detailed soils analysis and report shall be required.

3. Approvals will be on a case-by-case basis after technical review by the designated authority. The object of this review will be to avoid groundwater contamination.

D. Design calculations verifying compliance with the water quality requirements shall be submitted.

## § 2.4. Nonstructural measures.

It is not necessary that basic requirements for water quality and quantity control be satisfied by means of structural methods. Nonstructural practices including, but not limited to, cluster land use development, minimization of impervious surface and curbing requirements, open space acquisition, flood plain management, and protection of wetlands, steep slopes and vegetation should be coordinated with structural requirements. Such changes in land use often decrease the runoff coefficients, thus reducing the scope and cost of structural practices.

## PART III.

### LOCAL STORMWATER MANAGEMENT PROGRAMS.

## § 3.1. Applicability.

A. This Part specifies administrative procedures for all localities operating local stormwater management programs.

B. Except for regulations related to plan approval, which are set forth in §§ 3.5 and 3.6 of these regulations, a locality may adopt regulations that are more stringent than those necessary to ensure compliance with these regulations, provided that the more stringent regulations are based upon the findings of local comprehensive watershed management studies and that prior to adopting more stringent regulations a public hearing is held after giving due notice.

C. The department and a locality operating a stormwater management program are authorized to cooperate and enter into agreements with any federal or state agency in connection with stormwater management plans.

1. A locality that has adopted more stringent requirements or regional stormwater management plans may request, in writing, that the department consider these requirements in its review of state agency projects within that locality.

2. To the maximum extent practicable, the state agencies shall comply with these local program requirements.

3. Nothing in this Part shall be construed as authorizing a locality to regulate, or to require prior approval by the locality for, a state project.

D. Localities with existing stormwater management programs shall have one year from the effective date of

these regulations to modify their programs to comply with the minimum requirements of these regulations.

## § 3.2. Requirements for local program and ordinance.

A. At a minimum, the local stormwater management program and implementing ordinance shall require compliance with the stormwater management technical criteria established in Part II of these regulations.

B. Each locality shall submit its stormwater management program, implementing ordinance, and amendments to the department for review. The department shall determine if the program and ordinance are consistent with the state stormwater management regulations and notify the locality of its findings within 60 days.

C. Each stormwater management program shall consider the unique character and limitations of the environment in the planning area.

D. Stormwater management programs shall refer to and be in compliance with requirements for the control of soil erosion. The stormwater management program and ordinance shall also be consistent with relevant federal and state laws, rules and regulations concerning stormwater management, dam safety, flood plain management and flood control. Additionally, such programs should be coordinated with any stormwater management plans prepared by any other locality in the watershed.

E. The local stormwater management program and ordinance shall be included in the periodic reexamination of the locality's comprehensive land use plan.

F. No grading, building, or other permit shall be issued for land development unless a stormwater management plan has been submitted to the locality and approved.

G. Nothing in this regulation shall be construed as limiting the rights of other federal and state agencies from imposing stricter standards or other requirements as allowed by law.

## § 3.3. Watershed planning encouraged.

A. In developing a local stormwater management program, a locality should consider regional planning for the appropriate watershed. The objective of regional stormwater management planning is the achievement of greater economy and efficiency through the use of regional stormwater management facilities that can serve several land development projects, as opposed to the use of a multitude of facilities that are intended solely for individual land development projects. In addition to mitigating the impacts of new development, regional stormwater management facilities may also provide an opportunity to remediate flooding or water quality problems caused by uncontrolled existing development. Because watershed boundaries typically transcend political boundaries, localities are encouraged to develop

cooperative regional stormwater management plans.

B. Regional stormwater management planning should include the following, as a minimum:

1. Consideration of the locality's comprehensive plan, zoning, government facility plans and similar planning tools.

2. An analysis of the impacts of development on the watershed based on hydrologic and hydraulic modeling. At a minimum, the 2-year, 10-year, and 100-year storms shall be studied. Ultimate development of the watershed shall be assumed.

3. Recommendations for locations, specified release rates, and required storage capacities of needed regional stormwater management facilities based on the modeling.

4. Consideration of future expansion of regional stormwater management facilities based on the possibility that development might exceed the anticipated level.

5. Requirements for necessary onsite stormwater management facilities and release rates.

6. An implementation schedule and financing requirements.

## § 3.4. Administrative procedures: Stormwater management plans.

A. A local stormwater management program and ordinance shall require a person who intends to initiate a land development project to submit a stormwater management plan and obtain the locality's approval of the plan prior to beginning the project.

B. The local stormwater management program and ordinance shall establish stormwater management plan submittal requirements. The stormwater management plan may include the appropriate maps, calculations, detail drawings, reports and a listing of the status of all major permit decisions to assure that the land development project achieves the objectives of the local program. Maps, plans, and designs shall be certified by a professional engineer or Class III B surveyor.

C. A locality may charge applicants a reasonable fee to defray the costs of program administration, including costs associated with plan review, issuance of permits, periodic inspection for compliance with approved plans and necessary enforcement, provided that charges for such costs are not made under any other law, ordinance or program. The fee shall not exceed an amount commensurate with the services rendered and expenses incurred or the amount established in § 10.1-603.10 of the Code of Virginia, whichever is less.

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D. Prior to issuance of any permit, the locality may also require an applicant to submit a reasonable performance bond in accordance with § 10.1-603.8 A of the Code of the Virginia.

## § 3.5. Administrative procedures: Approval and disapproval of plans.

A. A maximum of 30 calendar days from the receipt of an application will be allowed for preliminary review of the application for completeness. During this period, the locality will either accept the application for review, which will begin the 60-day review period, or reject the application for incompleteness and inform the applicant in writing of the information necessary to complete the application.

B. The 60-day review period begins on the day the complete stormwater management plan is accepted for review. At this time, an acknowledgement letter is sent to the applicant. During the 60-day review period, the locality shall either approve or disapprove the plan. Approval or denial shall be based on the plan's compliance with the locality's stormwater management program.

C. A disapproval of a plan shall contain the reasons for disapproval.

D. The applicant or any aggrieved party authorized by law may appeal a locality's decision of approval or disapproval of a stormwater management plan application within 30 days after the rendering of such a decision of the locality, to the circuit court of the jurisdiction in which the land development project is located.

E. Judicial review shall be on the record previously established and shall otherwise be in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

## § 3.6. Administrative procedures: Conditions of approval.

Each plan approved by a locality shall be subject to the following conditions:

1. The applicant shall comply with all applicable requirements of the approved plan, the local program, these regulations and the Act, and shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.
2. The land development project shall be conducted only within the area specified in the approved plan.
3. The locality shall be allowed, after giving notice to the owner, occupier or operator of the land development project, to conduct periodic inspections of the project.
4. The person responsible for implementing the approved plan shall conduct monitoring and submit

reports as the locality may require to ensure compliance with the approved plan and to determine whether the plan provides effective stormwater management.

5. No transfer, assignment or sale of the rights granted by virtue of an approved plan shall be made without the prior written approval of the locality.

## § 3.7. Administrative procedures: Changes to an approved plan.

No changes may be made to an approved plan without review and written approval by the locality.

## § 3.8. Administrative procedures: Exceptions.

A. A request for an exception shall be submitted, in writing, to the locality. An exception from the stormwater management regulations may be granted, provided that: (i) exceptions to the criteria are the minimum necessary to afford relief, and (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the purpose and intent of the Act is preserved.

B. Economic hardship is not sufficient reason to grant an exception from the requirements of this regulation.

## § 3.9. Administrative procedures: Maintenance and inspections.

A. Maintenance of stormwater management facilities is an integral aspect of a stormwater management program. Responsibility for the operation and maintenance of stormwater management facilities, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall designate for each project the property owner, governmental agency, or other legally established entity to be permanently responsible for maintenance.

B. In the case of developments where lots are to be sold, permanent arrangements satisfactory to the approving agency shall be made to insure continued performance of these obligations.

C. A schedule of maintenance inspections shall be incorporated into the local ordinance. Ordinances shall also provide that in cases where maintenance or repair is neglected, or the stormwater management facility becomes a danger to public health or safety, the locality has the authority to perform the work and to back-charge the owner.

D. Localities may require right of entry agreements or easements from the applicant for purposes of inspection and maintenance.

E. At a minimum, stormwater management facilities shall be inspected on a semi-annual basis and after any storm which causes the capacity of the facility to be exceeded.

F. During construction of the stormwater management facilities, localities shall make inspections on a regular basis.

G. Inspection reports shall be maintained as part of the land development project file.

## § 3.10. Compliance.

If the locality determines that there is a failure to comply with the plan, notice shall be served upon the applicant or person responsible for implementing the plan by registered or certified mail to the address specified in the application or plan certification, or by delivery at the site of development activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the applicant or person responsible for implementing the plan shall be deemed to be in violation of the Act and upon conviction shall be subject to the penalties provided in § 10.1-603.14 of the Code of Virginia.

## § 3.11. Review of plans by the department.

The department will review any stormwater management plan with real or potential interjurisdictional impacts, upon the request of one of the involved localities, to determine whether the plan is consistent with the provisions of the Act and these regulations. Any such review shall be completed and a report submitted to each locality involved within 90 days of such request.

## PART IV. STATE AGENCY PROJECTS.

### § 4.1. Stormwater management plans or standards required.

A. After January 1, 1991, a state agency shall not undertake any land clearing, soil movement or construction activity involving soil movement or land development unless the state agency has:

1. Submitted to the department a stormwater approval of the plan from the department; or
2. Submitted annually to the department stormwater management standards and specifications and has obtained approval of those standards and specifications.

B. Stormwater management plans prepared for state projects shall comply with the technical criteria

established in Part II of these regulations and, to the maximum extent practicable, any local stormwater management requirements in accordance with § 3.1 C of these regulations.

C. The following schedule for compliance with the state stormwater management regulations shall be applied to state projects.

1. As of January 1, 1991, state projects subject to the capital outlay process described in the Department of General Services, Division of Engineering and Buildings' Capital Outlay Manual that have received approval of preplanning studies or schematic drawings by the Art and Architectural Review Board, and those capital outlay projects not subject to the capital outlay manual that have completed 50% or more of final retrofit their projects with the appropriate measures. However, substantial redesign of the project or additional land acquisition will not be required. At a minimum, these projects must comply with the stormwater management criteria established in the state Erosion and Sediment Control Act and attendant regulations.

2. All other state projects must comply fully with these regulations as of January 1, 1991.

### § 4.2. Minimum requirements for stormwater management plans.

As a minimum, a stormwater management plan shall contain the following:

1. The location and the design of the proposed stormwater management facilities.
2. Overall site plan.
3. Comprehensive hydrologic and hydraulic computations for the pre-development and post-development two-year and 10-year storm events, considered individually.
4. Calculations verifying compliance with the water quality requirements.
5. A description of the measures that are necessary to ensure compliance with the stormwater management provisions of the Erosion and Sediment Control Law, Article 4 (§ 10.1-560 et seq.) of Chapter 5, Title 10, Code of Virginia, and related regulations.
6. A description of the requirements for maintenance of the stormwater management facilities and a recommended schedule of inspection and maintenance.
7. The identification of a person or persons who will be responsible for maintenance.
8. Certification of maps, plans and designs by a

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professional engineer or Class III B surveyor.

## § 4.3. Minimum requirements for submission of stormwater management standards and specifications.

A. A request for approval of stormwater management standards and specifications may be submitted to the department by a state agency on an annual basis. At a minimum, the following certifications shall accompany the request

1. Individual stormwater management plans shall be prepared for all state agency projects.

2. The stormwater management plans shall comply with the technical requirements established in Part II of these regulations and, to the maximum extent practicable, any local stormwater management requirements in accordance with § 3.1 C of these regulations.

3. An inspection and maintenance schedule shall be developed and implemented.

B. Copies of stormwater management specifications and standards including, but not limited to, design manuals, technical guides and handbooks, shall be submitted.

## § 4.4. Actions on plans or specifications by the department.

A. Not later than 30 days after receipt of a complete stormwater management plan submitted by a state agency, the department shall approve or disapprove the plan.

1. The department shall transmit its decision in writing to the state agency which submitted the plan.

2. Disapproved plans must be resubmitted to the department.

B. The department's recommendations shall be binding on the state agency and on the private business or businesses, if any, hired by the state agency.

C. A state agency shall not change an approved stormwater management plan without approval from the department.

## § 4.5. Compliance.

A. The state agency responsible for the land development shall ensure compliance with the approved plan or specifications, even if actual plan implementation is performed by a private business or businesses, hired by the state agency.

B. The department shall perform random site inspections of state projects to assure compliance with these regulations, the Erosion and Sediment Control Act and related regulations.

C. The department may require monitoring and reports from the state agency responsible for implementing the plan, to ensure compliance with the approved plan and to determine if the measures required in the plan provide effective stormwater management.

## PART V. REPORTING.

### § 5.1 Reporting on stormwater management.

A. Localities with stormwater management programs and state agencies shall submit an annual report to the department. The report shall cover the period from July 1 to June 30 and shall be submitted to the department by September 1.

B. For localities, an annual report shall include, at a minimum, the number and type of stormwater facilities installed in the locality during the preceding year; their storage capacities; the affected water body, watershed or basin; a summary of any water quality monitoring data associated with the facilities; and the number and reasons for any exceptions approved by the locality.

C. For state agencies, an annual report shall include, at a minimum, the location (locality), number and type of stormwater facilities installed during the preceding year; their storage capacities; the affected water body, watershed or basin; and a summary of any water quality monitoring data associated with the facilities.

D. The department will compile this information and report to the General Assembly on the extent to which stormwater management programs have reduced nonpoint source pollution to the Commonwealth's waters.

## DEPARTMENT OF MINORITY BUSINESS ENTERPRISE

**Title of Regulation:** VR 486-01-01. Public Participation Guidelines.

**Statutory Authority:** § 2.1-64.35:8 of the Code of Virginia.

**Public Hearing Date:** N/A - Written Comments may be submitted until September 28, 1990.

### Summary:

The Public Participation Guidelines outline the procedure in which the Department of Minority Business Enterprise will identify and inform interested persons of its intent to develop new regulations or change existing regulations and to provide an opportunity for public input. These guidelines also establish the parameters necessary to promulgate regulations in accordance with the Administrative Process Act and the Virginia Register Act.

VR 486-01-01. Public Participation Guidelines.

## PART I. GENERAL INFORMATION.

### § 1.1. Definitions.

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

"Department" means the Department of Minority Business Enterprise.

"Director" means the Director of the Department of Minority Business Enterprise.

"Person" means any corporation, partnership, sole proprietorship, association, one or more individuals, or any unit of government or agency thereof.

### § 1.2. Policy.

The department shall seek public participation from interested parties prior to formation and during the drafting, promulgation and final adoption process of regulations.

### § 1.3. Application.

These guidelines apply to all regulations adopted by the department except for emergency regulations adopted in accordance with § 9-6.14:9 of the Code of Virginia and such regulations as may be otherwise excluded as identified in the Code of Virginia.

## PART II. INITIATION OF PROCESS.

### § 2.1. Department review.

The department shall review the effectiveness and need for these regulations on an annual basis.

### § 2.2. Formal request for action.

Any person may formally request the director to adopt, amend, or delete any regulation. The request shall be in writing and shall state the name and address of the person interested in the proposed action, the recommended addition, deletion or amendment to a specific regulation, and the anticipated impact on persons affected by the regulation. If the director determines not to act upon a formal request, he shall provide a written response not to act within 90 days from the date of the request. The director shall have sole authority to dispose of the formal request.

## PART III. PUBLIC PARTICIPATION.

### § 3.1. Notice of intended regulatory action.

When the director deems it necessary to develop new regulations or make changes to an existing regulation, a "Notice of Intended Regulatory Action" (form RR01) will be published in the Virginia Register, General Notices section. This notice will invite those interested in providing input to notify the department of their interest. This notice will contain a brief and concise statement of the proposed regulation or change in the regulation and invite interested persons to provide written comment on the subject matter.

### § 3.2. Identification of interested persons.

The department shall identify persons whom it believes would be interested in or affected by the regulation. To do so, the department will use the following:

1. A directory or listing of minority businesses maintained by the department.
2. A listing of persons who request to be placed on the mailing list.
3. A listing of persons who previously participated in public proceedings concerning related subjects or issues.
4. The department may also use other mailing lists or publish a notice of a public hearing in a newspaper of general circulation in Virginia.

### § 3.3. Informational proceeding.

The director or any representative designated for such purpose may hold informational proceedings on any new regulation or proposed changes to existing regulations. In notifying the public, the department shall file a "Notice of Meeting" (form RR06) with the Virginia Register of Regulations. Such persons shall be encouraged to provide a written copy of their statement to the department.

## PART IV. ADVISORY PANEL.

### § 4.1. Establishment.

The director may establish an advisory panel to comment or make recommendations on new regulations or changes to existing regulations. The panel shall be at least five and no more than seven members in number.

### § 4.2. Panel membership.

At least one member shall be represented from a minority business enterprise; one member employed by an office responsible for a federal, state, or local small or minority assistance program; one member with race relations, equal opportunity or related experience and interest; and one member employed by government with procurement or purchasing responsibility. The balance of the panel shall be at-large members who have expressed or may have an interest in the regulation.



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## § 4.3. Orientation of panel.

Panel members will be oriented to the department, its program, issues, constraints, entities to be affected, options and time limitations. The panel will discuss and make recommendations which will be considered in the drafting and adopting of regulations. Once the regulations have been developed, the panel will review them and continue to participate during the promulgation process.

### PART V. FINAL.

## § 5.1. Adoption.

After proposed regulations have been developed by the department in accordance with these guidelines, they shall be submitted for public comment and adopted in final form in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) of the Code of Virginia.

## § 5.2. Final action.

After proposed action on a regulation has been approved, the final regulation will be printed in the Virginia Register.

Copies of final regulations shall be printed and will be available by writing the Department of Minority Business Enterprise at its office in Richmond, Virginia.

### COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

**Title of Regulation:** VR 647-01-02. Policy and Procedure Manual.

**Statutory Authority:** §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

**Public Hearing Dates:**

August 31, 1990 - 10 a.m.  
September 6, 1990 - 10 a.m.  
September 12, 1990 - 10 a.m.  
October 15, 1990 - 10 a.m.  
October 16, 1990 - 10 a.m.  
(See Calendar of Events section for additional information)

**Summary:**

The Commission on VASAP Policy and Procedure Manual is promulgated under §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia. The manual establishes records, and oversees the operation of the 26 local alcohol safety action programs.

The manual as promulgated specifies policies controlling program administrative, personnel, fiscal, and training operations as well as procedures for

processing offenders. Offender procedures include methods for evaluation and processing the offender, assignment to treatment and process for inter and intra state transfers of offenders, and reporting and monitoring of the offender.

The policy and procedure manual also provides specific information regarding the process for program certification.

Revision to regulations as proposed include:

1. Improvements in language, grammar and clarity, as suggested by the Department of Planning and Budget but not adopted when the original regulations were promulgated.

2. Revisions of the process for local program certification.

3. Clarification of definitions provided and addition of six new definitions.

Required forms and standards for implementation are considered to be standards. These standards are not substantive in nature but merely prescribe the forms and procedures to be used when complying with substantive standards.

VR 647-01-02. Policy and Procedure Manual.

### PART I. GENERAL PROVISIONS.

#### § 1.1. Definitions.

The terms used in this regulation shall have the following meaning unless the context indicates otherwise.

"ASAP" means Alcohol Safety Action Program formed by political subdivisions or by the commission as a criminal justice program that uses community and state services to address the problem of driving under the influence of either alcohol and ~~or~~ other drugs. ASAPs receive referrals from local courts or the commission. ASAPs deliver intervention services within locally-administered programs to specific municipal jurisdictions within the Commonwealth of Virginia pursuant to §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

"BAC" means blood alcohol concentration which is determined by law-enforcement personnel or other licensed organizations in accordance with procedures established in § 18.2-268.

"Budget" means a statement in financial terms of a projected or expected operations of a program or accounting entity for a given period.

"CCRE" means a central criminal records exchange.

**"Certification"** is means the process whereby the commission evaluates an ASAP for its organization, management, fiscal standing, and overall operation. Certification also hinges on the ASAP's ability to receive referrals from courts of persons convicted of DUI.

**"Classification"** means a process involving the assessment of an offender's personal involvement with alcohol or other drugs and which resulting results in referral to an appropriate intervention service (educational treatment).

**"Commission"** means the state agency established as the Commission on the Virginia Alcohol Safety Action Program serving under the auspices of and reporting directly to the Secretary of Transportation and Public Safety . It is composed of two members from the House Committee for Courts of Justice, two members from the Senate Committee for Courts of Justice, two sitting or retired district court judges who regularly hear or heard cases involving DUI and who are familiar with local ASAPs, two directors of ASAPs, one representatives from the law-enforcement profession, one citizen at large, one representative from the Department of Motor Vehicles and one representative from the Department of Mental Health, Mental Retardation and Substance Abuse Services.

The commission shall establish and certify ASAPs and require them to be operated in accordance with commission standards § 18.2-271.1 of the Code of Virginia .

**"Countermeasures"** means the separation of actions into specifically defined areas which the VASAP system uses to offset and deter the actions of driving under the influence (DUI) and potential DUI offenders; a system to educate the general public, reduce the incidence of impaired driving and to provide a systematic approach to preventing drunk driving. There are six specific countermeasures defined and utilized by the VASAP system.

**"DAT"** means driver awareness training. Providing information on defensive driving and accident prevention.

**"Deficit"** means that the ASAP, in order to conduct its program, expects to or projects that it will expend more funds than it will receive from offenders or other sources in a fiscal year. Deficit means an excess of expenditures over revenue.

**"Director of ASAP"** means the person who is in charge of and accountable for the operation of an ASAP. The ASAP director reports to the ASAP policy board.

**"DMV"** means the Commonwealth of Virginia Department of Motor Vehicles.

**"DUI"** means operating or driving a motor vehicle or boat under the influence of alcohol or drugs (§ § 18.2-266 and 29.1-738 of the Code of Virginia.)

**"Education"** means commission-approved classes

provided to some offenders following classification. The intervention services include alcoholic or drug education, young offenders education, and intensive education.

**"Enrollment"** means that the offender has to report to the ASAP, obtain an intake appointment, make arrangements to pay the ASAP fee, and sign an agreement to participate as provided in §§ 18.2-266 through 18.2-273.

**"Executive director"** means the executive director of the commission. This person is appointed by the Governor, confirmed by the General Assembly, and carries out the purposes of §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

**"Finance committee"** means a budget fiscal review committee composed of the executive director, two committee members, and such other persons as the Executive Director commission designates.

**"Intake"** means the process wherein offenders, either individually or in groups, provide objective and subjective information to case managers for use in their classification.

**"Intervention services"** means direct service activities to offenders entering through a program which provides direct services. Such activities include assessment services, crisis intervention, case management services and exit activities.

**"Joint exercise of powers"** means ASAPs organized as provided in §§ 15.1-20 and 15.1-21 of the Code of Virginia.

**"Policy board"** means a group established by the ASAP which controls and gives direction to the ASAP's activities and provides input of local needs. This board may also be established in accordance with §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia by the commission.

**"Program fiscal agent"** means a unit of local government or a combination of units of local government which possess the legal authority to receive funds and to transact business throughout its jurisdiction, and the administrative capability to perform these services for an ASAP.

**"Regional ASAP"** means one of the three groups in the Commonwealth of Virginia in which the ASAPs have been organized:

REGION I	REGION II	REGION III
Colonial	Blue Ridge Mountain	Battlefield
Capital Area	Central Va.	Alexandria
Eastern Shore	Dan River	Arlington
John Tyler	Mount Rogers	Bull Run
Peninsula	New River Valley	District Nine

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Piedmont	Roanoke Valley	Fairfax
Southeastern Va.	Rockbridge	James River
Southside Va.	Southwest Va.	Old Dominion
Tidewater Va. Area	Valley	Rappahannock
Tri-River		Rockingham/ Harrisonburg

"Treatment" means intervention services provided to offenders subsequent to a recommendation for referral by an ASAP to outpatient, inpatient or residential service treatment and provided by a certified agent or licensed program.

"VADD" means the Virginia an automated Drunk Driving management information system. A computer network which provides offender profiles to the ASAPs and a mechanism for the transfer of cases and information between the ASAPs and the VASAP office .

"VASAPDA" means the Virginia Alcohol Safety Action Program Directors' Association, a group composed of the directors of the various ASAPs established and operating in the Commonwealth.

"VASAP" means the Virginia Alcohol Safety Action Program, a probation intervention system providing services to offenders referred to the program by the courts. VASAP consists of the Commission on VASAP, the Advisory Board to the Commission on VASAP, local ASAP policy boards and local Alcohol Safety Action Programs established in §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

## § 1.2. Introduction.

The Commission on VASAP shall establish and ensure compliance with minimum standards and criteria for ASAP performance and operations, accounting, auditing, public information and administration for the local alcohol safety action programs. The commission shall also oversee ASAP plans, operations and performance and a system for allocating funds to cover any deficits in ASAP budgets.

## § 1.3. Purpose of manual.

This manual, promulgated under the authority of §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia, establishes records and maintains and updates policies and procedures for the Virginia Alcohol Safety Action Program (VASAP) and for local Alcohol Safety Action Programs (ASAPs).

## § 1.4. Virginia's Alcohol Safety Action Program systems.

VASAP is a criminal justice program that uses community and state services to reduce the problem of

driving under the influence of alcohol or other drugs. VASAP identifies and provides offenders convicted of driving under the influence appropriate services, consisting of driver awareness training (DAT), alcohol and other drug education, and referral to treatment pursuant to a court order or leave of the court. Such programs serve a probation intervention through offender monitoring and follow-up.

The term "ASAP" as used in this manual includes all programs described in §§ 18.2-271.1 and 18.1-271.2 of the Code of Virginia.

## § 1.5. VASAP countermeasures.

ASAP responds to the problems of alcohol or other drug-related transportation incidents through six countermeasure areas:

1. Enforcement
2. Adjudication
3. Case management
4. Education or treatment
5. Prevention, public information, and public education
6. Evaluation

Each countermeasure is oriented specifically to the problem of ~~drinking and driving~~ driving under the influence and attempts to prevent DUI behavior or reeducate those who are convicted of DUI.

The specific directives of each countermeasure are as follows:

1. Enforcement: To deter incidents of impaired driving, increase the number of arrests and convictions of motorists driving under the influence, reduce the blood alcohol concentration (BAC) and improve the accuracy of reporting of alcohol and other drug involvement in transportation cases.
2. Adjudication: To ~~enhance~~ raise the conviction rate of DUI offenders and maintain a consistent rate of DUI referrals; to decrease recidivism among offenders previously involved in VASAP.
3. Case management: To establish and maintain a standard classification procedure for offenders; establish standard methods of reporting offender status to referring courts and the executive director of the Commission on VASAP ~~hereinafter referred to as the Executive Director~~ ; and implement and maintain an offender tracking system (VADD) (see Case Management Manual VR 647-01-03).
4. Education or treatment: To implement and maintain

a standard curriculum to educate offenders as well as resources for *offender* referral to properly-licensed facilities or properly-licensed private practitioners for evaluation .

5. Public information, public education and prevention: To prevent and reduce incidents of DUI and to increase public knowledge of VASAP and transportation dangers caused by alcohol and or other drugs.

6. Evaluation: To utilize the VASAP Commission certification manual to conduct evaluations of ASAP operations every three years; to develop a system for evaluating the impact of the VASAP system on DUI problems.

## § 1.6. Goal and Objectives.

### A. VASAP goal.

Improve transportation safety by decreasing the incidence of driving under the influence of alcohol or other drugs and thereby reducing the number of alcohol and other drug-related crashes.

### B. VASAP objectives.

1. To deter the motoring public from driving under the influence.
2. To deter those arrested and convicted of DUI from again driving under the influence.
3. To increase awareness to facilitate the identification, apprehension and conviction of offenders driving under the influence of alcohol and other drugs.
4. To raise the conviction rate for offenders and the number of appropriate referrals to Alcohol Safety Action Programs.
5. To ensure appropriate probationary control of offenders.
6. To ensure the delivery of appropriate education or treatment services for offenders.
7. To provide statewide offender tracking services for all ASAPs.
8. To increase public awareness of: the civil and legal consequences of DUI arrest; public perception of transportation crash risks; and public activities for and public interest in, reduction of DUI incidents.
9. To assess and maintain the effectiveness and self-supporting status of both the commission and local Alcohol Safety Action Programs.

## PART II. ORGANIZATION AND ADMINISTRATION.

### § 2.1. Legislative authority.

The Virginia Alcohol Safety Action Program, authorized under §§ 18.2-271.1 and 18.1-271.2 of the Code of Virginia, provides services to persons convicted of a violation of § 18.2-266 or of similar offenses. Driving under the influence is a criminal offense categorized as a Class 1 misdemeanor and subject to fine, loss of driving privilege, jail sentence, or all three. Sections 18.2-266 through 18.2-273 of the Code of Virginia cover various aspects of this offense, including presumptive levels , per se levels, chemical testing and reporting systems.

Sections 18.2-271.1 and 18.2-271.2 of the Code of Virginia authorize the commission to establish and ensure maintenance of minimum standards and criteria for ASAP performance and operations, accounting, auditing, public information and administration, in connection with highway safety. The commission oversees ASAP plans, operations and performance, and a system for allocating funds to cover any ASAP deficits.

### § 2.2. Organizational structure.

The commission certifies Alcohol Safety Action Programs (ASAPs) in accordance with procedures set forth in the Commission on VASAP Certification Manual (VR 647-01-04). See § 18.2-271.2 B of the Code of Virginia .

Professional staff shall include a full-time executive director, who is responsible to the commission a police education and training coordinator, public information and education coordinator, data production supervisor, and case management coordinator. Sufficient clerical staff and others shall be hired, and such other staff designated by the commission to carry out the mandates of §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia as well as policies established by the commission . Each employee has shall have responsibilities for areas of ASAP operations and countermeasures as assigned by the executive director. Each and is full time and directly accountable to the executive director.

### § 2.3. Local organization.

Each ASAP is organized under the administration of political subdivisions or the joint exercise of powers statutes §§ 15.1-20 and 15.1-21 of the Code of Virginia .

ASAPs shall consist of at least a director, one or more case managers and clerical support and such staff deemed necessary by the Commission on VASAP and the local policy board . The staff should shall be available to cover administrative, clerical, and countermeasure activities of the ASAP.

ASAP staff shall conform to equal opportunity minimum hiring standards established by the Commonwealth of

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Virginia.

## PART III. CERTIFICATION.

### § 3.1. Certification.

All ASAPs operating under §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia are required to be certified by the commission in conjunction with standards set out in the Commission Certification Requirements Manual (VR 647-01-04).

All ASAPs operating on the initial effective date of these regulations and holding a current certification shall continue under that certification until scheduled for review. All noncertified ASAPs and new ASAPs established after the initial effective date shall obtain certification.

*Certification of Alcohol Safety Action Programs within the Commonwealth of Virginia was established to ensure administrative consistency within the system and the quality of services provided to DUI offenders, the courts and the community.*

*The Commonwealth of Virginia is geographically organized into three VASAP regions; Colonial, Battlefield and the Blue Ridge Mountains ASAP council. A certification team is assigned to each of the regions.*

*Team compositions: Each regional team consists of one commission member, one local ASAP director and one case management representative from the VASAP system. Each team member is appointed by the commission. The membership of each regional team shall be rotated among available representatives on an annual basis. The executive director of the Commission on VASAP shall serve as ex-officio member of each regional team. Team II will serve as the certification team in Region III, Team III will serve as the certification team for Region I and Team I will serve as the certification team for Region II.*

*Training: The executive director of the Commission on VASAP shall be responsible for training provided to each certification review team.*

ASAPs may seek review of ~~decertification~~, revocation or denial of certification through appeal to the commission.

~~Certification reviews are conducted by certification teams. Each certification team shall consist of the Executive Director or his designee, two ASAP directors, and a case management representative appointed by the Executive Director. The Commission, at its discretion, may appoint a Commission member to serve on the certification team. The team's composition will change to allow for participation by all VASAPDA member directors.~~

### § 3.2. Standards of certification.

Certification shall be carried out in accordance with the Certification Requirements Manual (VR 647-01-04).

The standards of certification are:

1. Compliance with the commission's policies and procedures as set forth in this manual.
2. Operation of an ASAP consistent with the statewide system.
3. Compliance with all applicable state and federal laws.

### § 3.3. Period of certification.

~~Beginning in 1989, one~~ *One* -third of the ASAPs shall be certified each year by region; ~~the~~ *The* three regions are (II) Battlefield ASAP Council, (I) Colonial ASAP Council, and (III) Blue Ridge Mountains ASAP Council Regions. All certifications shall be for a period of three years and shall expire on the date the ASAP's fiscal year ends *June 30 in the last year of the certification period.*

### § 3.4. Action on certification.

~~Certification may be revoked, granted with conditions, or denied by the Commission for failure of an ASAP to comply with the standards of certification as established by the Commission.~~

~~Before any certification is revoked, a 30 day written notice shall be given by the Commission or its designee to the ASAP specifying the cause, the date, time and place of a hearing on the proposed action. An ASAP shall be certified or not certified by the Commission on VASAP. When an ASAP is found out of compliance in a review area by the certification team, the ASAP will complete a plan of action setting out the procedures to be followed remedying the discrepancy. This submission must be within 10 days of notification by the review team. A follow-up team representing the commission must then make an additional visit to validate that corrective action has been taken and make a recommendation for certification at the completion of the follow-up visit. A program may seek a waiver from a certification standard as provided on page 27, Category 8 of the Certification Manual (VR 647-01-04). Certification may be revoked if an ASAP fails to continue to meet any standard for certification.~~

Should an ASAP's certification be revoked, *be denied certification*, the ASAP shall submit to a full audit by the commission, and control of all assets and liabilities of such ASAP shall be jointly assumed by the commission and the local political subdivision(s) responsible for the ASAP, so that such assets can be expressly used to establish and operate a certified ASAP within the area previously served by the revoked ASAP. All local referring courts, the commission, VASAPDA and all certified ASAPs shall be notified of any revocation and of the establishment of any

new ASAP.

If an area of the Commonwealth loses the services of a certified ASAP because of ~~decertification~~ *certification is revoked or denied*, the commission or a newly-established ASAP will ensure that services to that area are made available by a certified ASAP.

## PART 4. LOCAL ADMINISTRATIVE STRUCTURE.

### § 4.1. Local structure.

Each ASAP shall provide direct services to a specific set of political subdivisions as defined in the planning study . and *These subdivisions* shall be approved by the Commission.

Any anticipated changes of political subdivisions falling within the service area of an ASAP shall be reported by that ASAP to the *commission through the* executive director at least 60 days prior to the initiation for approval.

Changes in the included political subdivisions of an ASAP or, in the absence of a planning study, the initial establishment of political subdivisions, shall be made in a written agreement with the ASAP *policy board* its fiscal agent, and the commission.

### § 4.2. Administrative agent.

The commission or any county, city or town or any combination thereof may establish, and if established, shall operate in accordance with the standards and criteria required under § 18.2-271.1 of the Code of Virginia an Alcohol Safety Action Program. The Administrative Agent may also serve as the fiscal agent of the ASAP.

Each ASAP shall be administered by a policy board that complies with ~~Section 4.2. § 4.4. ; Policy Board,~~ of this manual to serve as its administrative agent. The administrative agent may also serve as the fiscal agent of the ASAP.

Any changes to the administrative or organizational structure of an ASAP, or any operational component subject to certification review, must be reported to the commission, through the executive director, ~~within 30 for review and approval at least 60 days from the date of adoption and implementation prior to initiation .~~

### § 4.3. Fiscal agent.

Each ASAP may use a local political subdivision as a fiscal agent unless the commission approves an alternative.

Any anticipated changes in the fiscal agent shall be reported by the ASAP to the commission , *through the executive director*, for review and approval at least 60 days prior to initiation.

### § 4.4. Policy board.

Each ASAP shall have a policy board which will control and give direction to the ASAP's activities. These boards shall convey ASAP needs and direction to the ASAP, and board members shall be chosen to serve as set out herein. The board of any ASAP operated by the commission under § 18.2-271.1 H of the Code of Virginia may be selected by the commission if the locality cannot agree on the selections. All persons serving on any policy board shall serve without compensation.

#### A. Policy board composition.

The policy board shall consist of five to 15 members *appointed by the governing bodies of participating jurisdictions* and shall develop policies for the operation of the ASAP. One member shall be selected by the governing board of each participating locality for a term of three years. The remaining members shall be elected by majority vote of those members selected by each represented locality for terms of three years ~~except that when~~ . *When* a local policy board is first appointed, one third of the members shall be appointed for one year, one third for two years, and one third for three years. In addition to the members so selected, the director of the ASAP shall also be an ex-officio member without voting power. The membership ~~is not appointed by the governing bodies of represented jurisdictions, at the discretion of the board, shall be selected or elected from but not limited to, the judiciary, the Bar, the law enforcement, education and treatment professionals , and other interested groups such as local transportation safety commissions.~~ The designated terms of office may, with commission approval, be modified in the discretion of the policy board .

#### B. Policy board responsibilities.

The board shall perform these duties:

1. Oversee operation of the ASAP within the participating localities, and hire and ~~supervising~~ *supervise* an executive a director who shall be responsible for implementing operational policies for the ASAP, hiring and supervising the ASAP staff, and controlling all ASAP revenues and expenditures.
2. Approve a fiscal year operational budget prepared by the Executive director.
3. Approve the Executive director's annual report, which shall include ASAP activities and financial status.
4. Require an annual independent audit *which* shall be conducted at the end of each fiscal year.
5. Adopt written guidelines and bylaws structured *similarly* as set out in subsection C of this section.

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## C. Policy board guidelines and bylaws.

1. Officers. The officers of the policy board shall consist of a chairman a vice chairman, a secretary treasurer (if needed) , and such subordinate officers as the board may elect or appoint. The secretary-treasurer (*when elected*) shall not be the Executive director of the ASAP. Each of these officers shall serve without compensation. The offices of chairman and vice-chairman *when elected* shall be held by members from different participating jurisdictions.

2. Terms of office. Except for the original officers, each officer shall be elected at the annual meeting of the board to serve such a term as the board may designate unless sooner removed by the board, or until a successor is elected and qualifies of three years. Deviation except as provided in § 4.4 A of these regulations must be approved by the Commission on VASAP . Any vacancy occurring in any office shall be filled for the unexpired term by the board.

3. Election of officers. A majority of the members shall be present and voting in order to constitute an election. Members who are unable to attend may vote in any election by letter directed to the chairman and delivered prior to or at the meeting. At the regular meeting of the policy board immediately preceding the annual meeting, the chairman shall appoint a nominating committee. This committee shall present to the board at its annual meeting a slate of nominees for election as officers and a slate of nominees to fill any vacancies on the board. All board members and officers shall take office on the first day of the month following their election and shall serve until their successors take office. No officer shall serve more than two consecutive terms in the same office.

### 4. Duties of Chairman:

a. Preside at all meetings of the board and executive committee, and to vote as any other member.

b. Implement the policies established and the actions taken by the board.

c. Appoint all committees deemed necessary for the operation of the board and the effective implementation of the ASAP.

d. Work closely and meet regularly with the Executive Director of the ASAP.

e. Perform any other duties as determined by the board.

f. Exercise all other powers and duties customarily pertaining to the office of chairman.

5. Duties of Vice Chairman - The vice chairman shall, in the event of the death, disability or absence of the chairman, perform such duties and possess such powers as are conferred upon the chairman, and shall perform such other duties as may be assigned to the vice chairman by the chairman of the board.

6. Duties of Secretary Treasurer - The secretary treasurer shall attend all board and standing committee meetings, and keep a record of their proceedings. The secretary treasurer shall:

a. Serve as custodian of all records of the ASAP.

b. Keep accurate records of all receipts and disbursements.

c. Make a brief financial report at each regular meeting of the board.

d. Submit an annual report as soon as practicable after the end of each fiscal year.

e. Perform all other duties incident to the office or that may be required of him by the board.

The secretary treasurer, with the permission of the board, may delegate certain of his duties and responsibilities to the staff of the ASAP.

7. 4. Regular meetings. Regular meetings of the board shall be held quarterly and shall be open to the public however, the . The board or its executive committee may, where legally appropriate, go into executive session.

A. Time and place. The board may change the date and time of any regular meeting at any prior meeting and may adjourn any meeting from time to time to another place if notice of the change is provided to interested parties .

B. Order of business: The order of business at all regular meetings shall be:

1. call to order

2. roll call

3. approval of minutes

4. unfinished business

5. new business

6. adjournment

C. Special Meetings - Special meetings may be called at the chairman's discretion or by any four board members upon five days notice to all members in writing or by telephone of the time, place, and purpose of the special

meeting.

D. Quorum - A majority of members of the board shall constitute a quorum for the transaction of business.

E. Voting procedures - Each board member shall be entitled to one vote on official matters before the board. All actions of the board, except for election of members of the board, may be taken by a simple majority vote of all members present and voting. No vote by any board member shall constitute or be construed as an official or unofficial commitment of the participating jurisdictions within which that member resides or which the member has been duly chosen to represent.

F. Board committees - Each board may establish:

1. an executive committee
2. a personnel committee
3. a finance committee

#### § 4.5. Personnel policy guidelines.

Personnel of each ASAP are subject to the conflict of interests law (§ 2.1-639.1 et seq. of the Code of Virginia). Each ASAP shall establish personnel policy guidelines no less stringent than those set forth here.

ASAP employees may not engage in any activity deemed to be in conflict with the interests of the ASAP.

Conflict of interests include situations in which ASAP employees:

1. Disclose to any person, not entitled thereto, information gained through their office or employment, or otherwise use such information for their personal gain or benefit.
2. Accept any gifts, gratuities, favors or services from contractors, consultants, suppliers, those any individual or agency who may seek to supply goods or services to the commission or the ASAP or those doing any other kind of business with the Commission of the ASAP. The terms "gifts, gratuities, favors or services" include but are not limited to: moneys, credits, discounts, seasonal or special occasion presents, eatables, drinks, household appliances, furnishings, clothes, loans of goods or money, tickets to sporting or cultural events, transportation, vacations, travel or hotel expenses or any form of entertainment.
3. Contract for or provide supplemental services to an ASAP for which they are employed on a full-time basis.

In the event of a violation of the personnel policy guidelines, the ASAP director or administrator chair of the ASAP policy board shall execute a review procedure.

ASAP directors shall initiate, conduct and complete a thorough review of any alleged breach of personnel policy guidelines by an employee of the ASAP they administer. Such review shall be initiated within 10 working days from the date of receipt of the allegation. Upon both initiation and termination of the review the ASAP director shall notify the Commission executive director and the policy board in writing. A complete report of the review shall be filed no later than 30 days after the date of the initiation of the review.

Employees of an ASAP found in violation of these personnel policy guidelines shall be dealt with by the ASAP director in accordance with ASAP personnel policy or state law as applicable. All personnel actions, resulting from conflict situations, shall be reported to the executive director.

If an ASAP director is subject to review for a breach of personnel policy guidelines, the executive director shall execute the review procedure unless such review is undertaken by the policy board. The executive director shall inform the commission of any such review initiated by the policy board within 30 days of initiation of the review.

*When conducting a review the policy board shall adhere to the same time parameters established for reviews conducted by the ASAP director. The policy board of the ASAP reviewing the ASAP director shall inform file a completed report within 30 days of initiation with the executive director of the results of that review. A director found in violation of these personnel policy guidelines shall be dealt with in accordance with ASAP policy or state law where applicable.*

#### § 4.6. Travel.

All work-related travel by ASAP personnel shall comply with the local policy board's travel regulations. In the absence of local policy regulations, travel must be in accordance with the Commonwealth of Virginia regulations.

#### § 4.7. Training.

Each ASAP shall send appropriate representatives to training sessions conducted or directed by the commission unless prior written exemption is secured from the executive director.

All locally conducted training, other than staff in-service, shall be reported to the executive director.

#### § 4.8. Security clearance.

Each ASAP shall conduct security checks as required by state and federal law to before authorize authorizing personnel access to offender records.

PART V.



# Proposed Regulations

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## ASAP FISCAL POLICY.

### § 5.1. ASAP finance.

All ASAPs shall submit before review, a budget to the commission office through the executive director following approval/review by its policy board and administrative or fiscal agent, where applicable 30 days prior to the beginning of each fiscal year July 1; all ASAPs shall submit a budget to the Commission for review. If deficit funding is sought, the commission shall both review and approve the budget.

Each ASAP shall submit a board approved budget to the Executive Director following reviewed by its policy board and administrative or fiscal agent.

Budgets utilizing federal or state funds shall be submitted to the commission for approval at least 60 days prior to their effective date.

Revisions within appropriated authority establishing new line items require policy board approval and notification shall be submitted to the commission to update budget status.

### § 5.2. Offender fee distribution.

All ASAPs, on a monthly basis or quarterly basis, shall forward 10% of each collected offender fee to the Treasurer of Virginia in accordance with § 18.2-271.1 of the Code of Virginia. Money not expended from year to year after deficit funding has been satisfied shall be expended for the direct benefit of the ASAP or be refunded to such ASAPs in accordance with commission directive.

### § 5.3. Deficit funds.

Twenty percent of the fee paid to the Commonwealth by the ASAP shall be set aside for deficit funding.

The executive director shall submit a quarterly account and report of these funds submitted by the Executive Director to the commission and finance committee members.

The Commission will fund an ASAP's audit, after deficit funding has been determined, up to \$1500 or 1/2 of one percent of the ASAP's total offender fees, whichever is greater.

### § 5.4. Deficit eligibility.

In order to be declared eligible for deficit funding an ASAP must meet the following criteria:

1. The ASAP is operating on an approved budget which has been reviewed by the commission and approved by the policy board.

2. The ASAP will expend all available funds, including such funds as savings, CDs certificates of deposit and any other savings program, during the budget year.

3. The ASAP is operating within all standards established by the commission.

4. The ASAP is willing to revise its budget consistent with the recommendations for the commission's finance committee or the commission.

5. The ASAP has filed a request form and submitted all data requested by the finance committee and commission within the time frame allotted.

6. The ASAP is in compliance with state fee policy and report requirements.

### § 5.5. Budgetary deficits.

- A. All ASAPs requesting deficit funding shall complete a request for deficit funding form and submit it to the executive director.

- B. ASAPs must submit current budget and finance reports to the executive director with the request form.

- C. Budget reviews shall be conducted by the finance committee. The finance committee will meet regarding the ASAP request within 30 days of request to review information submitted and formulate a plan of action.

- D. The ASAP director will meet with the finance committee to present the ASAP's situation and to answer questions. No ASAP director will be allowed to participate in deliberations of the finance committee regarding his the ASAP he is director of.

- E. An on-site review of the ASAP shall be made by the finance committee, commission, or their designee.

- F. Upon final review the finance committee shall determine the amount to be funded via commission funds. Funds up to \$10,000 may be authorized by the finance committee. Larger amounts shall require a review by the full commission.

- G. Not more than 10 working days after the review, the director and board chairman of the ASAP shall be notified of the ASAP's eligibility. ASAPs that meet the requirements shall receive funding. Those not qualified shall receive recommended changes for eligibility.

- H. For the remainder of the fiscal year, the ASAP director shall submit to the commission monthly reports of expenditures with comments on any significant change in the fiscal status of the ASAP.

### § 5.6 Audits and financial reports.

Each ASAP's financial records and accounts shall be

subject to local, state and, when applicable, federal audits.

All financial records shall be maintained in an orderly fashion using generally-accepted accounting procedures. The financial records shall be retained for three years after audit unless specifically authorized by the commission for a shorter period of time.

Within 60 days after the close of the reporting period, all ASAPs shall submit to the commission an annual income statement outlining the ASAP's expenditures and revenues for the reporting period. The report periods shall run from July 1 to June 30 of each year.

The commission shall retain the authority to review and approve the accounting methods used by ASAPs. Each ASAP shall annually submit to the commission the results of a private audit by a CPA or the results of an audit performed under the unified standards in connection with a local governmental unit. *The commission in its discretion may perform audits of local program in addition to or in lieu of this annual audit.*

*Where audits are performed by private CPA firms, the commission will fund an ASAP's audit costs, after deficit funding has been determined, up to \$1500 or 1/2 of 1.0% of the ASAP's total offender fees, whichever is greater.*

## § 5.7. Grant applications.

Each ASAP with political subdivisions as fiscal agents may apply for grants and special projects in accordance with the commission countermeasures for federal funds relating to transportation safety.

## § 5.8. Offender fee collection.

All offenders, ~~except those the court determines indigent~~, referred to the ASAP, ~~except those the court determines indigent~~, are required to pay the fee as required by § 18.2-271.1 of the Code of Virginia. Collection of offender fees in cash is discouraged. ASAPs shall collect only those fees which are authorized by statute.

Unless otherwise directed by the court, offender fees shall be collected at the initial contact or enrollment unless the offender is declared to be indigent, or extreme hardship indicates that payment must be made over a period of time.

Offender indigence is to be determined in accordance with the policy of the referring court.

A receipt notice sign must be posted in a conspicuous location within the ASAP office where receipts are issued for offender fees.

All fees deposited locally shall be in a local account approved by the fiscal agent, administrative agent, or the policy board and deposited in accordance with board procedures. Fees collected by the ASAP shall be deposited

daily.

No ASAP shall retain over \$300 in cash from offender fees in its office beyond the daily close of business.

Each ASAP shall designate specific staff members to be responsible for collection of offender fees. Those individuals and their designees shall be bonded if involved in the direct handling of monies.

All fees collected by the ASAP shall be receipted with prenumbered receipts. All receipts shall be posted in a general ledger that shall be kept in a manner consistent with generally accepted accounting procedures. The receipts, payment cards and receipt books shall be maintained for three years after audit by the ASAP, unless specifically authorized by the commission for a shorter period of time.

Except for those ASAPs whose bookkeeping is provided by their fiscal or administrative agent, each ASAP shall have an appropriate staff member trained to conduct bookkeeping duties. This person should be trained consistent with this responsibility. ASAPs are authorized to contract with a recognized bookkeeping service in lieu of having a staff member perform bookkeeping duties.

## § 5.9. Transfers and fees.

For those offenders who seek to transfer to an out-of-state facility, each ASAP shall inform the offenders in writing (with a copy to remain in their file) of their responsibility for costs incurred out-of-state, unless otherwise directed by the court.

Fees assessed to offenders being transferred intrastate will be collected by the ASAP receiving the transfer.

When an intrastate transfer decision is made following the collection of fees, the originating ASAP shall forward to the receiving ASAP the full fee collected less the portion sent to the Commonwealth. If partial service has been rendered the full fee shall be forwarded unless otherwise agreed upon by the originating and receiving ASAP.

## PART VI. COMMUNICATIONS.

### § 6.1. Correspondence.

State level correspondence from the commission to administrative agents, fiscal agents and policy boards of ASAPs concerning ASAP operation shall also be copied to the ASAP director simultaneously with the issuance of the original correspondence.

Correspondence originating in the ASAP office regarding financial and administrative problems shall be directed to the executive director.

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## § 6.2. Reports.

An annual report of ASAP activities and financial data shall be completed by the ASAP. Fifteen copies shall be submitted to the executive director within 60 days of the close of the fiscal year, unless prior exception is secured from the executive director. The executive director will handle appropriate dissemination. These reports shall follow the standard annual report format as established by the commission.

### PART VII. REVIEWS OF ASAPs.

## § 7.1. Reviews.

In addition to certification review, ASAP reviews shall be periodically directed by the commission in response to ASAP requests, upon identification of substantial ASAP problems, or to update information on ASAP operations. The review may be conducted by the executive director, a representative from the ASAP and any other persons designated by the executive director or commission. ~~An ASAP review shall be conducted within 60 days of the completion of review.~~ Upon approval of the report, a copy shall be submitted to the ASAP.

An ASAP may challenge any portion of the review report through communication to the commission with 30 days of receipt of the report. This will become a part of the official report by the commission.

An ASAP review shall be conducted within 90 days of any change in the ASAP's administrative agent.

~~An ASAP review must be conducted during the period when an ASAP is operating under provisional certification.~~

### PART VIII. ~~CONTRACTS SERVICE AGREEMENTS.~~

## § 8.1. ~~Contracts Service agreements .~~

All ASAPs, as referral agencies, shall explicitly outline relationships with vendors for education or treatment services for offenders through formal contracts or agreements. *All ASAPs shall utilize the standard service agreement format provided by the commission. Local programs may attach an addendum to the standard agreement as negotiated with the service provider.*

ASAPs shall be responsible for ensuring that all treatment ~~contracts service agreements~~ are awarded to vendors who are licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or licensed or certified by the Department of Health Professions.

The ASAP shall be responsible for the negotiation and awarding of ~~contracts service agreements~~ within its area.

When the ASAP so requests, the commission or its designee shall assist in negotiations and consultations on such ~~contracts agreements~~ .

Contracts shall not be ~~awarded~~ *entered into* with any person or agency who is not known to adhere to state and federal equal opportunity regulations, local, state and federal confidentiality and privacy regulations, or any other applicable rules, regulations or laws.

All ~~contracts issued service agreements entered into~~ by ASAPs shall be consistent with § 4.5 of these regulations.

### PART IX. RECORDS MANAGEMENT.

## § 9.1. Offenders file.

Each ASAP shall maintain a file on ~~all offenders each offender~~ referred or transferred to it for service. This file shall contain:

1. Court documents indicating referral.
2. Final disposition report on those offenders who were noncompliant.
3. Consents(s) for release of information signed by the offender.
4. Agreements(s) to participate signed by the offender.
5. Service provider reports.
6. Reports to the court.
7. Documentation of offender's absences from class or session.
8. Transfer form.
9. Record of fee payment showing date of payment, receipt number(s) and amount paid.
10. Classification material.
11. Record of chronological contact with offender.

ASAPs shall not destroy the above offender records or files without a formal records management plan authorized by the Virginia State Archivist.

## § 9.2. Records retention.

Each ASAP shall retain its records in accordance with the following schedule in addition to or as part of the agency's records management plan approved by the Virginia State Archivist:

1. Consent for release of information forms - three years.

2. Final report to the court, if required by the court - three years.

3. Court documents indicating referral - three years.

All financial records of the ASAP shall be retained for three years after audit.

## PART X. TRANSFER PROCEDURES.

### § 10.1. Transfer documentation and procedures.

A standardized transfer procedure for cases, with inclusion of appropriate documents, shall be as established in §§ 10.2 and 10.3 of these regulations.

### § 10.2. Intrastate transfers.

A. Minimum documentation necessary for transfer of offender prior to ASAP ~~entry~~ *enrollment* shall be as follows:

1. Transfer form letter.
2. Court order or document ordering or requiring participation.
3. Case summary information.
4. Copy of DMV driving record of offender (if available at time of transfer).
5. CCRE or any arrest information (if available).

B. Minimum procedures necessary for transfer of offender prior to ASAP ~~entry~~ *enrollment*.

~~1. In order to be considered for transfer, offenders must have contact with the originating ASAP prior to transfer origination.~~

~~2. No ASAP shall retain offenders who do not reside or are not employed in their service area, unless a written request from the offender is obtained. This request shall be kept in the offender's case file.~~

*1. ASAPs shall not retain offenders who reside outside or are not employed in their service area. In a rare instance an offender may request not to be transferred. Such request from the offender shall be in writing and kept in the offender's case file.*

*2. In order to be considered for transfer offenders must have contact with the originating ASAP prior to transfer origination.*

3. No fee shall be collected by the originating ASAP.

4. Transfer of offender's file may be accomplished by the approved automated process.

C. Minimum documentation and procedures necessary for transfer after initial intake session or when offender is actively involved in the ASAP shall be as follows:

1. Transfer form letter.
2. Court document ordering or requiring participation.
3. Case summary information.
4. Copy of DMV driving record of offender (if available).
5. CCRE or any arrest data on offender (if available).
6. Summation of information leading to classification and copy of testing instrument used.
7. Copy of questionnaire completed by offender revealing alcohol or other drug or general information.
8. Progress report on offender, if available.
9. Entire ASAP fee (minus state portion if paid to the state shall be transferred, unless a lesser amount is agreed upon by the originating and receiving ASAPs.
10. Transfer of offender file may be accomplished by the approved automated process.

Cases ~~may~~ *shall* be transferred if the offender's place of residence *changes* or *may be transferred* if employment changes to another ASAP area and if the offender requests a transfer to the area of his new residence or employment. If any ASAP involved fails to transfer a client to the appropriate ASAP, such failure shall be reported to the commission for investigation or action by the commission.

No ASAP shall establish offender services in the geographic service area of another ASAP without written agreement between the ASAPs *and notification to the commission*.

### § 10.3. Interstate transfers.

A. Offender cases may be transferred to an out-of-state agency if either of the following conditions exist:

1. An offender lives or is employed in another state and requests a transfer.
2. An offender is ordered, by the court of proper jurisdiction, to participate in a program out of state.

B. ~~The Transfers to states which are members of the Southeastern compact shall be accomplished in accordance with that agreement.~~ In other cases, minimum documents necessary for transfer from the originating ASAP to an out-of-state agency shall be as follows:

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1. Letter of transmittal including specific reporting needs of the ASAP.
2. Properly completed consent for release of information.
3. Transfer form.
4. Court document ordering ASAP participation.
5. Any arrest information on offender relating to alcohol or other drug usage.

C. The entire ASAP fee shall be collected and retained by the ASAP responsible for the offender unless ordered otherwise by the committing court.

D. Treatment and education services rendered by an out-of-state agency must meet the same program requirements as determined by the ASAP. The ASAP is responsible for monitoring the out-of-state agency.

## § 10.4. Responsibility of ASAP receiving transfer.

The ASAP receiving a transferred offender shall have the following responsibilities with respect to the originating ASAP:

1. Within 10 days of receipt of the transfer case, the ASAP shall complete and return Part I of the transfer form.
2. Upon classification, the ASAP shall complete and return Part II of the Transfer Form.
3. The report form shall be used to forward the report after return of Parts I and II of the Transfer Form, when such reports are requested by the originating ASAP.
4. The report form shall be used to notify the originating ASAP within 30 days of the successful completion and within five days of noncompliance by the offender.
5. *Transfer reports can be accomplished by the approved automated process.*

## PART XI. SERVICES.

### § 11.1. ~~Treatment~~ Offender services.

ASAPs shall provide education, intensive education or treatment to the offenders.

Education shall include the minimum hours of alcohol and other drug education incorporated in the standardized education curriculum.

Treatment shall include referring offenders identified as

possibly requiring additional services for evaluation and intervention according to their individual needs.

### § 11.2. Financial services.

ASAPs may provide financial assistance for a reasonable portion of the costs for treatment as negotiated by the provider. The amount of the fee expended for treatment services shall not exceed 15% of the assessed fee. For purposes of this section the assessed fee shall equal the amount ordered by the court, less the 10% submitted to the Commonwealth.

## PART XII. PUBLIC INFORMATION, PUBLIC EDUCATION AND PREVENTION.

### § 12.1. ASAP commitment.

Each ASAP has a commitment to public information, public education and prevention which should be developed at both the state and local level.

### § 12.2. Presentations and communication.

ASAPs shall communicate public information activity needs to the commission designee.

The commission or its designee shall develop and implement annual alcohol and other drugs and transportation safety campaigns, and shall provide campaign materials for state and local use.

ASAPs shall communicate plans of intended public information activities to adjacent ASAPs in advance of implementation if the adjacent ASAP will be affected by this activity.

### § 12.3. Surveys.

The commission or its designee shall use current research, evidence, and information in the technical design of alcohol or other drug and transportation safety campaigns.

This survey information shall provide the ASAP with technical information on target groups, content areas and proper procedures for ASAP campaigns.

### § 12.4. Materials.

Following public information campaigns, the commission or its designee will survey all ASAPs for their opinions of the material content, quality and effectiveness of the campaign. This public information shall be distributed to all ASAPs.

## PART XIII. REPORTING AND MONITORING.

### § 13.1. Offender tracking system.

The commission or its designee shall operate an offender tracking system capable of providing records to the ASAP of participation by offenders. This system shall be capable of responding to record checks within five working days of receipt of the request.

ASAPs shall not include individual offender names, social security numbers or addresses in correspondence unless that correspondence is marked confidential and includes a statement of the proper handling of the information.

The commission or its designee shall submit statistical reports to ASAPs on a quarterly basis detailing the volume and characteristics of offenders arrested, classified, referred and disposed of during the reporting quarter. These reports shall be provided within 45 15 calendar days of the close of the report quarter.

The commission or its designee shall submit to each ASAP statistical reports to each ASAP on a monthly basis detailing the specific offenders referred and classified for the reporting month. These reports shall be provided within six working days of the close of the report month.

The commission or its designee shall conduct or support research necessary to ensure the operations of the local and state system and ensure that objectives are being met.

ASAPs shall secure written approval of the commission prior to ~~conducting~~ *dissemination of* research using offender records. This Approval shall be based on compliance with current applicable privacy and security regulations.

## § 13.2. Evaluations.

Accurate and timely information is essential to assess overall local and state objectives and ASAP countermeasures and to provide the ASAPs and the commission with information to evaluate its ~~the~~ effectiveness in reducing alcohol-related transportation crashes.

The commission or its designee is responsible for the evaluation countermeasure.

## § 13.3. Data flow.

*ASAPs shall participate in the commission operated management information system.* Data shall be submitted in accordance with standards established by the commission. Any situation which prevents compliance with such standards shall be reported by the ASAP to the commission. The commission may give written approval for exemption if the situation is beyond the control of the ASAP.

## PART XIV. PRIVACY AND SECURITY.

### § 14.1. Privacy and security procedures.

All ASAPs and the commission shall process offender records and any other confidential information in a manner consistent with federal, state and local guidelines and regulations.



VASAP TRANSFER SHEET

Virginia Alcohol Safety Action Program  
 1001 East Broad Street, Ste. 245  
 Old City Hall Building, Box No. 28  
 Richmond, Virginia 23219

DATE \_\_\_\_\_ VASAP02 (REV 10/85)

FROM		TO	
NAME		SSN	BIRTHDATE
ADDRESS - STREET AND NUMBER		HOME PHONE NO. WORK PHONE NO.	
CITY	STATE	ZIP	
FEE ASSESSED	TOTAL PAID	PAID TO WHOM	BAI
CASE MANAGER AT REFERRING ASAP			
TYPES OF REPORTS NEEDED AND SUBMIT DATES REQUIRED			
STATUS (IF PARTICIPANT IS TRANSFERRED AFTER BEGINNING ASAP PROGRAM)			
TRANSFER SHEET - PART TWO (RETURN TO ORIGINATING ASAP WITHIN MAXIMUM OF 90 DAYS)			
PARTICIPANT NAME		SSN	
ASAP AGENCY NAME AND REPRESENTATIVE'S SIGNATURE			
DATE CLASSIFIED	ASSIGNED TO LEVEL	PROGRAM BEGINNING DATE	ESTIMATED COMPLETION DATE
REASON FOR DELAY OR CHANGE IN STATUS (IF ANY)			
TRANSFER SHEET - PAGE ONE (RETURN TO ORIGINATING AGENCY WITHIN 10 DAYS)			
PARTICIPANT NAME		SSN	
AGENCY RECEIVING TRANSFER DOCUMENTS			
DATE DOCUMENTS RECEIVED		INTAKE DATE	
IF INTAKE DATE IS TO BE DELAYED STATE REASON			
ASAP/AGENCY REPRESENTATIVE SIGNATURE			



VASAP REPORT FORM



DATE \_\_\_\_\_  PROGRESS REPORT  FINAL REPORT★

TSA 42 (12/85)

TO AGENCY & CASE NCR. I	FROM AGENCY & CASE NCR. I
-------------------------	---------------------------

PARTICIPANT'S NAME		SSN
ADDRESS		BIRTHDATE
CITY	STATE	ZIP CODE
LEVEL <input type="checkbox"/> ONE <input type="checkbox"/> TWO <input type="checkbox"/> THREE	DATE OF FIRST SESSION:	

**PROGRESS REPORT**

ESTIMATED DATE OF COMPLETION	PARTICIPATION: <input type="checkbox"/> EXCELLENT <input type="checkbox"/> SATISFACTORY <input type="checkbox"/> UNSATISFACTORY★ <input type="checkbox"/> IMPROVING
ATTENDANCE: NUMBER OF CLASSES ATTENDED _____ OUT OF NUMBER OF CLASSES HELD _____ NUMBER OF CLASSES ABSENT _____	
CURRENT REPORT OF DRINKING: <input type="checkbox"/> ABSTINENCE <input type="checkbox"/> CONTROLLED <input type="checkbox"/> OUT OF CONTROL★	
INDICATION OF CHANGE IN DRINKING/DRIVING BEHAVIOR <input type="checkbox"/> APPROPRIATE <input type="checkbox"/> INAPPROPRIATE★ <input type="checkbox"/> UNDETERMINED	

**FINAL REPORT**

COMPLETION: <input type="checkbox"/> SUCCESSFUL <input type="checkbox"/> UNSUCCESSFUL★	COMPLETION DATE
ATTENDANCE: NUMBER OF CLASSES ATTENDED _____ OUT OF TOTAL NUMBER OF CLASSES _____	
CURRENT REPORT OF DRINKING: <input type="checkbox"/> ABSTINENCE <input type="checkbox"/> CONTROLLED <input type="checkbox"/> OUT OF CONTROL★	
INDICATION OF CHANGE IN DRINKING/DRIVING BEHAVIOR <input type="checkbox"/> APPROPRIATE <input type="checkbox"/> INAPPROPRIATE★ <input type="checkbox"/> NONE★	

★ COMMENTS - PROGRESS OR FINAL REPORT

EXPLAIN ANY STAR ★ ITEMS CHECKED, PROVIDE SPECIFIC INFORMATION CONCERNING NONCOMPLIANCE, DATES, SPECIAL REQUIREMENTS, RECOMMENDATIONS.

COMMISSION ON VASAP  
CERTIFICATION REVIEW INSTRUMENT

This certification questionnaire is provided to allow ASAPs the opportunity to review program operation prior to the arrival of a certification team and to review program operation on an interim basis in years when certification review is not scheduled.

This is also designed to provide a standard format for the review team to assess an ASAP operation.



VASAP CERTIFICATION QUESTIONNAIRE  
SCORE SHEET

YES NO

PROGRAM: \_\_\_\_\_

ORGANIZATION AND ADMINISTRATION

YES NO

Category 1 - Statement of Purpose

- |       |   |     |     |
|-------|---|-----|-----|
| Sc. 1 | Does the ASAP have a written statement of purpose (which states their relationship to highway safety, court and community)? | ___ | ___ |
| Sc. 2 | Does the ASAP have written goals and objectives which reflect the overall Commission on VASAP goal?                         | ___ | ___ |

Category 2 - Authority

- |       |   |     |     |
|-------|---|-----|-----|
| Sc. 1 | Does the ASAP have a legally constituted independent Policy Board which has due authority for operation of the Program?<br><br>(Resolutions or other documentation), unless otherwise approved. | ___ | ___ |
| Sc. 2 | Does the Policy Board have written Regulations and By-Laws which follow the Commission on VASAP Policies and Procedures:  |     |     |
|       | a. Purpose and responsibility.  | ___ | ___ |
|       | b. Method of appointment of members; (who, how, when, tenure).  | ___ | ___ |
|       | c. Frequency of meetings.   | ___ | ___ |
|       | d. Parliamentary authority.   | ___ | ___ |
|       | e. Responsibility of independent Policy Board to the Commission on VASAP for adherence and compliance of local program with statewide regulations.  | ___ | ___ |

- |       |   |     |     |
|-------|---|-----|-----|
| Sc. 3 | Does the ASAP have a Program Organizational Chart which clearly defines administrative and staff responsibility for program operations, and reflects positions shown by Job descriptions? | ___ | ___ |
|-------|---|-----|-----|

Category 3 - Personnel

- |       |   |     |     |
|-------|---|-----|-----|
| Sc. 1 | Does the ASAP have the explicit written job descriptions which includes qualifications for all staff positions? | ___ | ___ |
| Sc. 2 | Staff qualifications are explicit and in accordance with job descriptions?                                      | ___ | ___ |
| Sc. 3 | Does the ASAP have a written Personnel Policies and Procedures Manual which includes:                           |     |     |
|       | a. <u>Benefits</u>  | ___ | ___ |
|       | b. <u>Confidentiality</u>   | ___ | ___ |
|       | c. <u>Conflict of Interest</u>  | ___ | ___ |
|       | d. <u>Employment Procedures</u>   | ___ | ___ |
|       | e. <u>Equal Employment Opportunity</u>  | ___ | ___ |
|       | f. <u>Grievance Procedures</u>  | ___ | ___ |
|       | g. <u>Office Hours</u>  | ___ | ___ |
|       | h. <u>Pay Scales</u>  | ___ | ___ |
|       | i. <u>Performance Appraisal</u>   | ___ | ___ |
|       | j. <u>Personnel Records</u>   | ___ | ___ |
|       | k. <u>Probationary Period</u>   | ___ | ___ |
|       | l. <u>Purchasing</u>  | ___ | ___ |
|       | m. <u>Reduction in Staff</u>  | ___ | ___ |
|       | n. <u>Standard of Conduct</u>   | ___ | ___ |
|       | o. <u>Termination of Employment</u>   | ___ | ___ |

	YES	NO
p. <u>Training</u>	_____	_____
q. <u>Travel</u>	_____	_____
<b>Category 4 - <u>Staffing</u></b>		
Sc. 1 Does the ASAP employ adequate staff to insure that required services are provided for each referral?	_____	_____
Sc. 2 Does the ASAP employ adequate staff to insure that each countermeasure activity is covered?	_____	_____
<b>Category 5 - <u>Countermeasures</u></b>		
Sc. 1 Does the ASAP have written action plans, policy statements, and exhibits of work for each of the six (6) countermeasures?	_____	_____
a. Enforcement	_____	_____
b. Adjudication	_____	_____
c. Case Management	_____	_____
d. Education/Treatment	_____	_____
e. Public Information, Education and Prevention	_____	_____
f. Evaluation	_____	_____
<b>Category 6 - <u>Fiscal Policies</u></b>		
Does your agency have written fiscal policies and procedures and a financial plan conforming to generally accepted accounting procedures?	_____	_____
Sc. 1 <u>Audit</u>		
1. Was an audit performed the past fiscal year?	_____	_____
2. Was an audit performed by a CPA firm?	_____	_____
Name & address of firm _____		
_____		

	YES	NO
3. Does program use an accrual basis of accounting?	_____	_____
Sc. 2 <u>Budget</u>		
1. Does agency have written budget procedures?	_____	_____
2. Is there included a mechanism for revision?	_____	_____
3. Is revenue appropriated by the policy board?	_____	_____
If no, indicate what authorization to expend revenue is used.	_____	_____
Sc. 3 <u>Fiscal Agent</u>		
1. Does agency utilize an outside fiscal agency?	_____	_____
2. Is the fiscal agency compensated?	_____	_____
If yes, how is the amount of payment determined?	_____	_____
_____		
3. Does your fiscal agent provide services other than payroll, purchasing, accounts payable, and personnel matters?	_____	_____
If yes, list other services _____		
_____		
Sc. 4 <u>Purchasing</u>		
1. Are there written purchasing procedures?	_____	_____
2. If yes, do the procedures include an authorizing officer?	_____	_____

- |       |  | YES   | NO    |
|-------|--|-------|-------|
|       | 3. Is there a procedure in place to handle receipt of materials and supplies?  | _____ | _____ |
| Sc. 5 | <u>Payroll</u>   |       |       |
|       | 1. Who prepares payroll for staff?   | _____ | _____ |
|       | 2. Who issues payroll checks?  | _____ | _____ |
|       | 3. Where are payroll records maintained?   | _____ | _____ |
|       | 4. Where are cancelled payroll checks filed?   | _____ | _____ |
| Sc. 6 | <u>Income</u>  |       |       |
|       | 1. Who collects fees? _____  |       |       |
|       | 2. What method is used to receipt revenue?<br>_____  |       |       |
|       | 3. Is an automated system utilized?  | _____ | _____ |
|       | 4. What form of payment is accepted?<br>____ Personal Check    ____ Cash<br>____ Money Order        ____ Certified Check |       |       |
|       | 5. Is there a posted statement indicating each defendant will receive a receipt for payment made?                        | _____ | _____ |
|       | 6. Does agency have procedures for:<br>Returned check _____<br>Transfer in or out _____<br>Refunds _____                 |       |       |
|       | 7. Does agency have revenue sources other than from offender fee (non-ASAP revenue)?                                     | _____ | _____ |
|       | 8. Has agency obtained grant funding?  | _____ | _____ |
|       | 9. Has agency had deficit funding?   | _____ | _____ |

- |       |  | YES   | NO    |
|-------|--|-------|-------|
| Sc. 7 | <u>Revenue Deposits</u>  |       |       |
|       | 1. Name of person making deposits.<br>_____  |       |       |
|       | 2. Is a copy of stamped deposit slip maintained?   | _____ | _____ |
|       | 3. Where are funds deposited?  | _____ | _____ |
|       | 4. Are ledgers reconciled with deposits?   | _____ | _____ |
| Sc. 8 | <u>Expenditures</u>  |       |       |
|       | 1. How does agency reflect expenditures for costs (journals, ledgers, etc.)?<br>_____<br>_____ |       |       |
|       | 2. How are accounts payable handled? (includes contracts, goods & services).<br>_____<br>_____ |       |       |
|       | 3. Who authorizes payment of vouchers? (Look at several approved vouchers).<br>_____           |       |       |

# Proposed Regulations

COMMISSION ON VASAP  
VASAP CERTIFICATION REPORT

ASAP Program: \_\_\_\_\_ Director: \_\_\_\_\_ Certification Date: \_\_\_\_\_

Certification Documents:

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Review Team:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Standard Category Sited	Description of Deficiency	Planned Corrective Action	Completion Date

Waiver Granted	Date	Specify Conditions of Waiver

# Proposed Regulations

COMMISSION ON VASAP  
CERTIFICATION REVIEW  
PLAN TO CORRECT DEFICIENCIES CITED

Facility/Program: \_\_\_\_\_ Certification Dates: \_\_\_\_\_

Plan of Action Submitted and Approved by: \_\_\_\_\_

Director: \_\_\_\_\_ Date: \_\_\_\_\_

Policy Board Chairman: \_\_\_\_\_ Date: \_\_\_\_\_

Standard Cited	Description of Non-Compliance	Planned Corrective Action	Completion Date/ Person Responsible

**INITIAL CONTACT**

Commission on VASAP  
Treatment Agency Report  
ASAP:

Instructions:  
Initial Contact: return white copy within 5 days of initial contact.  
Intake Information: return yellow copy within 15 days of intake.  
Progress Report: return green copy within 60 days of intake.  
Final Report: return pink copy within 15 days of discharge.

Probationer:	ASAP Case Manager:	Date Referred to Treatment:
SSN:	Scheduled Treatment Intake Date: _____ Time: _____	Agency: Intake Counselor:
Comments:	Signed: _____ Date: _____	

**INTAKE**

Intake Completed on: \_\_\_\_\_ Has been scheduled for: \_\_\_\_\_ Group; \_\_\_\_\_ Individual; \_\_\_\_\_ Both

Next Scheduled Appointment/Group: \_\_\_\_\_

Comments: \_\_\_\_\_

Signed: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**TREATMENT PLAN MUST BE ATTACHED**

**PROGRESS REPORT**

Group/Individual: Treatment Counselor:	Projected Completion Date:																													
<table style="width: 100%;"> <tr> <td style="width: 30%;">Treatment Group</td> <td>Attended _____ of _____ Sessions to Date</td> <td>Number of times late _____</td> <td>Number of Absences _____</td> </tr> <tr> <td>Individual Sessions</td> <td>Attended _____ of _____ Sessions to Date</td> <td>Number of times late _____</td> <td>Number of Absences _____</td> </tr> </table>	Treatment Group	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____	Individual Sessions	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____	<table style="width: 100%;"> <tr> <td>Observations to date:</td> <td>Excellent</td> <td>Good</td> <td>Fair</td> <td>Poor</td> <td>Improving</td> <td>Undetermined</td> </tr> <tr> <td>Attitude:</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Participation:</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> <td>_____</td> </tr> </table>	Observations to date:	Excellent	Good	Fair	Poor	Improving	Undetermined	Attitude:	_____	_____	_____	_____	_____	_____	Participation:	_____	_____	_____	_____	_____	_____
Treatment Group	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____																											
Individual Sessions	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____																											
Observations to date:	Excellent	Good	Fair	Poor	Improving	Undetermined																								
Attitude:	_____	_____	_____	_____	_____	_____																								
Participation:	_____	_____	_____	_____	_____	_____																								
Comments: _____																														
Signed: _____ Title: _____ Date: _____																														

**FINAL REPORT**

<table style="width: 100%;"> <tr> <td style="width: 30%;">Treatment Group</td> <td>Attended _____ of _____ Sessions to Date</td> <td>Number of times late _____</td> <td>Number of Absences _____</td> </tr> <tr> <td>Individual Sessions</td> <td>Attended _____ of _____ Sessions to Date</td> <td>Number of times late _____</td> <td>Number of Absences _____</td> </tr> </table>	Treatment Group	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____	Individual Sessions	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____	<table style="width: 100%;"> <tr> <td>Attitude toward Treatment:</td> <td>_____ Excellent</td> <td>_____ Good</td> <td>_____ Fair</td> <td>_____ Poor</td> </tr> <tr> <td>Prognosis:</td> <td>_____ Good</td> <td>_____ Poor</td> <td>_____ Fair</td> <td>_____ Uncertain</td> </tr> </table>	Attitude toward Treatment:	_____ Excellent	_____ Good	_____ Fair	_____ Poor	Prognosis:	_____ Good	_____ Poor	_____ Fair	_____ Uncertain
Treatment Group	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____																
Individual Sessions	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____																
Attitude toward Treatment:	_____ Excellent	_____ Good	_____ Fair	_____ Poor															
Prognosis:	_____ Good	_____ Poor	_____ Fair	_____ Uncertain															
DISCHARGE SUMMARY MUST BE ATTACHED																			

COMMISSION ON VASAP  
CONSENT FOR THE RELEASE OF CONFIDENTIAL INFORMATION

I, \_\_\_\_\_ / \_\_\_\_\_ authorize  
(Name of Participant) (Social Security #)  
\_\_\_\_\_ to disclose to/obtain from \_\_\_\_\_  
Program Making the Disclosure (Person or  
\_\_\_\_\_ Organization to/or from Whom Disclosure is to be Made)  
the following information \_\_\_\_\_  
(Nature of Information)  
Purpose of the disclosure is \_\_\_\_\_

I understand that my records are protected under the Federal confidentiality Regulations and cannot be disclosed without my written consent unless otherwise provided for in the regulations. I also understand that I may revoke this consent at any time except to the extent that action has been taken in reliance on it (e.g. probation, parole, etc.) and that in any event this consent expires automatically as described below.

(Date, Event, or Condition upon which this consent will expire)

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

This consent includes / does not include information placed on my records after the above date.

\_\_\_\_\_  
Participant's Signature  
\_\_\_\_\_  
Date  
\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Parent/Guardian, where required

Date Revoked: \_\_\_\_\_  
Participant's Signature \_\_\_\_\_  
Parent/Guardian, where required \_\_\_\_\_  
Witness \_\_\_\_\_

PROHIBITION ON RE-DISCLOSURE: This information has been disclosed to you from records protected by Federal Confidentiality Rules (42 CFR Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is not sufficient for this purpose.

FINANCIAL REPORT

ASAP NAME: \_\_\_\_\_  
REPORTING PERIOD: \_\_\_\_\_  
RECEIPT NO. \_\_\_\_\_ THRU NO. \_\_\_\_\_

Revenue: Year- To- Date Totals

Fees - Local Referrals.....\$ \_\_\_\_\_  
Fees - Transfers In.....\$ \_\_\_\_\_  
Other Revenue.....\$ \_\_\_\_\_  
Total Revenue.....\$ \_\_\_\_\_

Computation of State Share

Total Revenue.....\$ \_\_\_\_\_  
Deduct: Transfers in on which the  
state share had already been  
paid to the Treasurer of  
Virginia by the transferring  
ASAP.....\$ \_\_\_\_\_  
Other Revenue.....\$ \_\_\_\_\_

Total Deductions.....\$ \_\_\_\_\_  
Balance on which the State share is computed...\$ \_\_\_\_\_  
State Percentage.....\$ \_\_\_\_\_ X 10%  
State share due to Treasurer.....\$ \_\_\_\_\_

Program Net Revenue

Total Revenue.....\$ \_\_\_\_\_  
Deduct: Expenditures for this period.....\$ \_\_\_\_\_  
Deficit.....\$ \_\_\_\_\_

I CERTIFY THAT THE ABOVE INFORMATION  
IS TRUE AND ACCURATE ACCOUNTING FOR  
PERIOD REPORTED.

\_\_\_\_\_  
DIRECTOR

VASAPDA TREATMENT COMMITTEE  
PROPOSED STANDARD TREATMENT SERVICES AGREEMENT

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM  
(VASAP) REQUEST FOR DEFICIT FUNDING

This agreement entered into the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ by and between the \_\_\_\_\_ ASAP, hereafter referred to as the ASAP and \_\_\_\_\_, hereafter referred to as the Service Provider.

Whereas, the ASAP is endeavoring to develop, implement and evaluate a comprehensive countermeasure program to reduce highway injuries, fatalities, and property damages caused by drinking driver; and,

Whereas, the Service Provider is licensed or certified by the Commonwealth to provide treatment and rehabilitation services to those individuals whose use of intoxicating substances has resulted in social, economic and/or physical problems.

Now, therefore, witnesseth that for and in consideration of the respective undertakings of the parties to this agreement, the ASAP and the Service Provider hereby agree to the following provisions:

ARTICLE I - TREATMENT SERVICES

The ASAP agrees to refer probationers to the Service Provider for treatment and the Service Provider agrees to provide treatment for such individuals. Nothing herein is to be construed as an agreement that the ASAP shall refer all of its probationers in need of treatment to the Service Provider. Probationers referred for treatment to the Service Provider shall receive treatment services as established by the Service Provider. Such treatment services shall be of the same quality as that provided other clientele of the Service Provider. Prior to signing this agreement, a written description of these treatment services shall be filed with the ASAP. The ASAP will also receive advance notice of any change in this description for the duration of this agreement. The requirements described in this agreement are minimum requirements. Additional requirements may be negotiated between the local ASAP and the Service Provider and should be attached to this agreement.

ARTICLE II - REPORTS TO SERVICE PROVIDER

The ASAP shall submit at least the following information to the Service Provider:

1. Written notice of referral.
2. Summary of the probationers alcohol or other drug history.
3. Written notice of all terminations for noncompliance, transfers, and absences prior to the next scheduled treatment session.

In the event of verbal or telephone requests for probationer information from a service provider, the case manager shall respond in writing within ten (10) working days of the request.

DATE OF REQUEST: \_\_\_\_\_

PROGRAM MAKING REQUEST: \_\_\_\_\_

BRIEF PROBLEM STATEMENT: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AMOUNT OF FUNDING REQUESTED: \_\_\_\_\_

Please submit this form along with a copy of your current Budget and Financial Report to the Executive Director of the Commission on VASAP.

\_\_\_\_\_  
Director

\_\_\_\_\_  
Board Chairperson

ARTICLE III - REPORTS FROM SERVICE PROVIDER

The ASAP shall require at least the following reports from the Service Provider:

1. Written notice of receipt of referral within five (5) working days of initial contact with the probationer.
2. A tentative outline of the treatment plan within fifteen (15) days of the intake session.
3. Written notice within ten (10) working days of any change in the probationer's treatment plan.
4. Verbal notice by the next working day, and written notice within five (4) working days, when the probationer is in violation of any section of the ASAP's or their service provider's agreement to participate.
5. Progress reports within sixty (60) days of the treatment intake and every ninety (90) days thereafter.
6. When the Service Provider receives a written request for a specific report from the ASAP a written response shall be due within ten (10) working days.
7. The Service Provider will utilize the Standard Interim report provided by the ASAP for each probationer referred for treatment. Additional reports as needed by the ASAP may be required.

ARTICLE IV - LIMITATION OF FUNDS

ASAPs may provide financial assistance for a portion of the costs for treatment. This amount, if any, must be negotiated according to regulations specified in Section 11.2 "Financial Services" of the VASAP Commission Policy & Procedure Manual. Upon expenditure of this sum, if any, the probationer and not the ASAP, will be responsible for any fair and reasonable charges thereafter.

ARTICLE V - CONFIDENTIALITY OF PROBATIONER RECORDS

The ASAP and the Service Provider agree to comply with all Federal and State laws pertaining to dissemination and use of client and criminal justice records.

ARTICLE VI - RIGHT TO TERMINATE

Nothing in this agreement shall affect the right of either party to terminate this contract. At least (60) days written notice shall be given prior to termination. Termination of this agreement shall not relieve the Service Provider of their obligation to complete treatment of existing referrals.

ARTICLE VII - INTERPRETATIONS OR MODIFICATION

No oral or written statement of anyone other than the designees of the respective parties to this agreement shall modify or otherwise affect the terms and meaning of this contract. However, memoranda of understanding of a clarifying nature may be added to this agreement upon the signature of the respective designees in accordance with the VASAP Commission Policy and Procedure Manual.

ARTICLE VIII - PERIOD OF PERFORMANCE

The term of this agreement shall be \_\_\_\_\_ through \_\_\_\_\_ and shall continue from year to year unless otherwise terminated upon sixty (60) days notice in writing.

Approved:

\_\_\_\_\_  
(Name of ASAP)

\_\_\_\_\_  
(ASAP Director)

\_\_\_\_\_  
(ASAP Board Chairperson)

\_\_\_\_\_  
(Date)

Approved:

\_\_\_\_\_  
(Service Provider)

\_\_\_\_\_  
(Director Service Provider)

\_\_\_\_\_  
(Board Chairperson)

\_\_\_\_\_  
(Date)



# Proposed Regulations

\* \* \* \* \*

**Title of Regulation:** VR 647-01-03. VASAP Case Management Policy and Procedure Manual.

**Statutory Authority:** §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

**Public Hearing Dates:**

August 31, 1990 - 10 a.m.  
September 6, 1990 - 10 a.m.  
September 12, 1990 - 10 a.m.  
October 15 and 16 1990 - 10 a.m.  
(See Calendar of Events section for additional information)

**Summary:**

*The Commission on VASAP Case Management Policy and Procedure Manual is promulgated under §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia. This manual establishes, records and provides oversight responsibility for the operation of the case management countermeasure of VASAP.*

*The manual as promulgated specifies policies controlling the probationary function of each local ASAP. This function includes enrollment, intake, classification, referral, monitoring, and reporting. The case management function links the judicial, probationary and treatment systems.*

*Revisions to regulation as proposed include:*

- 1. Improvements in language, grammar and clarity suggested by the Department of Planning and Budget but not adopted when the original regulations were promulgated.*
- 2. Revisions and the addition of definitions.*
- 3. Clarification of the process utilized when entering an agreement to provide treatment.*

VR 647-01-03. VASAP Case Management Policy and Procedure Manual.

## PART I. CASE MANAGEMENT.

### § 1.1. Introduction.

VASAP Case Management is a probationary function of the court comprised of *enrollment*, intake, classification, referral, monitoring and reporting. Case management is vital to ~~facilitate~~ court operations relating to DUI offenders. The case manager links the judicial and education or treatment systems, a function that ensures continuity of services and compliance with ASAP policies for all offenders referred.

VASAP offenders contract with the ASAP regarding conditions of participation.

The ASAP director is responsible for the case management countermeasure. This case management manual (VR 647-01-03) is for use by the local ASAPs.

## PART II. GENERAL PROVISIONS.

### § 2.1. Definitions.

The terms used in this regulation shall have the following meaning unless the context indicates otherwise.

“ASAP” means Alcohol Safety Action Program formed by political subdivisions or by the commission as a criminal justice program that uses community and state services to address the problem of driving under the influence of either alcohol ~~and~~ ~~or~~ other drugs. ASAPs receive referrals from local courts or the commission. ASAPs deliver intervention services within locally-administered programs to specific municipal jurisdictions within the Commonwealth of Virginia pursuant to §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

“BAC” means blood alcohol concentration which is determined by law-enforcement personnel or other licensed organizations in accordance with procedures established in § 18.2-268.

“Budget” means a statement in financial terms of projected or expected operations of a program or accounting entity for a given period.

“CCRE” means central criminal records exchange.

“Certification” ~~is~~ means the process whereby the commission evaluates an ASAP for its organization, management, fiscal standing, and overall operation. Certification also hinges on the ASAP's ability to receive referrals from courts of persons convicted of DUI.

“Classification” means a process involving the assessment of an offender's personal involvement with alcohol or other drugs ~~and~~ ~~which resulting results~~ in referral to an appropriate intervention service (educational treatment).

“Commission” means the state agency established as the Commission on the Virginia Alcohol Safety Action Program serving under the auspices of and reporting directly to the Secretary of Transportation ~~and~~ ~~Public Safety~~. It is composed of two members from the House Committee for Courts of Justice, two members from the Senate Committee for Courts of Justice, two sitting or retired district court judges who regularly hear or heard cases involving DUI and who are familiar with local ASAPs, two directors of ASAPs, one representative from the law-enforcement profession, one citizen at large, one representative from the Department of Motor Vehicles and

# Proposed Regulations

one representative from the Department of Mental Health, Mental Retardation and Substance Abuse Services.

The commission shall establish and certify ASAPs and require them to be operated in accordance with commission standards pursuant to § 18.2-271.2 of the Code of Virginia.

*"Countermeasures"* means the separation of actions into specifically defined areas which the VASAP system uses to offset and deter the actions of driving under the influence (DUI) and potential DUI offenders; a system to educate the general public, reduce the incidence of impaired driving and to provide a systematic approach to preventing drunk driving. There are six specific countermeasures defined and utilized by the VASAP system.

*"DAT"* means driver awareness training. Providing information on defensive driving and accident prevention.

*"Deficit"* means that the ASAP, in order to conduct its program, expects to or projects that it will expend more funds than it will receive from offenders or other sources in a fiscal year. Deficit means an excess of expenditures over revenue.

*"Director of ASAP"* means the person who is in charge of and accountable for the operation of an ASAP. The ASAP director reports to the ASAP policy board.

*"DMV"* means the Commonwealth of Virginia Department of Motor Vehicles.

*"DUI"* means operating or driving a motor vehicle or boat under the influence of alcohol or drugs (§§ 18.2-266 and 29.1-738 of the Code of Virginia).

*"Education"* means commission-approved classes provided to some offenders following classification. The intervention services include alcohol or drug education, young offender education, and intensive education.

*"Enrollment"* means that the offender has to report to the ASAP, obtain an intake appointment, make arrangements to pay the ASAP fee, and sign an agreement to participate as provided in §§ 18.2-266 through 18.2-273.

*"Executive director"* means the executive director of the commission. This person is appointed by the Governor, confirmed by the General Assembly, and carries out the purposes of §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

*"Finance committee"* means a budget fiscal review committee composed of the executive director, two commission members, and such other persons as the Executive Director commission designates.

*"Intake"* means the process wherein offenders, either

individually or in groups, provide objective and subjective information to case managers for use in their classification.

*"Intervention services"* means direct service activities to offenders entering through a program which provides direct services. Such activities include assessment services, crisis intervention, case management services and exit activities.

*"Joint exercise of powers"* means ASAPs organized as provided in §§ 15.1-20 and 15.1-21 of the Code of Virginia.

*"Policy board"* means a group established by the ASAP which controls and gives direction to the ASAP's activities and provides input of local needs. This board may also be established in accordance with §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia by the commission.

*"Program fiscal agent"* means a unit of local government or a combination of units of local government which possess the legal authority to receive funds and to transact business throughout its jurisdiction, and the administrative capability to perform these services for an ASAP.

*"Regional ASAP"* means one of the three groups in the Commonwealth of Virginia in which the ASAPs have been organized:

REGION I	REGION II	REGION III
Colonial	Blue Ridge Mountain	Battlefield
Capital Area	Central Va.	Alexandria
Eastern Shore	Dan River	Arlington
John Tyler	Mount Rogers	Bull Run
Peninsula	New River Valley	District Nine
Piedmont	Roanoke Valley	Fairfax
Southeastern Va.	Rockbridge	James River
Southside Va.	Southwest Va.	Old Dominion
Tidewater Va.	Valley	Rappahannock Area
Tri-River		Rockingham/ Harrisonburg

*"Treatment"* means intervention services provided to offenders subsequent to a recommendation for referral by an ASAP to outpatient, in-patient or residential services treatment and provided by a certified agent or licensed program.

*"VADD"* means the Virginia an automated Drunk Driving management information system. A computer network which provides offender profiles to the the ASAPs and a mechanism for the transfer of cases and information between the ASAPs and the VASAP office.

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"VASAPDA" means the Virginia Alcohol Safety Action Program Directors' Association, a group composed of the directors of the various ASAPs established and operating in the Commonwealth.

"VASAP" means the Virginia Alcohol Safety Action Program, a probation intervention system providing services to offenders referred to the program by the courts. VASAP consists of the Commission on VASAP, the Advisory Board to the Commission on VASAP, *local ASAP policy boards* and local Alcohol Safety Action Programs as established in §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

## Section 3 § 2.2 . Assignment of case manager.

All offenders referred to an ASAP and classified will be assigned a case manager.

The case manager shall inform the court if an offender is not in full compliance with court orders and ASAP directives.

All case managers shall provide services in accordance with the case management policies contained herein.

## Section 4 § 2.3 . Referral contact.

Upon receipt of referral, the ASAP shall determine if the case needs to be transferred (refer to Transfer Policy, § 10 Part X of the VASAP Policy and Procedure Manual (VR 647-01-02) for specific requirements).

### § 2.4. Enrollment.

Persons referred to the VASAP system must enroll with a local ASAP before they can obtain a restricted driver's license. Enrollment as defined includes but is not limited to the following:

1. The offender must report to an ASAP representative. (This contact can be in court or at the place designated by the ASAP director.)
2. The offender must sign the agreement to participate in ASAP.
3. The offender must pay the ASAP participation fee or make satisfactory arrangements for payment with the ASAP.
4. The offender must obtain an appointment specifying when intake will be held.
5. The offender must return to the clerk of court with a release from the ASAP which will allow the court to issue a restricted license.

## Section 5 § 2.5 . Intake.

Intake is to be the initial procedure following court

referral enrollment . Information is gathered for classification use and the following documents are completed for the offender's case file:

1. Court order or referral documents.
2. Receipts or payment plan.
3. Consent form for release of information signed by the offender.
4. Participant contact record.
5. Agreement to participate which shall require the offender to:
  - a. Meet with case manager as required.
  - b. Paying Pay the ASAP fee.
  - c. Paying Pay the cost of any treatment program, if applicable.
  - d. Comply with any necessary education or treatment requirements.
  - e. Attend all education or treatment sessions free from alcohol and drugs.
  - f. Submit to a breath test when requested by an ASAP representative.
  - g. Attend education or treatment sessions and comply with attendance policy.
  - h. Advise case manager of all changes of address or any other change which might affect ASAP participation.
  - i. Actively participating participate in the program.
  - j. Understand consequences of Submit to reclassification or return to court for any additional alcohol or drug related or drug arrests or convictions while in ASAP.
6. Other reports as required.

## Section 6 § 2.6 . Required procedures during intake.

1. Offenders displaying medical, emotional or behavioral problems shall be screened for interference with ASAP participation.
2. The case manager shall explain the following to offenders and have forms executed:
  1. Fee payment or payment plan;
  2. Agreement to participate;

3. Overview of ASAP and expected activities for offender; and

4. Consent to release information form.

## Section 7 § 2.7 . Classification guidelines.

A. More than one criterion shall be indicated to designate classification to education or intensive education; however, any one of the treatment criteria is sufficient for treatment referral. Referral to a level when any criterion for that level is exceeded requires written explanation placed in the probationer's file with the supervisor's approval:

### 1. Education.

a. No prior legal consequences as a result of alcohol or other drug use.

b. BAC usually not to exceed 0.19%.

c. No detrimental social, financial, or health consequences as a result of alcohol or other drug use.

d. A score on a ~~an~~ *commission*- approved alcohol or other drug screening test ~~of~~ *indicating* "no problem."

e. Positive correlation between interview data and objective data.

Note: Identifiable psychological or psychiatric problems may preclude offender involvement in group intervention.

### 2. Intensive education.

a. No prior DUI offense.

b. No prior alcohol or other drug-related education or treatment.

c. BAC usually not to exceed 0.23%.

d. No more than one prior alcohol or other drug-related offense, not including DUI (for example, drunk or drinking in public).

e. A score on a ~~an~~ *commission*- approved alcohol or other drug screening test ~~of~~ *indicating* "potential problem."

f. A family history of alcohol or other drug abuse.

### 3. Treatment.

a. Self-admission of an alcohol or other drug problem.

b. Prior DUI offense.

c. Prior alcohol or other drug-related treatment or education.

d. Positive reading from a breath alcohol screening device during any ASAP meeting or group.

e. Subsequent alcohol or other drug-related offense during the probationary period.

f. A score on a ~~an~~ *commission*- approved alcohol or other drug screening test ~~of~~ *indicating* "problem."

B. Referral to residential, inpatient, or intensive outpatient treatment services shall be substantiated by a non-ASAP professional assessment.

The ASAP case manager shall classify the offender using interviews, record checks and screening instruments. Offenders shall be classified in both group and individual formats.

ASAPs use three classification categories: education, intensive education, and treatment.

1. Education. The offender shall be characterized as having an alcohol or other drug pattern which does not result in tolerance to the substance nor does the offender exhibit any substantial problems with the substance use. Probationers in this group are usually assigned to ASAP education classes.

2. Intensive education. The offender shall be characterized as using quantities of alcohol or drugs resulting in limited tolerance and exhibits substantial problems with alcohol or other drugs without appearing addicted or exhibiting addictive use patterns. Probationers in this group are usually assigned to ASAP intensive education classes.

3. Treatment. The offender shall be characterized as exhibiting serious problems with alcohol or other drugs, significant tolerance and possibly having addiction to alcohol or other drugs and an abusive pattern of use. Probationers in this group are referred to a licensed treatment agency or individual.

## Section 8 § 2.8 . File documentation.

The following documents shall be required for the classification and included in the file of the offender:

1. DMV driving record.

2. Arrest information including blood alcohol ~~content~~ *concentration* at last DUI arrest.

3. Central Criminal Records Exchange (CCRE) check (if available).

4. Results of approved alcohol or other drug screening instrument.

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5. Classification summary sheet.
6. Personal data.

The following required classification procedure shall be followed by each case manager:

1. Review all available data pertaining to offender's use of alcohol or other drugs.
2. Administer approved alcohol or other drug screening instrument.
3. Conduct personal interview with offender.
4. Determine classification of offender in accordance with approved criteria as needing education, intensive education, or treatment.

## ~~Section 9~~ § 2.9 . Education or treatment referral.

Case managers are responsible for the referral of the offender to a service provider. Treatment referrals shall be to a service provider licensed or certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department of Health Services Professions . Education referral shall be to a service provider that utilizes the commission's education curriculum. Selection of the education service provider shall be at the discretion of the local ASAP.

Referrals shall be based on standardized criteria and the documented classification of the offender and shall be documented in the offender's case file. After referral to treatment, the assignment to a specific treatment modality shall be based on an independent non-ASAP professional assessment in collaboration with VASAP case managers, e.g., inpatient, outpatient, or residential.

Case managers shall make referrals only to service providers who follow approved reporting guidelines.

Case managers shall furnish service providers with a written notice of referral on each participant and a summary of pertinent information regarding the offender's history with alcohol or other drug abuse.

Case managers shall maintain authority over all offenders referred and receiving services to ensure proper compliance with court directions and ASAP policies. Offenders testing positive for the presence of alcohol or other drugs during education, intensive education, or probation may be referred to the appropriate agency for evaluation of treatment needs.

## ~~Section 10~~ § 2.10 . Monitoring.

Case managers monitor offenders during their participation to ensure compliance with court orders and ASAP policies. Each case manager is responsible for a specific number of cases identified as a case load.

A case load is the number of cases assigned at any one time to a specific case manager for the purpose of monitoring compliance. Monitoring begins when the offender is assigned, and ends when the individual has completed the conditions of probation. A case is considered inactive 30 days after completion of services pending the end of the probationary period.

Case managers shall review reports daily on attendance, participation and services delivered to verify offender compliance.

Each case manager shall maintain a case load of at least 20 and no more than 300 active cases at one time, unless authorized by the commission.

## ~~Section 11~~ § 2.11 . Reporting.

ASAPs shall work with the courts and service providers to establish reports essential to the probationary function of the case manager. *Service providers shall utilize the standard report format adopted by the commission and provided by the ASAP.*

### A. Noncompliance reporting.

When the offender has been deemed noncompliant by the case manager, that case manager, within five working days, shall notify in writing the referring court or agency and the offender. In the absence of court direction to the contrary, the offender shall be deemed noncompliant if:

1. The offender does not appear for the initial appointment; ~~or~~
2. The offender receives a subsequent DUI, felony, traffic or any other type of conviction which may be pertinent or relevant to the individual's probationary status; ~~or~~
3. The offender appears at a class, session or appointment while, or immediately after, using alcohol or other drugs; ~~or~~
4. The offender is absent from a class, session or appointment without approval ~~by~~ of the case manager; ~~or~~
5. The offender refuses to attend or actively participate in assigned sessions; ~~or~~
6. The offender fails or refuses to pay appropriate fees, unless declared indigent by the court.

### B. Absences.

Unless otherwise directed by the court, absences from class or sessions shall be excused by the case manager under the following conditions:

1. Death in the immediate family. Immediate family

includes spouse, parents (including in-laws), children, guardians and siblings.

2. Medical absence with written statement from a doctor.

3. Any emergency which is either verified or approved by the local case manager, such as a medical absence where there is no written statement from a doctor.

All excused absences shall be approved in advance except where time or circumstances make it impractical. The case manager shall document all offender absences and approval from class or sessions, including specific reasons for the absence. The documentation shall be a part of the offender's case file. ASAPs shall make available a written copy of policies on absences to all contract service providers and offenders.

#### C. Reports from service providers.

ASAPs shall require at least the following reports in the adopted format from service providers:

1. Written notice of receipt of referred offender within five working days of initial contact with offender.

2. A tentative outline of the treatment plan within 15 days of the intake session in those instances where offender was placed in treatment.

3. Written notice within 10 working days of any change in the offender's treatment plan.

4. Verbal notice by the next working day, and written notice within five working days, when the offender is in violation of any section of ASAP's or the service provider's agreement to participate.

5. Upon written request for specific reports to a service provider, the case manager shall receive a written response within ten 10 days.

6. ASAPs shall require written reports according to the following schedule for each offender:

a. Education - a final report.

b. Intensive education - interim and final report.

c. Treatment - initial treatment plan within 15 days of intake, a progress report within 60 days of intake and report every 90 days thereafter, and final report within 15 days of discharge.

These reports shall become a part of the offender's case file; other reports may be included.

#### D. Reports to service provider.

The local ASAP shall submit at least the following

reports to service providers:

1. Written notice of referral.

2. Summary of offender's alcohol or other drug history to service provider.

3. Written notice of all terminations for noncompliance, transfer and, when excused, absence prior to next scheduled class.

In the event of a written request for offender information from a service provider, the case manager shall respond in writing within 10 days of request.

#### E. Progress and final reports.

Progress and final reports shall be submitted by the case manager in keeping with the following:

1. As directed by the court or referring agency, a progress report shall be furnished within a reasonable amount of time.

2. Final reports for court shall be due according to court requirements and specifications. Copies of court or final reports submitted on each offender shall be placed in the appropriate offender's case file for retention according to the approved Records Management Plan.

#### F. Improper service provider activity.

Case managers shall make a written report to the ASAP director within two working days of any improper activity regarding the service provider. Improper activity shall include reports which do not conform to the agreed format and required time schedule.



VASAP TRANSFER SHEET

Virginia Alcohol Safety Action Program  
 1001 East Broad Street, Ste. 245  
 Old City Hall Building, Box No. 28  
 Richmond, Virginia 23219

DATE \_\_\_\_\_ VASAP 53 (REV 10-88)

FROM		TO	
NAME		SSN	BIRTHDATE
ADDRESS - STREET AND NUMBER		HOME PHONE NO. WORK PHONE NO.	
CITY	STATE	ZIP	
FEE ASSESSED	TOTAL PAID	PAID TO WHOM	BAL.
CASE MANAGER AT REFERRING ASAP			
TYPES OF REPORTS NEEDED AND SUBMIT DATES REQUIRED			
STATUS (IF PARTICIPANT IS TRANSFERRED AFTER BEGINNING ASAP PROGRAM)			
TRANSFER SHEET - PART TWO (RETURN TO ORIGINATING ASAP WITHIN MAXIMUM OF 90 DAYS)			
PARTICIPANT NAME		SSN	
ASAP AGENCY NAME AND REPRESENTATIVE'S SIGNATURE			
DATE CLASSIFIED	ASSIGNED TO LEVEL	PROGRAM BEGINNING DATE	ESTIMATED COMPLETION DATE
REASON FOR DELAY OR CHANGE IN STATUS (IF ANY)			
TRANSFER SHEET - PAGE ONE (RETURN TO ORIGINATING AGENCY WITHIN 10 DAYS)			
PARTICIPANT NAME		SSN	
AGENCY RECEIVING TRANSFER DOCUMENTS			
DATE DOCUMENTS RECEIVED	INTAKE DATE		
IF INTAKE DATE IS TO BE DELAYED STATE REASON			
ASAP AGENCY REPRESENTATIVE SIGNATURE			



VASAP REPORT FORM



DATE \_\_\_\_\_  PROGRESS REPORT  FINAL REPORT★

TSA 42 (12/85)

TO AGENCY & CASE MGR. I		FROM AGENCY & CASE MGR.	
PARTICIPANT'S NAME		SSN	
ADDRESS		BIRTHDATE	
CITY	STATE	ZIP CODE	
LEVEL <input type="checkbox"/> ONE <input type="checkbox"/> TWO <input type="checkbox"/> THREE	DATE OF FIRST SESSION:		
PROGRESS REPORT			
ESTIMATED DATE OF COMPLETION	PARTICIPATION: <input type="checkbox"/> EXCELLENT <input type="checkbox"/> SATISFACTORY <input type="checkbox"/> UNSATISFACTORY★ <input type="checkbox"/> IMPROVING		
ATTENDANCE: NUMBER OF CLASSES ATTENDED _____ OUT OF NUMBER OF CLASSES HELD _____ NUMBER OF CLASSES ABSENT _____			
CURRENT REPORT OF DRINKING: <input type="checkbox"/> ABSTINENCE <input type="checkbox"/> CONTROLLED <input type="checkbox"/> OUT OF CONTROL★			
INDICATION OF CHANGE IN DRINKING/DRIVING BEHAVIOR <input type="checkbox"/> APPROPRIATE <input type="checkbox"/> INAPPROPRIATE★ <input type="checkbox"/> UNDETERMINED			
FINAL REPORT			
COMPLETION: <input type="checkbox"/> SUCCESSFUL <input type="checkbox"/> UNSUCCESSFUL★	COMPLETION DATE		
ATTENDANCE: NUMBER OF CLASSES ATTENDED _____ OUT OF TOTAL NUMBER OF CLASSES _____			
CURRENT REPORT OF DRINKING: <input type="checkbox"/> ABSTINENCE <input type="checkbox"/> CONTROLLED <input type="checkbox"/> OUT OF CONTROL★			
INDICATION OF CHANGE IN DRINKING/DRIVING BEHAVIOR <input type="checkbox"/> APPROPRIATE <input type="checkbox"/> INAPPROPRIATE★ <input type="checkbox"/> NONE★			
COMMENTS - PROGRESS OR FINAL REPORT			
EXPLAIN ANY STAR ★ ITEMS CHECKED, PROVIDE SPECIFIC INFORMATION CONCERNING NONCOMPLIANCE, DATES, SPECIAL REQUIREMENTS, RECOMMENDATIONS.			

COMMISSION ON VASAP  
CERTIFICATION REVIEW INSTRUMENT

This certification questionnaire is provided to allow ASAPs the opportunity to review program operation prior to the arrival of a certification team and to review program operation on an interim basis in years when certification review is not scheduled.

This is also designed to provide a standard format for the review team to assess an ASAP operation.



VASAP CERTIFICATION QUESTIONNAIRE  
SCORE SHEET

YES NO

PROGRAM: \_\_\_\_\_

ORGANIZATION AND ADMINISTRATION

YES NO

Category 1 - Statement of Purpose

- Sc. 1 Does the ASAP have a written statement of purpose (which states their relationship to highway safety, court and community)? \_\_\_\_\_
- Sc. 2 Does the ASAP have written goals and objectives which reflect the overall Commission on VASAP goal? \_\_\_\_\_

Category 2 - Authority

- Sc. 1 Does the ASAP have a legally constituted independent Policy Board which has due authority for operation of the Program?  
  
(Resolutions or other documentation), unless otherwise approved. \_\_\_\_\_
- Sc. 2 Does the Policy Board have written Regulations and By-Laws which follow the Commission on VASAP Policies and Procedures:
  - a. Purpose and responsibility. \_\_\_\_\_
  - b. Method of appointment of members; (who, how, when, tenure). \_\_\_\_\_
  - c. Frequency of meetings. \_\_\_\_\_
  - d. Parliamentary authority. \_\_\_\_\_
  - e. Responsibility of independent Policy Board to the Commission on VASAP for adherence and compliance of local program with statewide regulations. \_\_\_\_\_

- Sc. 3 Does the ASAP have a Program Organizational Chart which clearly defines administrative and staff responsibility for program operations, and reflects positions shown by Job descriptions? \_\_\_\_\_

Category 3 - Personnel

- Sc. 1 Does the ASAP have the explicit written job descriptions which includes qualifications for all staff positions? \_\_\_\_\_
- Sc. 2 Staff qualifications are explicit and in accordance with job descriptions? \_\_\_\_\_
- Sc. 3 Does the ASAP have a written Personnel Policies and Procedures Manual which includes:
  - a. Benefits \_\_\_\_\_
  - b. Confidentiality \_\_\_\_\_
  - c. Conflict of Interest \_\_\_\_\_
  - d. Employment Procedures \_\_\_\_\_
  - e. Equal Employment Opportunity \_\_\_\_\_
  - f. Grievance Procedures \_\_\_\_\_
  - g. Office Hours \_\_\_\_\_
  - h. Pay Scales \_\_\_\_\_
  - i. Performance Appraisal \_\_\_\_\_
  - j. Personnel Records \_\_\_\_\_
  - k. Probationary Period \_\_\_\_\_
  - l. Purchasing \_\_\_\_\_
  - m. Reduction in Staff \_\_\_\_\_
  - n. Standard of Conduct \_\_\_\_\_
  - o. Termination of Employment \_\_\_\_\_

	YES	NO
p. <u>Training</u>	_____	_____
q. <u>Travel</u>	_____	_____
<u>Category 4 - Staffing</u>		
Sc. 1 Does the ASAP employ adequate staff to insure that required services are provided for each referral?	_____	_____
Sc. 2 Does the ASAP employ adequate staff to insure that each countermeasure activity is covered?	_____	_____
<u>Category 5 - Countermeasures</u>		
Sc. 1 Does the ASAP have written action plans, policy statements, and exhibits of work for each of the six (6) countermeasures?		
a. Enforcement	_____	_____
b. Adjudication	_____	_____
c. Case Management	_____	_____
d. Education/Treatment	_____	_____
e. Public Information, Education and Prevention	_____	_____
f. Evaluation	_____	_____
<u>Category 6 - Fiscal Policies</u>		
Does your agency have written fiscal policies and procedures and a financial plan conforming to generally accepted accounting procedures?	_____	_____
Sc. 1 <u>Audit</u>		
1. Was an audit performed the past fiscal year?	_____	_____
2. Was an audit performed by a CPA firm?	_____	_____
Name & address of firm _____		

	YES	NO
3. Does program use an accrual basis of accounting?	_____	_____
Sc. 2 <u>Budget</u>		
1. Does agency have written budget procedures?	_____	_____
2. Is there included a mechanism for revision?	_____	_____
3. Is revenue appropriated by the policy board?	_____	_____
If no, indicate what authorization to expend revenue is used.	_____	
Sc. 3 <u>Fiscal Agent</u>		
1. Does agency utilize an outside fiscal agency?	_____	_____
2. Is the fiscal agency compensated?	_____	_____
If yes, how is the amount of payment determined?	_____	
3. Does your fiscal agent provide services other than payroll, purchasing, accounts payable, and personnel matters?	_____	_____
If yes, list other services _____	_____	
Sc. 4 <u>Purchasing</u>		
1. Are there written purchasing procedures?	_____	_____
2. If yes, do the procedures include an authorizing officer?	_____	_____

	YES	NO
3. Is there a procedure in place to handle receipt of materials and supplies?	_____	_____
<b>Sc. 5 <u>Payroll</u></b>		
1. Who prepares payroll for staff?	_____	_____
2. Who issues payroll checks?	_____	_____
3. Where are payroll records maintained?	_____	_____
4. Where are cancelled payroll checks filed?	_____	_____
<b>Sc. 6 <u>Income</u></b>		
1. Who collects fees? _____		
2. What method is used to receipt revenue? _____		
3. Is an automated system utilized?	_____	_____
4. What form of payment is accepted? ___ Personal Check ___ Cash ___ Money Order ___ Certified Check		
5. Is there a posted statement indicating each defendant will receive a receipt for payment made?	_____	_____
6. Does agency have procedures for: Returned check _____ Transfer in or out _____ Refunds _____		
7. Does agency have revenue sources other than from offender fee (non-ASAP revenue)?	_____	_____
8. Has agency obtained grant funding?	_____	_____
9. Has agency had deficit funding?	_____	_____

	YES	NO
<b>Sc. 7 <u>Revenue Deposits</u></b>		
1. Name of person making deposits. _____		
2. Is a copy of stamped deposit slip maintained?	_____	_____
3. Where are funds deposited?	_____	_____
4. Are ledgers reconciled with deposits?	_____	_____
<b>Sc. 8 <u>Expenditures</u></b>		
1. How does agency reflect expenditures for costs (journals, ledgers, etc.)? _____		
2. How are accounts payable handled? (includes contracts, goods & services). _____ _____		
3. Who authorizes payment of vouchers? (Look at several approved vouchers). _____		

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COMMISSION ON VASAP  
VASAP CERTIFICATION REPORT

ASAP Program: \_\_\_\_\_ Director: \_\_\_\_\_ Certification Date: \_\_\_\_\_

Certification Documents: \_\_\_\_\_

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Review Team: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Standard Category Sited	Description of Deficiency	Planned Corrective Action	Completion Date

Waiver Granted	Date	Specify Conditions of Waiver

# Proposed Regulations

COMMISSION ON VASAP  
 CERTIFICATION REVIEW  
 PLAN TO CORRECT DEFICIENCIES CITED

Facility/Program: \_\_\_\_\_ Certification Dates: \_\_\_\_\_

Plan of Action Submitted and Approved by: \_\_\_\_\_

Director: \_\_\_\_\_ Date: \_\_\_\_\_

Policy Board Chairman: \_\_\_\_\_ Date: \_\_\_\_\_

Standard Cited	Description of Non-Compliance	Planned Corrective Action	Completion Date/Person Responsible

INITIAL CONTACT	Commission on VASAP Treatment Agency Report		Instructions: Initial Contact: return white copy within 5 days of initial contact. Intake Information: return yellow copy within 15 days of intake. Progress Report: return green copy within 60 days of intake. Final Report: return pink copy within 15 days of discharge.	
	ASAP:			
	Probationer:	ASAP Case Manager:	Date Referred to treatment:	
	SSN:	Scheduled Treatment Intake Date: _____ Time: _____	Agency: Intake Counselor:	
Comments:			Signed: _____ Date: _____	

INTAKE	Intake Completed on: _____ Has been scheduled for: _____ Group _____ Individual; _____ Both	
	Next Scheduled Appointment/Group: _____	
	Comments: _____	
Signed: _____ Title: _____ Date: _____		
<b>TREATMENT PLAN MUST BE ATTACHED</b>		

PROGRESS REPORT	Group/Individual: Treatment Counselor: _____		Projected Completion Date: _____		
	_____ Treatment Group	Attended _____ of _____ Sessions to Date Number of times late _____ Number of Absences _____			
	_____ Individual Sessions	Attended _____ of _____ Sessions to Date Number of times late _____ Number of Absences _____			
	Observations to date: Excellent Good Fair Poor Improving Undetermined				
	Attitude: _____ Participation: _____				
	Comments: _____				
Signed: _____ Title: _____ Date: _____					

FINAL REPORT	_____ Treatment Group	Attended _____ of _____ Sessions to Date Number of times late _____ Number of Absences _____			
	_____ Individual Sessions	Attended _____ of _____ Sessions to Date Number of times late _____ Number of Absences _____			
	Attitude toward Treatment: _____ Excellent _____ Good _____ Fair _____ Poor				
Prognosis: _____ Good _____ Poor _____ Fair _____ Uncertain					
<b>DISCHARGE SUMMARY MUST BE ATTACHED</b>					

COMMISSION ON VASAP  
CONSENT FOR THE RELEASE OF CONFIDENTIAL INFORMATION

I, \_\_\_\_\_ / \_\_\_\_\_ authorize  
(Name of Participant) (Social Security #)  
\_\_\_\_\_ to disclose to/obtain from \_\_\_\_\_  
Program Making the Disclosure (Person or  
Organization to/or from Whom Disclosure is to be Made)  
the following information \_\_\_\_\_  
(Nature of Information)  
Purpose of the disclosure is \_\_\_\_\_

I understand that my records are protected under the Federal confidentiality Regulations and cannot be disclosed without my written consent unless otherwise provided for in the regulations. I also understand that I may revoke this consent at any time except to the extent that action has been taken in reliance on it (e.g. probation, parole, etc.) and that in any event this consent expires automatically as described below.

\_\_\_\_\_  
(Date, Event, or Condition upon which this consent will expire)

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

This consent includes / does not include information placed on my records after the above date.

\_\_\_\_\_  
Participant's Signature  
\_\_\_\_\_  
Date  
\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Parent/Guardian, where required

Date Revoked: \_\_\_\_\_

Participant's Signature \_\_\_\_\_

Parent/Guardian, where required \_\_\_\_\_

Witness \_\_\_\_\_

PROHIBITION ON RE-DISCLOSURE: This information has been disclosed to you from records protected by Federal Confidentiality Rules (42 CFR Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is not sufficient for this purpose.

FINANCIAL REPORT

ASAP NAME: \_\_\_\_\_

REPORTING PERIOD: \_\_\_\_\_

RECEIPT NO. \_\_\_\_\_ THRU NO. \_\_\_\_\_

Revenue: Year- To- Date Totals

Fees - Local Referrals.....\$ \_\_\_\_\_  
Fees - Transfers In.....\$ \_\_\_\_\_  
Other Revenue.....\$ \_\_\_\_\_

Total Revenue.....\$ \_\_\_\_\_

Computation of State Share

Total Revenue.....\$ \_\_\_\_\_

Deduct: Transfers in on which the  
state share had already been  
paid to the Treasurer of  
Virginia by the transferring  
ASAP.....\$ \_\_\_\_\_

Other Revenue.....\$ \_\_\_\_\_

Total Deductions.....\$ \_\_\_\_\_

Balance on which the State share is computed...\$ \_\_\_\_\_

State Percentage.....\$ \_\_\_\_\_ X 10%

State share due to Treasurer.....\$ \_\_\_\_\_

Program Net Revenue

Total Revenue.....\$ \_\_\_\_\_

Deduct: Expenditures for this period.....\$ \_\_\_\_\_

Deficit.....\$ \_\_\_\_\_

I CERTIFY THAT THE ABOVE INFORMATION  
IS TRUE AND ACCURATE ACCOUNTING FOR  
PERIOD REPORTED.

\_\_\_\_\_  
DIRECTOR

VASAPDA TREATMENT COMMITTEE  
PROPOSED STANDARD TREATMENT SERVICES AGREEMENT

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM  
(VASAP) REQUEST FOR DEFICIT FUNDING

This agreement entered into the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ by and between the \_\_\_\_\_ ASAP, hereafter referred to as the ASAP and \_\_\_\_\_, hereafter referred to as the Service Provider.

Whereas, the ASAP is endeavoring to develop, implement and evaluate a comprehensive countermeasure program to reduce highway injuries, fatalities, and property damages caused by drinking driver; and,

Whereas, the Service Provider is licensed or certified by the Commonwealth to provide treatment and rehabilitation services to those individuals whose use of intoxicating substances has resulted in social, economic and/or physical problems.

Now, therefore, witnesseth that for and in consideration of the respective undertakings of the parties to this agreement, the ASAP and the Service Provider hereby agree to the following provisions:

ARTICLE I - TREATMENT SERVICES

The ASAP agrees to refer probationers to the Service Provider for treatment and the Service Provider agrees to provide treatment for such individuals. Nothing herein is to be construed as an agreement that the ASAP shall refer all of its probationers in need of treatment to the Service Provider. Probationers referred for treatment to the Service Provider shall receive treatment services as established by the Service Provider. Such treatment services shall be of the same quality as that provided other clientele of the Service Provider. Prior to signing this agreement, a written description of these treatment services shall be filed with the ASAP. The ASAP will also receive advance notice of any change in this description for the duration of this agreement. The requirements described in this agreement are minimum requirements. Additional requirements may be negotiated between the local ASAP and the Service Provider and should be attached to this agreement.

ARTICLE II - REPORTS TO SERVICE PROVIDER

The ASAP shall submit at least the following information to the Service Provider:

1. Written notice of referral.
2. Summary of the probationers alcohol or other drug history.
3. Written notice of all terminations for noncompliance, transfers, and absences prior to the next scheduled treatment session.

In the event of verbal or telephone requests for probationer information from a service provider, the case manager shall respond in writing within ten (10) working days of the request.

DATE OF REQUEST: \_\_\_\_\_

PROGRAM MAKING REQUEST: \_\_\_\_\_

BRIEF PROBLEM STATEMENT: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

AMOUNT OF FUNDING REQUESTED: \_\_\_\_\_

Please submit this form along with a copy of your current Budget and Financial Report to the Executive Director of the Commission on VASAP.

\_\_\_\_\_  
Director

\_\_\_\_\_  
Board Chairperson

ARTICLE III - REPORTS FROM SERVICE PROVIDER

The ASAP shall require at least the following reports from the Service Provider:

1. Written notice of receipt of referral within five (5) working days of initial contact with the probationer.
2. A tentative outline of the treatment plan within fifteen (15) days of the intake session.
3. Written notice within ten (10) working days of any change in the probationer's treatment plan.
4. Verbal notice by the next working day, and written notice within five (4) working days, when the probationer is in violation of any section of the ASAP's or their service provider's agreement to participate.
5. Progress reports within sixty (60) days of the treatment intake and every ninety (90) days thereafter.
6. When the Service Provider receives a written request for a specific report from the ASAP a written response shall be due within ten (10) working days.
7. The Service Provider will utilize the Standard Interim report provided by the ASAP for each probationer referred for treatment. Additional reports as needed by the ASAP may be required.

ARTICLE IV - LIMITATION OF FUNDS

ASAPs may provide financial assistance for a portion of the costs for treatment. This amount, if any, must be negotiated according to regulations specified in Section 11.2 "Financial Services" of the VASAP Commission Policy & Procedure Manual. Upon expenditure of this sum, if any, the probationer and not the ASAP, will be responsible for any fair and reasonable charges thereafter.

ARTICLE V - CONFIDENTIALITY OF PROBATIONER RECORDS

The ASAP and the Service Provider agree to comply with all Federal and State laws pertaining to dissemination and use of client and criminal justice records.

ARTICLE VI - RIGHT TO TERMINATE

Nothing in this agreement shall affect the right of either party to terminate this contract. At least (60) days written notice shall be given prior to termination. Termination of this agreement shall not relieve the Service Provider of their obligation to complete treatment of existing referrals.

ARTICLE VII - INTERPRETATIONS OR MODIFICATION

No oral or written statement of anyone other than the designees of the respective parties to this agreement shall modify or otherwise affect the terms and meaning of this contract. However, memoranda of understanding of a clarifying nature may be added to this agreement upon the signature of the respective designees in accordance with the VASAP Commission Policy and Procedure Manual.

ARTICLE VIII - PERIOD OF PERFORMANCE

The term of this agreement shall be \_\_\_\_\_ through \_\_\_\_\_ and shall continue from year to year unless otherwise terminated upon sixty (60) days notice in writing.

Approved:

Approved:

\_\_\_\_\_  
(Name of ASAP)

\_\_\_\_\_  
(Service Provider)

\_\_\_\_\_  
(ASAP Director)

\_\_\_\_\_  
(Director Service Provider)

\_\_\_\_\_  
(ASAP Board Chairperson)

\_\_\_\_\_  
(Board Chairperson)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)



# Proposed Regulations

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## PART I. GENERAL PROVISIONS.

**Title of Regulation:** VR 647-01-04. Certification Requirements Manual.

**Statutory Authority:** §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

**Publishing Dates:**

August 31, 1990 - 10 a.m.  
September 6, 1990 - 10 a.m.  
September 12, 1990 - 10 a.m.  
October 15 and 16, 1990 - 10 a.m.  
(See Calendar of Events section for additional information)

**Summary:**

*All programs established and operating under § 18.2-271.1 of the Code of Virginia are required to be certified by the Commission on VASAP. Certification is established to ensure administration consistency within the system and that quality services are provided to DUI offenders in the Commonwealth.*

*The manual as promulgated specifies policies and procedures to be utilized when reviewing programs as required by the Code of Virginia. Programs must adhere to regulations promulgated in the Commission on VASAP Policy and Procedure Manual VR 647-01-02.*

*Proposed revisions to the promulgated regulation fall into the following areas:*

*1. Improvements in language, grammar, and clarity as suggested by the Department of Planning and Budget but were not adopted when the original regulations were promulgated.*

*2. A clarification of definitions provided and the addition of several needed but not included in the original manual.*

*3. A revision of the process for on-site ASAP program certification review.*

*4. A more detailed delineation of standards and methods for measuring compliance with standards.*

*5. Revision of the method for granting waivers or for appeal upon revocation of certification.*

*Required forms and standards for implementation are considered to be standards. These standards are not substantive in nature but merely prescribe the forms and procedures to be used when complying with substantive standards.*

VR 647-01-04. Certification Requirements Manual.

### § 1.1. Definitions.

The terms used in this regulation shall have the following meaning unless the context indicates otherwise.

“ASAP” means Alcohol Safety Action Program formed by political subdivisions or by the commission as a criminal justice program that uses community and state services to address the problem of driving under the influence of either alcohol and ~~or~~ other drugs. ASAPs receive referrals from local courts or the commission. ASAPs deliver intervention services within locally-administered programs to specific municipal jurisdictions within the Commonwealth of Virginia pursuant to §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

“BAC” means blood alcohol concentration which is determined by law-enforcement personnel or other licensed organizations in accordance with procedures established in § 18.2-268.

“Budget” means a statement in financial terms of projected or expected operations of a program or accounting entity for a given period.

“CCRE” means central criminal records exchange.

“Certification” is means the process whereby the commission evaluates an ASAP for its organization, management, fiscal standing, and overall operation. Certification also hinges on the ASAP’s ability to receive referrals from courts of persons convicted of DUI.

“Classification” means a process involving the assessment of an offender’s personal involvement with alcohol or other drugs and which ~~resulting~~ results in referral to an appropriate intervention service (educational treatment).

“Commission” means the state agency established as the Commission on the Virginia Alcohol Safety Action Program serving under the auspices of and reporting directly to the Secretary of Transportation and Public Safety . It is composed of two members from the House Committee for Courts of Justice, two members from the Senate Committee for Courts of Justice, two sitting or retired district court judges who regularly hear or heard cases involving DUI and who are familiar with local ASAPs, two directors of ASAPs, one representative from the law-enforcement profession, one citizen at large, one representative from the Department of Motor Vehicles and one representative from the Department of Mental Health, Mental Retardation and Substance Abuse Services.

The commission shall establish and certify ASAPs and require them to be operated in accordance with commission standards pursuant to § 18.2-271.2 of the Code of Virginia .

*"Countermeasures"* means the separation of actions into specifically defined areas which the VASAP system uses to offset and deter the actions of Driving Under the Influence (DUI) and potential DUI offenders; a system to educate the general public, reduce the incidence of impaired driving and to provide a systematic approach to preventing drunk driving. There are six specific countermeasures defined and utilized by the VASAP system.

*"DAT"* means driver awareness training. Providing information on defensive driving and accident prevention.

*"Deficit"* means that the ASAP, in order to conduct its program, expects to or projects that it will expend more funds than it will receive from offenders or other sources in a fiscal year. Deficit means an excess of expenditures over revenue.

*"Director of ASAP"* means the person who is in charge of and accountable for the operation of an ASAP. The ASAP director reports to the ASAP policy board.

*"DMV"* means the Commonwealth of Virginia Department of Motor Vehicles.

*"DUI"* means operating or driving a motor vehicle or boat under the influence of alcohol or drugs (§§ 18.2-266 and 29.1-738 of the Code of Virginia).

*"Education"* means commission-approved classes provided to some offenders following classification. The intervention services include alcohol or drug education, young offender education, and intensive education.

*"Enrollment"* means that the offender has to report to the ASAP, obtain an intake appointment, make arrangements to pay the ASAP fee, and sign an agreement to participate as provided in 18.2-266 through 18.2-273.

*"Executive director"* means the executive director of the commission. This person is appointed by the Governor, confirmed by the General Assembly, and carries out the purposes of §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

*"Finance committee"* means a budget fiscal review committee composed of the executive director, two commission members, and such other persons as the Executive Director commission designates.

*"Intake"* means the process wherein offenders, either individually or in groups, provide objective and subjective information to case managers for use in their classification.

*"Intervention services"* means direct service activities to offenders entering through a program which provides direct services. Such activities include assessment services, crisis intervention, case management services and exit

activities.

*"Joint exercise of powers"* means ASAPs organized as provided in §§ 15.1-20 and 15.1-21 of the Code of Virginia.

*"Policy board"* means a group established by the ASAP which controls and gives direction to the ASAP's activities and provides input of local needs. This board may also be established in accordance with §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia by the commission.

*"Program fiscal agent"* means a unit of local government or a combination of units of local government which possess the legal authority to receive funds and to transact business throughout its jurisdiction, and the administrative capability to perform these services for an ASAP.

*"Regional ASAP"* means one of the three groups in the Commonwealth of Virginia in which the ASAPs have been organized:

REGION I	REGION II	REGION III
Colonial	Blue Ridge Mountain	Battlefield
Capital Area	Central Va.	Alexandria
Eastern Shore	Dan River	Arlington
John Tyler	Mount Rogers	Bull Run
Peninsula	New River Valley	District Nine
Piedmont	Roanoke Valley	Fairfax
Southeastern Va.	Rockbridge	James River
Southside Va.	Southwest Va.	Old Dominion
Tidewater Va.	Valley	Rappahannock Area
Tri-River		Rockingham/ Harrisonburg

*"Treatment"* means intervention services provided to offenders subsequent to a recommendation for referral by an ASAP to outpatient, inpatient or residential services treatment and provided by a certified agent or licensed program.

*"VADD"* means the Virginia an automated Drunk Driving management Information system. A computer network which provides offender profiles to the ASAPs and a mechanism for the transfer of cases and information between the ASAPs and the VASAP office.

*"VASAPDA"* means the Virginia Alcohol Safety Action Program Directors' Association, a group composed of the directors of the various ASAPs established and operating in the Commonwealth.

*"VASAP"* means the Virginia Alcohol Safety Action Program, a probation intervention system providing services to offenders referred to the program by the

# Proposed Regulations

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courts. VASAP consists of the Commission on VASAP, the Advisory Board to the Commission on VASAP, local ASAP policy boards and local Alcohol Safety Action Programs as established in §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

## PART II STANDARDS FOR CERTIFICATION.

### § 2.1. Certification.

All programs established or operating under § 18.2-271.1 of the Code of Virginia are required to be certified by the Commission on VASAP.

Minimum standards for certification as established in the Requirements column in the Weighted Point Values chart in Part 2 shall include, but shall not be limited to, the following criteria:

*Certification of Alcohol Safety Action Programs within the Commonwealth of Virginia is established to ensure administrative consistency within the system and the quality of services provided to DUI offenders, the courts and the community.*

*The Commonwealth of Virginia is geographically organized into 26 local ASAPs and three ASAP regions: the Colonial Council, the Battlefield Council and the Blue Ridge Mountains Council. A certification team is assigned to each region.*

### § 2.2. Methodology.

#### A. Team composition.

*Each regional team consists of one commission member, one local ASAP director and one case management representative from the VASAP system. Each team member is appointed by the commission. The membership of each regional team shall be rotated among available representatives on an annual basis. The executive director of the Commission on VASAP shall serve as ex-officio member of each regional team. Team II will serve as the certification team in Region II, Team III will serve as the certification team for Region III and Team I will serve as the certification team for Region I.*

#### B. Training.

*The executive director of the Commission on VASAP shall be responsible for training provided to each certification review teams.*

#### C. Information request.

*Prior to an on-site visit, the executive Director of the Commission on VASAP will direct each program to be certified to submit necessary documentation.*

#### D. Data and program review.

*Prior to start of the certification process, each ASAP director shall submit to the executive director requested data concerning the operation of the ASAP. After compilation of the requested information, it is distributed to the respective regional certification team. Each team reviews the data and performs preliminary audits. Following this review, on-site visits are scheduled. Additional data is collected and observations are made during the on-site visit to validate the documentation submitted. Staff interviews, review of samples of client files and financial records as well as a physical examination of the office space is performed.*

*At the completion of the on-site review, the certification review team shall hold a summation conference with the director of the program. During this conference, the certification review team shall present areas of concern for discussion and clarification, and the ASAP director shall be given full opportunity to comment when a program is found out of compliance in an area by the team. The program must provide an action plan as required in § 3.2 of the policy and procedure manual (VR 647-01-02).*

#### E. Report submission.

*A written report of the team's findings is submitted to the executive director of the Commission on VASAP noting observations and recommendations of the review team. The chair of the reviewing team shall be responsible for submission of the report.*

#### F. Recommendation of certification.

*The executive director shall provide the commission a report which contains recommendations for certification. The commission shall consider the recommendations of the executive director, and if necessary, review the findings, documents, documentation of compliance, as well as any other relevant material received.*

#### G. Confidentiality.

*Each certification team shall adhere to all federal, state, and local laws governing confidentiality. The certification review and findings are the sole property of the Commission on VASAP. Dissemination of any information, except as expressly provided herein, constitutes a violation of confidentiality.*

*The Commission on VASAP shall be the sole source responsible for dissemination of any information regarding a program's certification review.*

#### H. Standards.

*Each ASAP shall comply with these standards as indicated. Each standard shall be reviewed at the time of certification for compliance and at such time as the commission deems necessary in order to ensure continued compliance with standards.*

## Category 1: STATEMENT OF PURPOSE

SC1: Each ASAP shall have a written statement of purpose.

## Category 2: AUTHORITY

SC1: Each ASAP shall have a legally constituted policy board which has due authority for the ASAP.

SC2: The policy board shall have a set of written regulations and by-laws which shall include:

1. Purpose and responsibilities of the policy board.
2. Method of appointment of policy board members.
3. Frequency of meetings of the policy board.
4. Parliamentary and legal authority of policy board.
5. Responsibility of policy board to Commission for compliance of ASAPs with statewide regulations.

## Category 3: DIRECTORSHIP

SC1: Each ASAP shall have an identifiable director as defined in the Policy and Procedures Manual (VR 647-01-02).

## Category 4: ORGANIZATIONAL CHART

SC1: Each ASAP shall have a written staff organizational chart which clearly delineates responsibility for ASAP operations.

## Category 5: POSITION DESCRIPTIONS

SC1: Each ASAP shall have written job descriptions for all staffed positions.

SC2: Job responsibilities shall be explicit and congruent with staff qualifications.

## Category 6: PERSONNEL POLICIES AND PROCEDURES

SC1: Each ASAP shall have written personnel policies that must include:

1. Personnel Records
2. Training
3. Equal Employment Opportunity Citations
4. Employment Procedures
5. Probationary Period
6. Performance Appraisal

## 7. Termination of Employment

## 8. Reduction in Staff

## 9. Pay Scales

## 10. Benefits

## 11. Standards of Conduct

## 12. Conflict of Interests

## 13. Confidentiality

## 14. Office Hours

## 15. Travel

## 16. Purchasing and Printing

## 17. Grievance Procedures

## Category 7: BUDGETARY POLICIES

SC1: Each ASAP shall have written fiscal policies and procedures conforming to generally accepted accounting procedures.

## Category 8: COUNTERMEASURES

SC1: Each ASAP shall have a written plan of action or policy statement in each of the six countermeasure areas, identified as follows:

1. Enforcement
2. Adjudication
3. Case Management
  - intake
  - transfer
  - caseload
  - classification
  - referral
  - monitoring
  - reporting
4. Education and Treatment
  - licensure and certification
  - reporting
  - service providers

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- services
- contracts
- evaluation
- testing for the presence of alcohol or other drugs

## 5. Prevention, Public Information, and Education

- presentations and communications
- materials
- evaluation

## 6. Evaluation of programs

- data
- countermeasure

## Category 8: STAFFING

SC1. Each ASAP shall employ adequate staff to ensure that the ASAP operates cost-effectively.

SC2. Each ASAP shall employ appropriate staff to ensure services are provided for each referral.

SC3. Each ASAP shall, within budgetary constraints, employ adequate staff to provide activities in each countermeasure area.

## Category 10: SECURITY AND CONFIDENTIALITY

SC1. Each ASAP shall process offenders' records in a manner consistent with applicable federal, state and local confidentiality and security regulations and laws.

SC2. Each ASAP shall have written policies regarding research projects.

SC3. Each ASAP shall have written policies and procedures for protecting, communicating and acquiring offender information and providing for release of information.

## Category 11: PLANNING

SC1. Each ASAP shall comply with applicable federal, state and local certification or licensing requirements.

## § 2-2. 2.3. Organization and administration.

### Category 1 - Statement of Purpose

Sc. 1: Each ASAP shall have a written statement of purpose which shall include its relationship to transportation safety, the courts and the community.

Sc. 2: Each ASAP shall have written goals and objectives which reflect the overall Commission on VASAP goal.

### Category 2 - Authority

Sc. 1: Each ASAP shall have an independent legally-constituted policy board which has due authority for the operation of the program.

Sc. 2: The program policy board shall have written regulations and bylaws which follow the commission on VASAP policies and procedures *as follows* :

- a. Purpose and responsibility.
- b. Method of appointment of members (who, how, when, tenure).
- c. Frequency of meetings
- d. Parliamentary authority
- e. Responsibility of independent policy board to the Commission on VASAP for adherence and compliance of local program with statewide regulations.

Sc. 3: Each ASAP shall have a program organizational chart which clearly delineates administrative and staff responsibility for program operations, and reflects positions identified through job descriptions.

Sc. 4: Each ASAP shall have an identifiable director as defined in the policy and procedure manual (VR647-01-02).

### Category 3 - Personnel

Sc. 1: Each ASAP shall have an explicit written job description which includes qualifications for all staff positions.

Sc. 2: Job qualifications shall be explicit and in accordance with job descriptions.

Sc. 3: Each ASAP shall have a written personnel policies and procedures manual which shall include:

- a. Benefits: Each ASAP shall have clear descriptions of personnel benefits.
- b. Confidentiality: Each ASAP shall comply with all state and federal regulations regarding disclosure of defendant information.
- c. Conflict of interest: Each ASAP shall avoid any activity deemed to be in conflict with the interests of the program, as defined in the VASAP Policy and Procedures Manual (VR 647-01-02).

d. Affirmative action plan: Each ASAP shall promote equal employment opportunity in recruiting and selection processes by ensuring that qualification requirements do not limit or restrict employment opportunities because of race, color, religion, national origin, political affiliation, handicap, sex or age (except where there is a bona fide occupational requirement), pursuant to federal and state law.

e. Equal employment opportunity: Each ASAP shall provide equal employment to employees and applicants for employment in all aspects of personnel management and race, color, religion, national origin, political affiliation, handicap, sex or age (except where there is a bona fide occupational requirement), pursuant to federal and state law.

f. Grievance procedures: Each ASAP shall provide for resolution of employee problems and complaints wherein employees can freely discuss their concerns and ensure that employees will have an effective procedure by which various grievances can be fairly and objectively reviewed.

g. Office hours: Each ASAP shall have stated specific hours of program operation.

h. Salary scales: Each ASAP shall assign a salary grade for each job position in accordance with local pay scales approved by the local policy board.

i. Performance appraisal: Each ASAP shall provide an effective means for appraising the work performance of employees and to provide a pay for performance system which rewards proficient work performance.

j. Personnel records: Each ASAP will maintain a complete and accurate personnel record for each employee. These records will be maintained in an orderly fashion and will remain in a file cabinet and/or desk under lock and key.

k. Probationary period: Each ASAP shall require satisfactory completion of a probationary period as a prerequisite to continued employment, unless otherwise determined by local or state directives.

l. Purchasing: Each ASAP shall comply with local, state and federal purchasing requirements for public agencies where applicable.

m. Reduction in staff: Each ASAP shall have a written reduction in force (RIF) policy. In addition, each ASAP shall have a yearly plan to implement the said policy.

n. Standard of conduct: Each ASAP shall have written standards of conduct designed to protect the well-being and rights for all employees, to assure a safe efficient operation and to assure compliance

with public law.

o. Termination of employment: Each ASAP shall have a policy for termination of employees consistent with local and state guideline criteria.

p. Training: Each ASAP will be required to ensure that all staff participates in all Commission on VASAP training as well as encourage and assist in staff development through academic study or through such other means to contribute to further service to the local ASAP program.

q. Travel: All related travel by each ASAP shall comply with the policy board's travel regulations. Where local regulations do not exist, travel must conform with the Commonwealth of Virginia travel regulations.

## Category 4 - Staffing

Sc. 1: Each ASAP shall employ staff to ensure that required services are provided for each referral.

Sc. 2: Each ASAP shall employ staff to ensure that each countermeasure activity is covered.

## Category 5 - Countermeasures

Sc. 1: Each ASAP shall have written action plans, policy statements and exhibits of work for each of the six countermeasures.

### A. Enforcement.

#### 1. Required policy statements regarding:

a. Increasing the number arrested and convicted of DUI.

b. Reducing the average BAC of arrested motorists.

2. The certification review team will require demonstrations, evidence, or statements verifying action or efforts used to fulfill requirements.

Examples of documentation may include these areas:

-local, regional, state DUI-related training

-local, regional, state DUI-related projects/programs

-enforcement contacts, formal and informal

-services provided (roll-call activities, films, materials, etc.)

-policy board representation

-grant funding activity

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## B. Adjudication.

### 1. Required policy statement regarding:

- a. Enhanced adjudication of DUI offenders
- b. Maintaining a consistent rate of DUI referrals

2. The certification review team will require documentation, evidence, or statements verifying action or efforts to fulfill the requirements. Examples of documentation may include:

- local, regional, state DUI-related training
- local, regional, state DUI-related projects/programs
- judicial contacts, formal and informal
- availability of ASAP personnel for court hearings and testimony
- services provided (administrative/clerical, personnel, presentations, evaluations, etc.)
- policy board representation

## C. Case management.

1. Policy statements requiring adherence to case management policies contained in the Commission on VASAP Policies and Procedures Manual (VR647-01-02).

2. The certification review team will examine 10% of the active caseload or no more than 150 files. Case managers will be interviewed and case management systems will be examined, including local ASAP forms and documents. These records shall be maintained in a secure area in locked file cabinets or a locked room with controlled access.

3. The team will review the following areas of regulation, and will require documentation for verification of:

- a. Training
- b. Transfers
- c. Referral contact
- d. Intake
- e. Classification
- f. Education/treatment referral
- g. Monitoring
- h. Reporting

## D. Education/treatment.

### 1. Required policy statement regarding:

- a. Use of standardized VASAP curricula
  - education
  - intensive education
  - young offenders (if applicable)
- b. Use of treatment referral resources which are properly licensed

### 2. Required documentation.

- a. Copies of service provider contracts or letters of agreement for both educational and treatment services
- b. Copies of license of service providers
- c. Copies of confidentiality regulations (local, state, federal)
- d. Evidence of adherence to reporting guidelines from service providers:
  - written receipt of referral within five working days
  - Individual treatment plan within ~~fifteen~~ 15 days of the treatment interview
  - written notice of change in treatment plan within ~~fifteen~~ 15 days
  - verbal notice next working day, and written notice within five days, of absence or any other violation
  - written progress reports every ninety days as well as final reports from treatment providers
  - written final education reports
  - written interim and final intensive education reports.
- e. ASAP reports to service provider.
  - written notice of referral summary of alcohol/drug information
  - written notice of terminations, transfers, and excused and unexcused absences.
- f. Evidence of instructor training for education and intensive education.

## E. Public Information, education and prevention (PI & E).

## 1. Required policy statement regarding the following:

- a. Prevention and reduction of DUI incidents
- b. Increase public knowledge of VASAP
- c. Increase public knowledge of the alcohol/drug problem in transportation safety

## 2. Documentation required.

- a. Designation of person(s) in charge of PI & E activities
- b. Annual PI & E plan
- c. Participation in Commission on VASAP and other statewide PI & E campaigns
- d. Attendance at PI & E training workshops
- e. Serve as PI & E resource for the community

## F. Evaluation.

### 1. Required policy statement regarding:

- a. Designation of person(s) in charge of PI & E activities
- b. Production of annual program report
- c. Evaluation of education/treatment services
- d. Participation in state surveys/evaluation project

### 2. Required documentation.

- a. Automated systems report
- b. Annual program report
- c. Evidence of evaluations from education and treatment programs
- d. Evidence of participation of commission on VASAP and other statewide information gathering projects

## Category 6 - Fiscal Policies

Sc. 1: Each ASAP shall have written fiscal policies and procedures conforming to generally-accepted accounting procedures. Such policies should include budgeting, purchasing, audit, property management, receipt of revenue, accounts payable, accounts receivable and method of accounting. Each ASAP shall have policy which conforms to fiscal requirements provided in the policy and procedure manual (VR 647-01-02).

## Category 7 - Security and Confidentiality

Sc. 1: Each ASAP shall process all offenders' records in a manner consistent with all applicable federal, state and local confidentiality and security regulations and laws.

Sc. 2: Each ASAP shall have written policies regarding research projects.

Sc. 3: Each ASAP shall have written policies and procedures for protecting, communicating and acquiring offender information, providing for release of information.

## Category 8. Waiver

Sc. 1 A justified exemption shall *may* be granted from a specific ASA certification requirement or any part thereof.

Sc. 2: 1. The ASAP requesting a waiver shall submit the request in writing form to the executive director.

~~2. Upon receipt of a written waiver request, the Executive Director shall send a standardized waiver request form to the ASAP director desiring the waiver.~~

~~3. The ASAP director shall complete the standardized waiver request form within ten days and return it to the Executive Director.~~

~~4. The Executive Director shall then take the request form to the next Commission meeting for consideration and action.~~

~~5. Sc. 3: The executive director must act on the waiver request within 45 fifteen calendar days after official receipt of the waiver request . and notify the In conformance with § 3.3 of the Policy and Procedure Manual (VR 674-01-02), the requesting ASAP director must be notified in writing of the decision within ten 10 days of that decision.~~

### ~~§ 2.2. 2.4. Certificate of certification (approval) .~~

~~The certificate of an approved approval ASAP shall be delivered or mailed to the approved ASAP ; with whom the member director is employed, and shall be kept in custody and control of such ASAP , posted in such a manner as to be viewable by the general public .~~

### ~~§ 2.3. 2.5. Recertification.~~

~~Recertification shall be based upon the ASAP's continued adherence to Standards for Certification.~~

~~ASAPs shall undergo certification review every third year by a certification committee of the commission.~~



# Proposed Regulations

## § 2.4. 2.6. ~~DECERTIFICATION~~ *Revocation of certification* .

The commission on its own motion, upon receipt of information that indicates an ASAP may no longer meet certification requirements or that other irregularities may exist within the ASAP, may send a certification review team to investigate the ASAP. Notice of the intended investigation by the certification review team shall be given to the ASAP director and the ~~chairman~~ *chair* of the policy board. Upon completion of the investigation, the certification review team shall submit a report to the executive director, who may call a special meeting of the commission to review the report, giving notice to the local ASAP director.

The commission may vote to ~~decertify~~ *revoke the certification of* the ASAP based on the report. ~~Decertification~~ *The revocation* shall become effective 90 days from the date of the vote. If ~~decertification~~ *revocation* is voted, the executive director shall notify the ASAP director, ~~chairman~~ *chairperson* of the policy board, political subdivisions, and the courts the ASAP serves.

If the ASAP corrects its deficiencies within 90 30 days, its certification may be reinstated by the commission. If the deficiencies are not corrected, the commission shall establish a new ASAP.

## Section 7 § 2.7. Final certification decision.

A report shall be filed with the commission 30 thirty days prior to the next regularly scheduled meeting of the commission. The commission shall review the document presented and make a certification decision. The executive director shall notify in writing ~~the~~ *the* director of each ASAP as well as the ~~chairman~~ *chairperson* of that ASAP's policy board.

The commission may certify, ~~recertify~~, ~~decertify~~, ~~certify with provision~~, ~~revoke certification~~ or decline to certify an ASAP.

If the decision is to certify with provision, the period of the certification shall extend 180 days from the decision date with such conditions as the Commission deems warranted. This type of certification may be extended for up to an additional 180 days, but no longer, at the Commission's discretion. If the certification review team's report indicated an ASAP has major deficiencies, the Commission may defer its certification for 90 days, giving the ASAP the opportunity to comply. No extensions may be granted.

If the commission fails to certify or ~~decertifies~~ *revokes* an ASAP's *certification* , the commission should *shall* establish a new ASAP.

The commission's certification decision shall be sent to the ASAP director, the ASAP policy board chairman, political subdivisions, and the courts the ASAP serves or would serve.

In the event of certification disputes with the certification review team, or the denial of a request for waiver of certification requirements by the executive director, the ASAP director may request a hearing before the commission. The request for the hearing must be in written form from the ASAP director and submitted to the commission 30 thirty days prior to the next regularly scheduled meeting of the commission. Upon receipt of a written request for waiver hearing, the commission or its designee shall schedule a hearing.

Failure to file such a request shall be deemed a settlement of the certification dispute or acceptance of the executive director's waiver decision.

## PART 5.

### Standards For Evaluation and Certification of Services

#### Section 5.1: CERTIFICATION MANUAL PROCEDURES.

Questions concerning any particular item of certification should be directed to the Commission. The certification review team shall rate the ASAP's level of compliance with the certification ratings as listed in Certification Requirements Manual (VR647-01-04), by using the following compliance ratings:

- 1 = Standards of Excellence 90-00 - 100-00
- 2 = Probationary Program Deficiencies 70-00 - 80-00
- 3 = Major Program Deficiencies 00-00 - 60-00

#### Section 5.2: CERTIFICATION SURVEY PROCEDURES.

The purpose of the certification review is to assess the extent of the ASAP's compliance with the standards in the Commission Certification Requirements Manual (VR647-01-04). Compliance shall be assessed through several methods:

1. Documentation of compliance provided by the ASAP personnel;
2. Answers to questions concerning the implementation of these standards that shall enable a judgment of compliance to be made; and
3. On-site observations conducted by the certification review team. Because each standard (category) has a weighted point value of importance, the ASAP must be prepared to provide evidence of compliance to this standard (category). To be certified, the ASAP shall demonstrate that it is in compliance with the standards, although it need not be in full compliance with each standard.

Prior to the on-site visit, the chairperson of the review team shall request the following information:

- A. Copy of personnel policy.

- B. Statement of purpose.
- C. List of the administrative agent or governing board (Joint Exercise of Power Resolution).
- D. Organizational chart.
- E. Staff members and job descriptions.
- F. Written fiscal policies and procedures.
- G. Written policy and procedure for protecting, communicating and acquiring offender information.

After compilation of the above information, the certification rating can be tabulated according to Part 3 "Certification Questionnaire."

#### Section 5.3. CERTIFICATION DECISION.

At the completion of the on-site review, the certification review team shall hold a summation conference with the director of the ASAP. During this conference, the certification review team shall present findings for discussion and clarification, and the ASAP director shall be given full opportunity to comment on any adverse findings noted by the review team.

#### Section 5.4. CERTIFICATION PROCEDURES.

##### 1. Evaluation by the certification review team.

A. Review and recommendations by the review team - The certification review team shall review the findings, documents and any other relevant material or information received from any source, and shall recommend to the Commission that the ASAP be certified in accordance with the certification ratings listed in Part 2, Section 2.3., Certification Ratings, Certification Requirements Manual (VR647-01-04).

B. Recommendation to certify - If the review team recommends full certification to the Commission, then the Commission shall consider the recommendation of the review team and, if necessary, review the findings, documents and any other relevant material received by the review team.

C. Determination to recommend probationary and major program deficiencies - If the review team, based on the findings, documents and any other relevant information received from the ASAP, determines it shall recommend to the Commission that the ASAP be placed on probationary status, denied certification, or denied recertification, a representative of the review team shall telephone the ASAP director to discuss the areas of non-compliance upon which this decision is based. This notification shall be confirmed in writing by the review team. If documentation to correct the program deficiencies can be provided by the ASAP within 30 days of being advised of the review teams findings, the review team

shall review said documents for recommendation to certify as being in compliance with the Certification Requirements Manual (VR647-01-04).

D. If the ASAP is unable to provide the necessary documentation within 30 days, the review team shall submit its report to the Commission.

#### Section 6. CERTIFICATION REVIEW TEAM WORKSHEET.

##### Category 1. Statement of Purpose - Total Points - 4

SC1. Each ASAP shall have a written statement of purpose. (4 points) YES/NO

##### Category 2. Authority - Total Points - 10

SC1. Each ASAP shall have a legally constituted policy board which has due authority for the ASAP. (10 points) YES/NO

SC2. The policy board shall have the following written regulations and bylaws that set out. (4 points) YES/NO

1. The purpose and responsibilities of the policy board. (1 point) YES/NO

2. Method of appointment of policy board members. (1 point) YES/NO

3. Frequency of meetings of the policy board. (1 point) YES/NO

4. Parliamentary and legal authority of policy board. (1 point) YES/NO

5. Responsibility of policy board to Commission for compliance of ASAPs with statewide regulations. (1 point) YES/NO

##### Category 3. Directorship - Total Points - 5

SC1. Each ASAP shall have an identifiable director as defined in the VASAP Policy and Procedure Manual (VR647-01-02) (5 points) YES/NO

##### Category 4. Organizational Chart - Total Points - 6

SC1. Each ASAP shall have a written staff organizational chart which clearly delineates responsibility for ASAP operations. (6 points) YES/NO

##### Category 5. Position Descriptions - Total Points - 7

SC1. Each ASAP shall have written job descriptions for all staffed positions. (3.5 points) YES/NO

SC2. Job responsibilities shall be explicit and congruent with

# Proposed Regulations

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16. Purchasing and printing (1 point) YES/NO

(180 days with one extension)

17. Grievance Procedure (1 point) YES/NO

Standards of Excellence 90.00 - 100.00

## Category 7: Budgetary Policies - Total Points - 13

SC1: Each ASAP shall have written fiscal policies and procedures conforming to generally accepted accounting procedures: (13 points) YES/NO

## Category 8: Countermeasures - Total Points - 13

SC1: Each ASAP shall have a written plan of action or policy statement in each of the six countermeasure areas: (13 points) YES/NO

## Category 9: Staffing - Total Points - 4

SC1: Each ASAP shall employ adequate staff to ensure that the ASAP operates cost-effectively. (1 point) YES/NO

SC2: Each ASAP shall employ appropriate staff to ensure that required services are provided for each referral: YES/NO

SC3: Each ASAP shall, within budgetary constraints, employ adequate staff to provide activities in each countermeasure area: (1 point) YES/NO

## Category ten: Security and Confidentiality Total Points -

5

SC1: Each ASAP shall process offenders' records in a manner consistent with applicable federal, state and local confidentiality and security regulations and laws: (2 points) YES/NO

SC2: Each ASAP shall have written policies regarding research projects: (1 point) YES/NO

SC3: Each ASAP shall have written policies and procedures for protecting, communicating, and acquiring offender information: (2 points) YES/NO

## Category 11: Planning - Total Points - 4

SC1: Each ASAP shall comply with applicable federal, state and local certification and licensing requirements: (4 points) YES/NO

## Total Points:

Certification Ratings Total Points - 100

Major Program Deficiencies 00.00 - 60.00

(90 days with no extension)

Probationary Program Deficiencies 70.00 - 80.00



VASAP TRANSFER SHEET

Virginia Alcohol Safety Action Program  
 1001 East Broad Street, Ste. 245  
 Old City Hall Building, Box No. 28  
 Richmond, Virginia 23219

DATE \_\_\_\_\_ VASAP 23 (REV 10/81)

FROM		TO	
NAME	SSN	BIRTHDATE	
ADDRESS - STREET AND NUMBER		HOME PHONE NO. WORK PHONE NO.	
CITY	STATE	ZIP	
FEE ASSESSED	TOTAL PAID	PAID TO WHOM	BAL.
CASE MANAGER AT REFERRING ASAP			
TYPES OF REPORTS NEEDED AND SUBMIT DATES REQUIRED			
STATUS (IF PARTICIPANT IS TRANSFERRED AFTER BEGINNING ASAP PROGRAM)			
<b>TRANSFER SHEET - PART TWO</b> (RETURN TO ORIGINATING ASAP WITHIN MAXIMUM OF 90 DAYS)			
PARTICIPANT NAME		SSN	
ASAP AGENCY NAME AND REPRESENTATIVE'S SIGNATURE			
DATE CLASSIFIED	ASSIGNED TO LEVEL	PROGRAM BEGINNING DATE	ESTIMATED COMPLETION DATE
REASON FOR DELAY OR CHANGE IN STATUS (IF ANY)			
<b>TRANSFER SHEET - PAGE ONE</b> (RETURN TO ORIGINATING AGENCY WITHIN 10 DAYS)			
PARTICIPANT NAME		SSN	
AGENCY RECEIVING TRANSFER DOCUMENTS			
DATE DOCUMENTS RECEIVED	INTAKE DATE		
IF INTAKE DATE IS TO BE DELAYED STATE REASON			
ASAP/AGENCY REPRESENTATIVE SIGNATURE			



VASAP REPORT FORM



DATE \_\_\_\_\_  PROGRESS REPORT  FINAL REPORT★ TGA 42 (12/85)

TO (AGENCY & CASE HDR.)		FROM (AGENCY & CASE HDR.)	
PARTICIPANT'S NAME		SSN	
ADDRESS		BIRTHDATE	
CITY	STATE	ZIP CODE	
LEVEL <input type="checkbox"/> ONE <input type="checkbox"/> TWO <input type="checkbox"/> THREE	DATE OF FIRST SESSION:		
<b>PROGRESS REPORT</b>			
ESTIMATED DATE OF COMPLETION	PARTICIPATION: <input type="checkbox"/> EXCELLENT <input type="checkbox"/> SATISFACTORY <input type="checkbox"/> UNSATISFACTORY★ <input type="checkbox"/> IMPROVING		
ATTENDANCE: NUMBER OF CLASSES ATTENDED _____ OUT OF NUMBER OF CLASSES HELD _____ NUMBER OF CLASSES ABSENT _____			
CURRENT REPORT OF DRINKING: <input type="checkbox"/> ABSTINENCE <input type="checkbox"/> CONTROLLED <input type="checkbox"/> OUT OF CONTROL★			
INDICATION OF CHANGE IN DRINKING/DRIVING BEHAVIOR <input type="checkbox"/> APPROPRIATE <input type="checkbox"/> INAPPROPRIATE★ <input type="checkbox"/> UNDETERMINED			
<b>FINAL REPORT</b>			
COMPLETION: <input type="checkbox"/> SUCCESSFUL <input type="checkbox"/> UNSUCCESSFUL★	COMPLETION DATE		
ATTENDANCE: NUMBER OF CLASSES ATTENDED _____ OUT OF TOTAL NUMBER OF CLASSES _____			
CURRENT REPORT OF DRINKING: <input type="checkbox"/> ABSTINENCE <input type="checkbox"/> CONTROLLED <input type="checkbox"/> OUT OF CONTROL★			
INDICATION OF CHANGE IN DRINKING/DRIVING BEHAVIOR <input type="checkbox"/> APPROPRIATE <input type="checkbox"/> INAPPROPRIATE★ <input type="checkbox"/> NONE★			
<b>★ COMMENTS - PROGRESS OR FINAL REPORT</b>			
EXPLAIN ANY STAR ★ ITEMS CHECKED, PROVIDE SPECIFIC INFORMATION CONCERNING NONCOMPLIANCE, DATES, SPECIAL REQUIREMENTS, RECOMMENDATIONS.			

This certification questionnaire is provided to allow ASAPs the opportunity to review program operation prior to the arrival of a certification team and to review program operation on an interim basis in years when certification review is not scheduled.

This is also designed to provide a standard format for the review team to assess an ASAP operation.

COMMISSION ON VASAP  
CERTIFICATION REVIEW INSTRUMENT

VASAP CERTIFICATION QUESTIONNAIRE  
SCORE SHEET

PROGRAM: \_\_\_\_\_

ORGANIZATION AND ADMINISTRATION

YES NO

Category 1 - Statement of Purpose

- |       |   |     |     |
|-------|---|-----|-----|
| Sc. 1 | Does the ASAP have a written statement of purpose (which states their relationship to highway safety, court and community)? | ___ | ___ |
| Sc. 2 | Does the ASAP have written goals and objectives which reflect the overall Commission on VASAP goal?                         | ___ | ___ |

Category 2 - Authority

- |       |   |     |     |
|-------|---|-----|-----|
| Sc. 1 | Does the ASAP have a legally constituted independent Policy Board which has due authority for operation of the Program?<br><br>(Resolutions or other documentation), unless otherwise approved. | ___ | ___ |
| Sc. 2 | Does the Policy Board have written Regulations and By-Laws which follow the Commission on VASAP Policies and Procedures:  | ___ | ___ |
|       | a. Purpose and responsibility.  | ___ | ___ |
|       | b. Method of appointment of members; (who, how, when, tenure).  | ___ | ___ |
|       | c. Frequency of meetings.   | ___ | ___ |
|       | d. Parliamentary authority.   | ___ | ___ |
|       | e. Responsibility of independent Policy Board to the Commission on VASAP for adherence and compliance of local program with statewide regulations.  | ___ | ___ |

- |       |   |     |     |
|-------|---|-----|-----|
|       |   | YES | NO  |
| Sc. 3 | Does the ASAP have a Program Organizational Chart which clearly defines administrative and staff responsibility for program operations, and reflects positions shown by Job descriptions? | ___ | ___ |

Category 3 - Personnel

- |       |   |     |     |
|-------|---|-----|-----|
| Sc. 1 | Does the ASAP have the explicit written job descriptions which includes qualifications for all staff positions? | ___ | ___ |
| Sc. 2 | Staff qualifications are explicit and in accordance with job descriptions?                                      | ___ | ___ |
| Sc. 3 | Does the ASAP have a written Personnel Policies and Procedures Manual which includes:                           | ___ | ___ |
|       | a. <u>Benefits</u>  | ___ | ___ |
|       | b. <u>Confidentiality</u>   | ___ | ___ |
|       | c. <u>Conflict of Interest</u>  | ___ | ___ |
|       | d. <u>Employment Procedures</u>   | ___ | ___ |
|       | e. <u>Equal Employment Opportunity</u>  | ___ | ___ |
|       | f. <u>Grievance Procedures</u>  | ___ | ___ |
|       | g. <u>Office Hours</u>  | ___ | ___ |
|       | h. <u>Pay Scales</u>  | ___ | ___ |
|       | i. <u>Performance Appraisal</u>   | ___ | ___ |
|       | j. <u>Personnel Records</u>   | ___ | ___ |
|       | k. <u>Probationary Period</u>   | ___ | ___ |
|       | l. <u>Purchasing</u>  | ___ | ___ |
|       | m. <u>Reduction in Staff</u>  | ___ | ___ |
|       | n. <u>Standard of Conduct</u>   | ___ | ___ |
|       | o. <u>Termination of Employment</u>   | ___ | ___ |

YES NO

p. Training \_\_\_\_\_

q. Travel \_\_\_\_\_

Category 4 - Staffing

Sc. 1 Does the ASAP employ adequate staff to insure that required services are provided for each referral? \_\_\_\_\_

Sc. 2 Does the ASAP employ adequate staff to insure that each countermeasure activity is covered? \_\_\_\_\_

Category 5 - Countermeasures

Sc. 1 Does the ASAP have written action plans, policy statements, and exhibits of work for each of the six (6) countermeasures? \_\_\_\_\_

a. Enforcement \_\_\_\_\_

b. Adjudication \_\_\_\_\_

c. Case Management \_\_\_\_\_

d. Education/Treatment \_\_\_\_\_

e. Public Information, Education and Prevention \_\_\_\_\_

f. Evaluation \_\_\_\_\_

Category 6 - Fiscal Policies

Does your agency have written fiscal policies and procedures and a financial plan conforming to generally accepted accounting procedures? \_\_\_\_\_

Sc. 1 Audit

1. Was an audit performed the past fiscal year? \_\_\_\_\_

2. Was an audit performed by a CPA firm? \_\_\_\_\_

Name & address of firm \_\_\_\_\_

YES NO

3. Does program use an accrual basis of accounting? \_\_\_\_\_

Sc. 2 Budget

1. Does agency have written budget procedures? \_\_\_\_\_

2. Is there included a mechanism for revision? \_\_\_\_\_

3. Is revenue appropriated by the policy board? \_\_\_\_\_

If no, indicate what authorization to expend revenue is used.

Sc. 3 Fiscal Agent

1. Does agency utilize an outside fiscal agency? \_\_\_\_\_

2. Is the fiscal agency compensated? \_\_\_\_\_

If yes, how is the amount of payment determined?

3. Does your fiscal agent provide services other than payroll, purchasing, accounts payable, and personnel matters? \_\_\_\_\_

If yes, list other services \_\_\_\_\_

Sc. 4 Purchasing

1. Are there written purchasing procedures? \_\_\_\_\_

2. If yes, do the procedures include an authorizing officer? \_\_\_\_\_

- |  | YES   | NO    |
|--|-------|-------|
| 3. Is there a procedure in place to handle receipt of materials and supplies?                              | _____ | _____ |
| <b>Sc. 5 <u>Payroll</u></b>  |       |       |
| 1. Who prepares payroll for staff?   | _____ | _____ |
| 2. Who issues payroll checks?  | _____ | _____ |
| 3. Where are payroll records maintained?   | _____ | _____ |
| 4. Where are cancelled payroll checks filed?   | _____ | _____ |
| <b>Sc. 6 <u>Income</u></b>   |       |       |
| 1. Who collects fees? _____  |       |       |
| 2. What method is used to receipt revenue?<br>_____  |       |       |
| 3. Is an automated system utilized?  | _____ | _____ |
| 4. What form of payment is accepted?<br>___ Personal Check ___ Cash<br>___ Money Order ___ Certified Check |       |       |
| 5. Is there a posted statement indicating each defendant will receive a receipt for payment made?          | _____ | _____ |
| 6. Does agency have procedures for:<br>Returned check _____<br>Transfer in or out _____<br>Refunds _____   |       |       |
| 7. Does agency have revenue sources other than from offender fee (non-ASAP revenue)?                       | _____ | _____ |
| 8. Has agency obtained grant funding?  | _____ | _____ |
| 9. Has agency had deficit funding?   | _____ | _____ |

- |   | YES   | NO    |
|---|-------|-------|
| <b>Sc. 7 <u>Revenue Deposits</u></b>  |       |       |
| 1. Name of person making deposits.<br>_____   |       |       |
| 2. Is a copy of stamped deposit slip maintained?                                      | _____ | _____ |
| 3. Where are funds deposited?   | _____ | _____ |
| 4. Are ledgers reconciled with deposits?  | _____ | _____ |
| <b>Sc. 8 <u>Expenditures</u></b>  |       |       |
| 1. How does agency reflect expenditures for costs (journals, ledgers, etc.)?<br>_____ |       |       |
| 2. How are accounts payable handled? (includes contracts, goods & services).<br>_____ |       |       |
| 3. Who authorizes payment of vouchers? (Look at several approved vouchers).<br>_____  |       |       |



# Proposed Regulations

COMMISSION ON VASAP  
VASAP CERTIFICATION REPORT

ASAP Program: \_\_\_\_\_ Director: \_\_\_\_\_ Certification Date: \_\_\_\_\_

Certification Documents:

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Review Team:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Standard Category Sited	Description of Deficiency	Planned Corrective Action	Completion Date

Waiver Granted	Date	Specify Conditions of Waiver

# Proposed Regulations

COMMISSION ON VASAP  
CERTIFICATION REVIEW  
PLAN TO CORRECT DEFICIENCIES CITED

Facility/Program: \_\_\_\_\_ Certification Dates: \_\_\_\_\_

Plan of Action Submitted and Approved by:

Director: \_\_\_\_\_ Date: \_\_\_\_\_

Policy Board Chairman: \_\_\_\_\_ Date: \_\_\_\_\_

Standard Cited	Description of Non-Compliance	Planned Corrective Action	Completion Date/ Person Responsible

INITIAL CONTACT	Commission on VASAP Treatment Agency Report		<b>Instructions:</b> Initial Contact: return white copy within 5 days of initial contact. Intake Information: return yellow copy within 15 days of intake. Progress Report: return green copy within 60 days of intake. Final Report: return pink copy within 15 days of discharge.
	ASAP:		
	Probationer:	ASAP Case Manager: _____	
	SSN: _____	Scheduled Treatment Intake Date: _____ Time: _____	
Comments: _____		Date Referred to Treatment: _____	Agency: _____
		Intake Counselor: _____	
		Signed: _____ Date: _____	

INTAKE	Intake Completed on: _____ Has been scheduled for: _____ Group; _____ Individual; _____ Both	
	Next Scheduled Appointment/Group: _____	
	Comments: _____	
	Signed: _____ Title: _____ Date: _____	

TREATMENT PLAN MUST BE ATTACHED

PROGRESS REPORT	Group/Individual: _____		Projected Completion Date: _____		
	Treatment Counselor: _____				
	_____ Treatment Group	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____	
	_____ Individual Sessions	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____	
	Observations to date: Excellent    Good    Fair    Poor    Improving    Undetermined				
	Attitude: _____ Participation: _____				
Comments: _____					
Signed: _____ Title: _____ Date: _____					

FINAL REPORT	_____ Treatment Group	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____	
	_____ Individual Sessions	Attended _____ of _____ Sessions to Date	Number of times late _____	Number of Absences _____	
	Attitude toward Treatment: _____ Excellent    _____ Good    _____ Fair    _____ Poor				
	Prognosis: _____ Good    _____ Poor    _____ Fair    _____ Uncertain				

DISCHARGE SUMMARY MUST BE ATTACHED

COMMISSION ON VASAP  
CONSENT FOR THE RELEASE OF CONFIDENTIAL INFORMATION

I, \_\_\_\_\_ / \_\_\_\_\_ authorize  
(Name of Participant) (Social Security #)  
\_\_\_\_\_ to disclose to/obtain from \_\_\_\_\_  
Program Making the Disclosure (Person or  
Organization to/or from Whom Disclosure is to be Made)  
the following information \_\_\_\_\_  
(Nature of Information)

Purpose of the disclosure is \_\_\_\_\_  
\_\_\_\_\_

I understand that my records are protected under the Federal confidentiality Regulations and cannot be disclosed without my written consent unless otherwise provided for in the regulations. I also understand that I may revoke this consent at any time except to the extent that action has been taken in reliance on it (e.g. probation, parole, etc.) and that in any event this consent expires automatically as described below.

\_\_\_\_\_  
(Date, Event, or Condition upon which this consent will expire)

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

This consent includes / does not include information placed on my records after the above date.

\_\_\_\_\_  
Participant's Signature  
\_\_\_\_\_  
Date  
\_\_\_\_\_  
Witness  
\_\_\_\_\_  
Parent/Guardian, where required

Date Revoked: \_\_\_\_\_  
Participant's Signature \_\_\_\_\_  
Parent/Guardian, where required \_\_\_\_\_  
Witness \_\_\_\_\_

PROHIBITION ON RE-DISCLOSURE: This information has been disclosed to you from records protected by Federal Confidentiality Rules (42 CFR Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is not sufficient for this purpose.

FINANCIAL REPORT

ASAP NAME: \_\_\_\_\_

REPORTING PERIOD: \_\_\_\_\_

RECEIPT NO. \_\_\_\_\_ THRU NO. \_\_\_\_\_

Revenue: Year- To- Date Totals

Fees - Local Referrals.....\$ \_\_\_\_\_  
Fees - Transfers In.....\$ \_\_\_\_\_  
Other Revenue.....\$ \_\_\_\_\_  
Total Revenue.....\$ \_\_\_\_\_

Computation of State Share

Total Revenue.....\$ \_\_\_\_\_  
Deduct: Transfers in on which the  
state share had already been  
paid to the Treasurer of  
Virginia by the transferring  
ASAP.....\$ \_\_\_\_\_  
Other Revenue.....\$ \_\_\_\_\_

Total Deductions.....\$ \_\_\_\_\_  
Balance on which the State share is computed...\$ \_\_\_\_\_  
State Percentage.....\$ \_\_\_\_\_ X 10%  
State share due to Treasurer.....\$ \_\_\_\_\_

Program Net Revenue

Total Revenue.....\$ \_\_\_\_\_  
Deduct: Expenditures for this period.....\$ \_\_\_\_\_  
Deficit.....\$ \_\_\_\_\_

I CERTIFY THAT THE ABOVE INFORMATION  
IS TRUE AND ACCURATE ACCOUNTING FOR  
PERIOD REPORTED.

\_\_\_\_\_  
DIRECTOR

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM  
(VASAP) REQUEST FOR DEFICIT FUNDING

DATE OF REQUEST: \_\_\_\_\_

PROGRAM MAKING REQUEST: \_\_\_\_\_

BRIEF PROBLEM STATEMENT: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AMOUNT OF FUNDING REQUESTED: \_\_\_\_\_

Please submit this form along with a copy of your current Budget and Financial Report to the Executive Director of the Commission on VASAP.

\_\_\_\_\_  
Director

\_\_\_\_\_  
Board Chairperson

VASAPDA TREATMENT COMMITTEE  
PROPOSED STANDARD TREATMENT SERVICES AGREEMENT

This agreement entered into the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ by and between the \_\_\_\_\_ ASAP, hereafter referred to as the ASAP and \_\_\_\_\_, hereafter referred to as the Service Provider.

Whereas, the ASAP is endeavoring to develop, implement and evaluate a comprehensive countermeasure program to reduce highway injuries, fatalities, and property damages caused by drinking driver; and,

Whereas, the Service Provider is licensed or certified by the Commonwealth to provide treatment and rehabilitation services to those individuals whose use of intoxicating substances has resulted in social, economic and/or physical problems.

Now, therefore, witnesseth that for and in consideration of the respective undertakings of the parties to this agreement, the ASAP and the Service Provider hereby agree to the following provisions:

ARTICLE I - TREATMENT SERVICES

The ASAP agrees to refer probationers to the Service Provider for treatment and the Service Provider agrees to provide treatment for such individuals. Nothing herein is to be construed as an agreement that the ASAP shall refer all of its probationers in need of treatment to the Service Provider. Probationers referred for treatment to the Service Provider shall receive treatment services as established by the Service Provider. Such treatment services shall be of the same quality as that provided other clientele of the Service Provider. Prior to signing this agreement, a written description of these treatment services shall be filed with the ASAP. The ASAP will also receive advance notice of any change in this description for the duration of this agreement. The requirements described in this agreement are minimum requirements. Additional requirements may be negotiated between the local ASAP and the Service Provider and should be attached to this agreement.

ARTICLE II - REPORTS TO SERVICE PROVIDER

The ASAP shall submit at least the following information to the Service Provider:

1. Written notice of referral.
2. Summary of the probationers alcohol or other drug history.
3. Written notice of all terminations for noncompliance, transfers, and absences prior to the next scheduled treatment session.

In the event of verbal or telephone requests for probationer information from a service provider, the case manager shall respond in writing within ten (10) working days of the request.

ARTICLE VIII - PERIOD OF PERFORMANCE

The term of this agreement shall be \_\_\_\_\_ through \_\_\_\_\_ and shall continue from year to year unless otherwise terminated upon sixty (60) days notice in writing.

Approved:

Approved:

\_\_\_\_\_  
(Name of ASAP)

\_\_\_\_\_  
(Service Provider)

\_\_\_\_\_  
(ASAP Director)

\_\_\_\_\_  
(Director Service Provider)

\_\_\_\_\_  
(ASAP Board Chairperson)

\_\_\_\_\_  
(Board Chairperson)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

ARTICLE III - REPORTS FROM SERVICE PROVIDER

The ASAP shall require at least the following reports from the Service Provider:

1. Written notice of receipt of referral within five (5) working days of initial contact with the probationer.
2. A tentative outline of the treatment plan within fifteen (15) days of the intake session.
3. Written notice within ten (10) working days of any change in the probationer's treatment plan.
4. Verbal notice by the next working day, and written notice within five (4) working days, when the probationer is in violation of any section of the ASAP's or their service provider's agreement to participate.
5. Progress reports within sixty (60) days of the treatment intake and every ninety (90) days thereafter.
6. When the Service Provider receives a written request for a specific report from the ASAP a written response shall be due within ten (10) working days.
7. The Service Provider will utilize the Standard Interim report provided by the ASAP for each probationer referred for treatment. Additional reports as needed by the ASAP may be required.

ARTICLE IV - LIMITATION OF FUNDS

ASAPs may provide financial assistance for a portion of the costs for treatment. This amount, if any, must be negotiated according to regulations specified in Section 11.2 "Financial Services" of the VASAP Commission Policy & Procedure Manual. Upon expenditure of this sum, if any, the probationer and not the ASAP, will be responsible for any fair and reasonable charges thereafter.

ARTICLE V - CONFIDENTIALITY OF PROBATIONER RECORDS

The ASAP and the Service Provider agree to comply with all Federal and State laws pertaining to dissemination and use of client and criminal justice records.

ARTICLE VI - RIGHT TO TERMINATE

Nothing in this agreement shall affect the right of either party to terminate this contract. At least (60) days written notice shall be given prior to termination. Termination of this agreement shall not relieve the Service Provider of their obligation to complete treatment of existing referrals.

ARTICLE VII - INTERPRETATIONS OR MODIFICATION

No oral or written statement of anyone other than the designees of the respective parties to this agreement shall modify or otherwise affect the terms and meaning of this contract. However, memoranda of understanding of a clarifying nature may be added to this agreement upon the signature of the respective designees in accordance with the VASAP Commission Policy and Procedure Manual.

## VIRGINIA RACING COMMISSION

**Title of Regulation:** VR 662-03-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Racing Officials.

**Statutory Authority:** § 59.1-369 of the Code of Virginia.

**Public Hearing Date:** September 19, 1990 - 9:30 a.m.  
(See Calendar of Events section for additional information)

### Summary:

*The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities and horse race meetings with pari-mutuel wagering. The proposed regulation sets forth the qualifications, duties and responsibilities of permit holders who will be acting in the capacity of racing officials at race meetings with pari-mutuel wagering. Further, the proposed regulation sets forth how the racing officials will interact with each other and the commission.*

VR 662-03-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering - Racing Officials.

### PART I. GENERAL.

#### § 1.1. Generally.

*No racing official shall participate in any horse racing subject to the jurisdiction of the commission or in the conduct of a race meeting or pari-mutuel wagering of the race meeting unless the person possesses a permit from the commission and complies with the provisions of the Act of the General Assembly creating Horse Racing and Pari-Mutuel Betting and the regulations of the commission. Permits issued by the commission are not transferable.*

#### A. Application for permit.

*A person desiring to obtain a permit as a racing official shall make an application for a permit on a form prescribed by the commission. The application shall be accompanied by a fee prescribed by the commission and shall include the cost of fingerprinting and a background investigation. The applicant shall be fingerprinted upon making his initial application in the Commonwealth and at least once every five years thereafter. The application shall be verified by the oath or affirmation of the applicant. In addition, the applicant shall demonstrate that he:*

- 1. Is of good moral character and reputation;*
- 2. Is experienced in horse racing;*

*3. Is familiar with the duties the applicant is applying to do and with the regulations of the commission;*

*4. Possesses the mental and physical capacity to perform the duties of the position; and*

*5. The applicant shall take and satisfactorily pass an optical examination every two years. The eye examination results must show natural or corrected 20-20 vision and an ability to distinguish colors correctly.*

#### B. Fee schedule.

*Before submitting an application for a permit as a racing official, the applicant shall consult the fee schedule of the Virginia Racing Commission to ascertain the applicable fee, make out a check or money order payable to the Virginia Racing Commission or pay in cash the full amount of the fee, and submit the fee with the application.*

#### C. Consideration by commission.

*The commission shall promptly consider an application and shall issue or deny the permit based on information in the application and all other information before it, including any investigation it deems appropriate. If an application is approved, the commission shall issue a permit and the permit shall be valid for one year.*

#### D. Denial of application.

*The commission shall deny the application, if it finds that the issuance of a permit to a person as a racing official would not be in the interests of the people of the Commonwealth, or the horse racing industry of the Commonwealth or would reflect adversely on the honesty and integrity of the horse racing industry in the Commonwealth. The commission shall also deny the application, if it finds that the applicant:*

*1. Has knowingly made a false statement of a material fact in the application, or has deliberately failed to disclose any information requested by the commission;*

*2. Is or has been guilty of any corrupt or fraudulent practice or conduct in connection with any horse race meeting in this or any other state;*

*3. Has knowingly failed to comply with the provisions of the Act or the regulations of the commission;*

*4. Has had a permit to engage in activity related to horse racing denied for just cause, suspended or revoked in any other jurisdiction, and such denial, suspension or revocation is still in effect;*

*5. Is unqualified to perform the duties required for the permit sought; or*

# Proposed Regulations

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6. Has been convicted of a misdemeanor or felony involving unlawful conduct or wagering, fraudulent use of a credential, unlawful transmission of information, touting, bribery, administration or possession of drugs or any felony considered by the commission to reflect adversely on the horse racing industry in the Commonwealth.

## E. Denial is final.

The denial of an application by a person as a racing official shall be final unless an appeal is made by the applicant under the provisions of these regulations.

## F. Prohibited activities for racing officials.

No racing official or any assistant of a racing official, while serving at any race meeting licensed by the commission, shall engage in any of the following activities:

1. Participating in the sale, purchase or ownership of any horse which is racing at a meeting where the racing official is serving;
2. Being involved in any way in the purchase or sale of any contract on any jockey racing at the meeting;
3. Wagering at race meetings licensed by the commission;
4. Accepting any gratuity or payment, other than regular wages or salary, directly or indirectly; or
5. Engaging in any activity that would impair a racing official's judgment or to function in his assigned capacity.

## G. Reporting violations.

Every racing official, and any assistant, are responsible to report immediately to the stewards every observed violation of these regulations as well as all violations of state and federal laws during the race meeting.

## H. Single appointment.

No racing official may hold more than one official position, unless at the request of the licensee or on its own motion the commission determines that, the holding of more than one appointment would not subject the official to a conflict of his interests and duties in the two official positions.

## I. Emergency appointment.

Any racing official who desires to leave his position or is unable to fulfill his responsibilities must first obtain permission from the commission. The licensee shall promptly appoint a successor, subject to the issuance of the appropriate permit by the commission. In the event of

an emergency and the licensee is unable to appoint a successor in time to permit the orderly conduct of racing, the stewards shall immediately appoint a temporary successor.

## J. Notification of commission.

The list of racing officials to be employed by the licensee shall be submitted to the commission no later than 30 days prior to the opening of the race meeting. The licensee shall be responsible for submitting an application for each racing official who has not been previously issued a permit by the commission no later than 60 days prior to the opening of the race meeting.

## K. Fine, suspension and revocation.

A racing official may be fined, suspended or have his permit revoked at any time by the commission for incompetence, failure to follow or enforce the commission's regulations, or any conduct detrimental to horse racing. The disciplinary action of the commission shall be final unless the racing official appeals the action under the provisions of these regulations.

## L. Attendance at proceedings.

A racing official shall attend, when requested by the stewards or commission, any hearing, appeal or proceeding where his testimony may be material in arriving at a determination of the matter.

## M. Interference with other officials.

A racing official shall not interfere with the deliberations or the decision-making of other racing officials.

## PART II. PERSONNEL.

### § 2.1. General manager.

The licensee shall appoint a qualified person to act as the general manager for any unlimited race meeting. The general manager, and his assistant, if one is appointed, shall oversee the conduct of the race meeting and cooperate with the commission in implementing these regulations. In addition, the general manager's duties include but are not limited to:

1. Providing the procedures, facilities and equipment as set forth in VR 662-02-01 that the race meeting shall be free of any incompetent or unprincipled practices;
2. Ensuring the pari-mutuel wagering at the race meeting is conducted in accordance with the provisions as set forth in Part III of VR 662-02-01.
3. Developing, with the assistance of the licensee's

marketing and promotional staff, plans for the education of the public concerning horse racing and the growth of the horse industry in the Commonwealth; and

4. Properly supervising the licensee's employees to assure that they are present in sufficient numbers to provide for the public health, safety and welfare as well as to protect the integrity of horse racing.

## § 2.2. Racing secretary.

The licensee shall appoint a qualified person to act as racing secretary for the race meeting. The racing secretary shall be responsible for the conduct of the racing office and all of the licensee's employees who are assigned to the racing office. The racing secretary, and his assistant, if one is appointed, shall also be responsible for the programming of races during the race meeting and all of the duties pertaining to the programming of races. Among the duties of the racing secretary are:

1. Recruiting the highest possible quality of horses for the race meeting and assigning stall space to horses. The racing secretary shall submit the procedures and stall application forms to achieve a quality horse population no later than 60 days before the opening of the race meeting;

2. Receiving and keeping safe, with the assistance of the clerk of the course, registration or eligibility certificates of horses stabled within the enclosure or horses to be entered into races, and returning upon request the certificates to the horse owner or his representative;

3. Publishing at least 30 days prior to the opening of the race meeting and at intervals thereafter of not more than 15 days a condition book or sheet that sets forth the conditions and eligibility for horses to be entered into races for the meeting and distributing the book or sheet among owners, trainers and the commission;

4. Supervising the taking of entries for each day's races, verifying the eligibility, the accuracy of the information submitted with the entry and the weights claimed for the horses, where appropriate;

5. Coupling of entries for wagering purposes, as provided for in these regulations, and assigning horses to the mutuel field for wagering purposes in a manner approved by the stewards;

6. Maintaining a list of horses which were entered but denied an opportunity to race because they were excluded from a race programmed in the condition book or sheet either by overfilling or failure to fill the race. The racing secretary shall submit to the commission for approval, at least 30 days prior to the opening of the race meeting, a detailed description of

the manner in which preference will be allocated to those horses excluded;

7. Posting a list of entries or an overnight sheet in a conspicuous location in the racing secretary's office, upon the closing of entries each day, and making available copies of the list of entries or overnight sheet to other racing officials, commission personnel, horsemen, members of the media and the public;

8. Maintaining, with the assistance of the clerk of the course, a permanent record of all stakes, entrance moneys and arrears paid or due, and depositing the moneys in an escrow account as provided in VR 662-02-01;

9. Publishing, with the assistance of the program director, a daily racing program accurately containing all of the information that is deemed appropriate to the type of racing being offered and any other information the commission may deem appropriate;

10. Assigning weights to be carried by each horse in a handicap race, and when weights are not specified by the conditions of the race, the scale of weights of either The Jockey Club or the National Steeplechase and Hunt Association shall apply, as they are appropriate;

11. Keeping, with the assistance of the clerk of the course, permanent records of the results of each race of the meeting, and updating the registration or eligibility certificate with information deemed appropriate by the commission or the appropriate breed registry;

12. Informing the horsemen's bookkeeper of the results of each race as well as the amounts of purse moneys due and the parties to whom the purse moneys are due and, in general, supervising the horsemen's bookkeeper and the transactions of the horsemen's account;

13. Posting a list in a conspicuous place in the racing secretary's office of those horses that have been nerved and those horses that have been gelded or spayed;

14. Maintaining, with the assistance of the stall superintendent, a list of the horses stabled within the enclosure, and maintaining a record of arrival and departure of all horses stabled within the enclosure;

15. Supervising the claims clerk in determining the eligibility of owners to claim other horses at the race meeting and whether sufficient funds exist in the horsemen's account or proper funding is available to make a valid claim; and

16. Withdrawing, cancelling or changing any race which has not closed. In the event the cancelled race



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is a stakes race, all subscriptions and fees paid in connection with the race shall be refunded.

## § 2.3. Licensee's veterinarian.

The licensee shall appoint a qualified person to act as the licensee's veterinarian for the race meeting. The licensee's veterinarian shall possess a license to practice veterinary medicine from the Virginia Board of Veterinary Medicine and shall be present within the enclosure on racing days to perform his duties. The duties of the licensee's veterinarian include, but are not limited, to:

1. Making the prerace examination of the horses entered to race on that day's program under the supervision of the commission veterinarian, and recommending to the stewards that horses found to be unfit for racing be scratched;
2. Observing the horses in the paddock and being present at the starting gate, where he can recommend to the stewards scratching any horse that he deems to be unfit for racing;
3. Observing all of the horses after the finish of a race and upon their leaving the racing surface for injuries or lameness;
4. Rendering emergency care to horses injured either in workouts or racing when a private practitioner is not readily available to perform these services; and
5. Assisting the commission veterinarian in determining those horses which are bleeders, either through observing the horse bleed from the nostrils after a workout or a race, or by observing a private practitioner's endoscopic examination of a horse following a workout or race.

## § 2.4. Paddock judge.

The licensee shall appoint a qualified person to act as the paddock judge for the race meeting. The paddock judge shall have general supervision of the paddock and among the duties of the paddock judge are:

1. Assuring that horses are in the paddock at the time appointed by the stewards and reporting to the stewards those horses which are late to the paddock;
2. Assembling the horses and jockeys in the paddock no later than 15 minutes before the scheduled post time for each race;
3. Keeping a record of all equipment carried by all horses in all races and permitting no change in equipment unless authorized by the stewards;
4. Inspecting the leg bandages worn by horses and ordering the bandages removed or replaced as deemed appropriate;

5. Supervising the schooling of horses in the paddock with the prior permission of the stewards;

6. Supervising the farrier assigned to the paddock to ensure that the plating of each horse in each race is examined, determining whether the horse is properly shod, and making changes deemed necessary;

7. Excluding from the paddock all those persons who have no immediate business with the horses entered in a race and reporting rule violations in the paddock area to the stewards;

8. Taking all measures to ensure that the saddling of all horses is orderly, open to public view, free from interference, and further assuring that the horses are mounted at the same time, and leave the paddock for the post parade in the proper sequence;

9. Permitting a horse to be excused from parading and instead permitting that the horse be led to the post, with the approval of the stewards;

10. Assuring that the horse displays the proper saddle cloth number and the jockey wears the proper number before leaving the paddock for the post parade;

11. Keeping a record of those horses accompanied to the post by pony riders; and

12. Checking out horses and drivers as they leave the paddock for warmups prior to racing and checking in their return to the paddock after the warmups for Standardbred race meetings.

## § 2.5. Patrol judge.

The licensee shall appoint a sufficient number of qualified persons to act as patrol judges for the race meeting. For flat and jump race meetings, the licensee shall appoint at least three patrol judges, and for Standardbred race meetings, a single patrol judge shall ride in the mobile starting gate. Among the duties of the patrol judge are:

1. Reporting, particularly as to any suspected violation of these regulations, during the running of each race to the stewards through radio or telephone communication;
2. Writing a report of their observations of every race, and documenting all violations of these regulations that they observed during the running of the race. These reports shall be delivered to the stewards at the conclusion of each day of racing;
3. Assisting the stewards in making a determination of an objection, inquiry or protest of the running of a race;

4. Assisting the stewards in making up a list of participants in each race to review the films before the commencement of the next succeeding day of racing; and

5. Notifying the stewards of any objection lodged by a driver after a Standardbred race, and the mobile starting gate shall be positioned so that drivers can promptly lodge objections with the patrol judge.

## § 2.6. Horse identifier.

The licensee shall appoint a qualified person to act as horse identifier for the race meeting. The horse identifier shall be responsible for the proper identification of all horses entered to race. Among the duties of the horse identifier are:

1. Accompanying the commission's or licensee's veterinarian during the prerace examination of all horses entered to race so as to ascertain their identity;
2. Examining every horse entered to race in the paddock for sex, age, color, markings, lip-tattoo number and name for comparison with the information contained on the certificate of registration;
3. Using photographs, if they exist, as an aid in identifying horses entered to race, during the prerace examination and in the paddock prior to racing;
4. Notifying both the stewards and paddock judge of any doubts he has concerning the identity of any horse entered to race; and
5. Assisting the racing secretary in the safekeeping of certificates of registration, eligibility certificates and racing permits, and recording any information required to be entered on these documents.

## § 2.7. Clerk of scales.

The licensee shall appoint a qualified person to act as clerk of scales for the race meeting. The clerk of scales shall be responsible for the security, regulation and control of the jockeys' room, equipment in the jockeys' room and personnel permitted access to the jockeys' room. Among the duties of the clerk of scales are:

1. Securing the jockeys' room and excluding unauthorized persons, and ensuring that no jockey, valet or other person leaves the jockeys' room or paddock until their participation in the racing day is concluded;
2. Supervising the custodian of the jockeys' room and ensuring that the jockeys' room is properly equipped as provided for in VR 662-02-01 and informing the stewards and licensee of any deficiencies;

3. Ascertaining that all of the jockeys, who are programmed to ride on that racing day, are in the jockeys' room at the time appointed by the stewards and are in possession of the proper permit from the commission;

4. Weighing out every jockey no later than 15 minutes prior to the race that the jockey is scheduled to ride and recording all overweights which shall immediately be posted and announced to the public;

5. Weighing in every jockey immediately after the finish of each race and promptly notifying the stewards whether any jockey weighed in more than two pounds underweight or overweight;

6. Providing the horsemen's bookkeeper with an accounting of riding fees due each jockey at the end of each racing day;

7. Safekeeping of all racing colors;

8. Reporting all color changes or jockey changes from that listed in the daily racing program and causing any changes to be immediately posted and announced to the public;

9. Supervising the valets and the issuance of numbered saddle cloths and equipment for each horse;

10. Testing the accuracy of the scales at the beginning of the race meeting and conducting periodic tests of the scales thereafter;

11. Submitting to the racing secretary at the close of each racing day a statement of weight carried in each race by each jockey, noting overweight, if any; and

12. Notifying the stewards immediately of all complaints, protests, objections or disputes submitted to the clerk of scales, and if the stewards are not available, then to the commission.

## § 2.8. Placing judge.

The licensee shall appoint three qualified persons to act as placing judges for a flat race meeting. The judges shall occupy a stand directly above the finish line during the running of each race. Among the duties of the placing judges are:

1. Placing horses at the finish of race, the placing judges shall only consider the position of the horses' noses and not any other part of the body;
2. Placing the horses in the order of finish and displaying the result on the infield results board;
3. Calling for a photograph from the photo-finish camera when the finish indicates a close finish or

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when the judges are not in unanimous agreement as to the correct order of finish;

4. Referring photo-finish photographs to the stewards for concurrence before the order of finish is displayed on the infield results board, when the placing judges are not in unanimous agreement or there is an apparent dead heat following the examination of the photograph;

5. Submitting to the stewards and the horsemen's bookkeeper at the conclusion of each racing day a list of the placings of those in each race and those horses which did not finish;

6. Correcting errors in the displaying of the order of finish on the infield results board, with the permission of the stewards, before the race is declared "official" by the stewards; and

7. For Standardbred race meetings, the stewards may act as placing judges; however, all three stewards shall inspect any photo-finish and be in unanimous agreement before posting the order of finish.

## § 2.9. Starter.

### A. Flat races.

The licensee shall appoint a qualified person to act as starter for a flat race meeting. The starter shall be responsible for the fair and equal start of all horses at the scheduled starting time by means of a starting gate and bell. Among the duties of the starter are:

1. Ensuring that two operable starting gates are available at all times during racing days and that the starting gates are clean, neat and in good repair;

2. Permitting no horses to be entered in a race unless approved by the starter;

3. Maintaining a starter's list of the horses' names and posting the list in the racing secretary's office of those ineligible to start because lack of training or bad behavior at entering or leaving the starting gate;

4. Schooling those horses which are on the starter's list by being present with an adequate number of assistant starters during hours approved by the stewards, and approving those horses for entry which are making their first lifetime starts;

5. Appointing assistant starters who shall not handle or take charge of a horse in the starting gate without the express instructions from the starter;

6. Changing daily the gate position of each assistant starter without notice to the assistant starters until the field for the first race comes upon the racing surface;

7. Taking all necessary measures to ensure a fair and equal start;

8. Overseeing the post parade of the horses, jockeys, outriders and pony riders from the time they arrive on the track until the start is effected;

9. Ensuring that no jockey dismounts without the permission of the starter. A jockey may dismount only due to accident or injury to horse or jockey or equipment adjustment; in that case the starter may permit all jockeys to dismount. The starter shall delay the start until all jockeys have remounted their horses;

10. Ensuring that no other person than the jockey shall help in effecting a start by striking a horse or shouting at it or otherwise assisting;

11. Causing all horses, so far as is practical, to be loaded in order of post position, but the starter may, in his discretion, load an unruly or fractious horse out of order;

12. Reporting to the stewards any disobedience of his orders or attempts to take unfair advantage at the starting gate and recommending penalties for offenders;

13. Maintaining a written record showing the names of all starters during the racing day and the names of the assistant starters who handled each horse, and making the record available to stewards upon request;

14. Notifying the stewards immediately of any significant failure of the starting gate, or any defect in the starting process if any horse is not in the starting gate when the field is dispatched, or for any other reason a horse doesn't receive a fair start; and

15. Keeping in constant radio or telephone communication with the stewards from the time the horses leave the paddock until the horses leave the starting gate.

### B. Jump races.

In jump races, where the horses are started by other than a starting gate, the licensee shall appoint qualified persons to act as a starter and assistant starter. The starter shall be responsible for securing a fair and equal start for all horses at the scheduled time by means of a flag. Among the duties of the starter are:

1. Ensuring that there shall be no start until, and no recall after, the assistant starter has dropped the flag in answer to the flag of the starter;

2. Starting the horses as far as possible in a line, but the horses may be started at a reasonable distance behind the starting post as the starter deems

necessary;

3. Cancelling a race unless at least one horse and jockey returns to the starter after the recall flag has been raised for a false start;

4. Declaring a race a walkover if only one horse and jockey returns and satisfies the starter of obeying the recall flag;

5. Restarting the race, when the racing surface is clear, if more than one horse and jockey obeys the recall flag;

6. Ensuring that no jockey dismounts without the permission of the starter. A jockey may dismount only because of an accident or injury to horse or jockey or equipment adjustment; in that case the starter permits all jockeys to dismount. The starter shall delay the start until all jockeys have remounted their horses;

7. Ensuring that no other person than the jockey shall help in effecting a start by striking a horse or shouting at it or otherwise assisting;

8. Reporting to the stewards any disobedience of his orders or attempts to take unfair advantage at the start and recommending penalties for offenders; and

9. Keeping in constant radio or telephone communication with the stewards from the time the horses leave the paddock until the horses start.

### C. Standardbred races.

In Standardbred races, where horses are started by means of a mobile starting gate, the licensee shall appoint a person qualified to act as starter for the race meeting. Among the duties of the starter are:

1. Maintaining two operable mobile starting gates and ensuring that both mobile starting gates are clean, neat and in good repair;

2. Providing a mobile starting gate with a screen or shield in front of the position for each horse, and the arms of the starting gate shall be perpendicular to the rail;

3. Appointing a qualified person to be the driver of the mobile starting;

4. Ensuring that the driver of the mobile starting gate knows and practices emergency procedures in the event there is a malfunction of the starting gate;

5. Maintaining a starter's list of the horses' names and posting the list in the racing secretary's office of those ineligible for entry because lack of training or bad behavior at the starting gate;

6. Schooling those horses which are on the starter's list by being present with a mobile starting gate during nonracing hours, approved by the stewards, and approving those horses coming off the starter's list and those making their first start;

7. Starting qualifying races by being present with a mobile starting gate as directed by the licensee and approved by the stewards;

8. Having control of the horses from the formation of the post parade until the starter gives the word "go";

9. Notifying the drivers during or before the post parade of the number of preliminary warming up scores and calling the horses to the starting gate no nearer than an eighth of a mile from the starting point;

10. Allowing sufficient time so that the speed of the starting gate can be gradually increased, and so that the following minimum speeds will be maintained:

a. For the first eighth of a mile, not less than 11 miles per hour;

b. For the next sixteenth of a mile, not less than 18 miles per hour; and

c. From that point to the starting point, the speed will be gradually increased to maximum speed.

11. Ensuring that the starting point is marked on the inside rail and not less than 200 feet from the first turn, and at the starting point the starter shall give the word "go";

12. Sounding for a recall by flashing a plainly visible light and sounding a recall signal to the drivers, when:

a. A horse scores ahead of the starting gate;

b. There is interference;

c. A horse has broken equipment;

d. There is a malfunction of the starting gate; or

e. A horse falls before the word "go" is given.

However, there shall be no recall after the word "go" has been given and any horse, regardless of its position or an accident, shall be deemed a starter. While the starter shall endeavor to get all horses away in position and on gait, there shall be no recall for a horse that breaks its gait.

13. Recommending to the stewards penalties to drivers for the following actions:

# Proposed Regulations

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- a. *Delaying the start;*
- b. *Failing to obey the starter's instructions;*
- c. *Rushing ahead of the inside or outside wing of the gate;*
- d. *Coming to the starting gate out of position;*
- e. *Crossing over before reaching the starting point;*
- f. *Interfering with another horse during the start; or*
- g. *Failing to come up into position.*

14. *Using a loudspeaker for any other purpose other than to give instructions to drivers is prohibited and the volume of the loudspeaker shall be no higher than necessary to carry the voice of the starter to the drivers; and*

15. *Notifying the stewards of an unmanageable or bad acting horse or a horse liable to cause accidents or injury to any other horse or driver and recommending to the stewards that unmanageable horses be excused.*

## § 2.10. Outriders.

*The licensee shall appoint a sufficient number of qualified people to act as outriders for the race meeting. The outriders shall accompany the field of horses from the paddock to the post, assist jockeys with unruly horses, render assistance when requested by the jockey, and be present during morning workouts at flat and jump race meetings to assist exercise riders as required by these regulations.*

## § 2.11. Entry clerk.

*The licensee shall appoint a sufficient number of qualified people to act as entry clerks for the race meeting. The entry clerks shall assist the racing secretary in the taking of entries for each day's races, verifying the eligibility of the entrants, the accuracy of the information submitted with the entry, the weights claimed for the horses, where appropriate, and assisting the draw for post position. Entry clerks may also serve in other capacities during the race meeting with the approval of the stewards.*

## § 2.12. Clocker.

*The licensee shall appoint a sufficient number of qualified people to act as clockers for flat race meetings. The clockers shall be present at their assigned locations at the opening of training hours each morning and remain there until training hours are concluded. The clockers shall keep a listing of the name of each horse working out, distance, time, manner in which the workout was accomplished, condition of the racing surface, and any*

*other information deemed appropriate. At the conclusion of training hours, the clocker shall submit the listing to the stewards, racing secretary, media and any other personnel deemed appropriate.*

## § 2.13. Gap attendant.

*The licensee shall appoint a sufficient number of qualified people to act as gap attendants for flat race meetings. The gap attendants shall be present at their assigned locations at the opening of training hours each morning and remain there until training hours are concluded. The gap attendant shall obtain the name of each horse working out, distance, and the starting and finishing points of the workout, and report this information to the clocker. The gap attendants shall report to the stewards any exercise rider or trainer who refuses to supply this information.*

## § 2.14. Timer.

*The licensee shall appoint a sufficient number of qualified people to act as timers for race meetings. The timers shall be present at their assigned locations and equipped with stopwatches or other timing devices to record the time of each race, along with appropriate fractional times, in the event of a failure of the electronic timing system or limitations to the electronic system. The timer shall keep record of his time for each race along with the appropriate fractional times.*

## § 2.15. Custodian of jockeys' room.

*The licensee shall appoint a qualified person to act as custodian of the jockeys' room for flat race meetings or custodian of the drivers' room for Standardbred race meetings. The custodian shall assist the clerk of scales in performing his duties and supervise the valets. Among the duties of the custodian are:*

1. *Maintaining order, decorum and cleanliness in the jockeys' room and scale rooms;*
2. *Assisting the clerk of scales as required;*
3. *Ensuring that no unauthorized persons are admitted to the jockeys' room;*
4. *Supervising the care and storage of racing colors;*
5. *Supervising the valets, and arranging with the stewards and clerk of scales a rotation among the valets for the weighing out of jockeys;*
6. *Ensuring that no valet converses with the public after reporting to the jockeys' room or leaves the confines of the area where they perform their duties which includes the jockeys' room, paddock and winners' circle;*
7. *Ensuring that jockeys are neat in appearance and*

*properly attired when they leave the jockeys' room to ride in a race;*

*8. Reporting to the stewards any violation of a regulation occurring within the jockeys' room; and*

*9. Assigning to each jockey a locker capable of being locked for the use of storing clothing, equipment and personal effects.*

## § 2.16. Valets.

*The licensee shall appoint a sufficient number of qualified persons to act as valets for flat race meetings. The valets shall attend the weighing out of jockeys prior to riding in races and the weighing in of jockeys after riding in races under the supervision of the clerk of scales and custodian of the jockeys' room. Among the duties of valets are:*

*1. Reporting to the jockeys' room at the time appointed by the stewards and clerk of scales, and not leaving the confines of the area where they perform their duties which includes the jockeys' room, paddock and winners' circle;*

*2. Conversing with the public while performing their duties is forbidden;*

*3. Attending the weighing out of jockey, the saddling of the jockeys' mount prior to racing, and attend the weighing in of jockeys in a rotation approved by the stewards and clerk of scales; and*

*4. Returning to the confines where they perform their duties is forbidden, once valets have completed their participation in the racing day and left the confines.*

## § 2.17. Claims clerk.

*The licensee shall appoint a qualified person to act as claims clerk for the race meeting. The claims clerk shall assist the stewards and racing secretary in processing claims filed for horses entered in claiming races. Among the duties of the claims clerk are:*

*1. Ensuring there is an adequate supply of claiming forms and envelopes provided by the licensee, and the forms and envelopes are in a form approved by the commission;*

*2. Ensuring that the claims box is locked at the time appointed by the stewards and only opened when the horses for the race enter the racing surface on their way from the paddock to the post;*

*3. Informing no one except the stewards of any claims filed for a horse in the claiming race and of any multiple claims on a horse entered in the race;*

*4. Ascertaining that the claiming form and envelopes*

*are properly complete;*

*5. Ascertaining that the person filing a claim is eligible to claim horses at the race meeting and informing the stewards immediately of any doubts of the person's eligibility to make a claim;*

*6. Ascertaining that sufficient funds have been deposited with the licensee or exist in the horsemen's account to cover the cost of the claim and informing the stewards immediately of any insufficiency in funds; and*

*7. Being present when the stewards draw for the successful claimant in those cases where multiple claims are made on a single horse.*

## § 2.18. Clerk of the course.

*The licensee shall appoint a qualified person to act as clerk of the course for the race meeting. The clerk of the course shall assist the racing secretary in performing his duties. Among the duties of the clerk of the course are:*

*1. Safekeeping of registration or eligibility certificates and making any notation upon them required by recognized breed registries;*

*2. Returning registration or eligibility certificates to the owners of the horses or their representative upon request;*

*3. Publishing conditions and entry forms for stakes and futurities to be run at the race meeting;*

*4. Receiving nominations for stakes races and futurities, and depositing any fees associated with these races in an escrow account as provided for in VR 662-02-01; and*

*5. Maintaining accurate records of race results from each racing day.*

## § 2.19. Director of security.

*The licensee shall appoint a qualified person to act as director of security for the race meeting. The director of security shall be responsible for the safety and security of the public, participants and physical plant of the horse racing facility. Among the duties of the director of security are:*

*1. Developing a comprehensive security plan for the horse racing facility encompassing local emergency services available; including fire fighting, law enforcement and medical emergency;*

*2. Inspecting on a periodic basis the security equipment, such as fences, locks, alarms and monitoring equipment for the horse racing facility;*

# Proposed Regulations

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3. Developing procedures whereby unauthorized persons may be excluded from restricted areas, securing areas where money and mutuel tickets are vaulted, and discovery and expulsion of persons who are a threat to the integrity of racing in Virginia;

4. Supervising the security officers employed by the licensee so that the safety and welfare of the public and participants may be protected and to protect the integrity of racing in Virginia;

5. Developing evacuation procedures in case of a fire or other emergency, and training the licensee's security personnel and other employees in their responsibilities in emergency situations;

6. Inspecting the licensee's first aid and medical facilities and ensuring the personnel are trained, equipped and ready to render emergency assistance to the public and participants when required;

7. Reporting to the commission's director of security any actual, suspected or indicated violation of these regulations or of any criminal offense coming to his attention;

8. Cooperating with commission personnel, Virginia State Police and industry security services in the performance of their duties; and

9. Informing the commission of the licensee's internal accounting controls to safeguard assets, and detect fraud and embezzlement.

## § 2.20. Security officer.

The licensee shall appoint a sufficient number of qualified persons to act as security officers for the race meeting. The security officers shall assist the licensee's director of security in carrying out his responsibilities. The security officers shall conduct themselves so as to protect the safety and welfare of the public and participants and protect the integrity of horse racing in Virginia.

## § 2.21. Mutuel manager.

The licensee shall appoint a qualified person to act as mutuel manager for the race meeting. The mutuel manager shall supervise the operations of the mutuel department and the licensee's personnel employed in the mutuel department so that the public interest and the integrity of horse racing in Virginia may be protected. Among the duties of the mutuel manager are:

1. Inspecting on a periodic basis the operation of the totalizator for the accuracy of its calculations;

2. Assigning a sufficient number of mutuel clerks so that the wagering may be conducted efficiently and without undue delay or inconvenience to the public;

3. Observing the progression of the wagering and informing the stewards immediately of any malfunction in the totalizator or suspected unusual patterns in the wagering;

4. Locking the ticket-issuing machines at the start of the race in the event of a failure in the system or through the inadvertence of the stewards;

5. Making any emergency decisions when there is not sufficient time for consultation with the stewards, but submitting a written report to the stewards and the commission of the action taken and the reason for taking the action;

6. Comparing two independent sets of pool totals at periodic intervals and verifying any discrepancies;

7. Ascertaining the accuracy of the approximate odds and payouts posted on the infield results board;

8. Preparing, at the request of the stewards or commission, special reports on any of the wagering activity during the race meeting; and

9. Safekeeping the records of the wagering activity for a period of at least 30 days following the conclusion of the race meeting and not destroying the records without the permission of the commission.

## § 2.22. Photo-finish camera operator.

The licensee shall appoint a qualified person to act as photo-finish camera operator for the race meeting. The photo-finish camera operator shall be responsible for the operation of the photo-finish camera equipment and for producing prints of photo-finishes of a quality required by the placing judges and stewards. Among the duties of the photo-finish camera operator are:

1. Being in his assigned location in sufficient time prior to the first race to ensure that the photo-finish cameras are operable and sufficient supplies are on hand;

2. Taking clear photo-finish photographs of all horses passing the finish line on two separate cameras;

3. Producing prints of the finishes of any races as requested either by the placing judges or stewards;

4. Notifying the stewards and placing judges immediately of any malfunction in either camera or the inability to produce prints;

5. Supplying the media and other appropriate personnel with the number of beaten lengths of any horses finishing in the race; and

6. Keeping safe films of the finishes of all races for one year after the closing of the race meeting, and

# Proposed Regulations

not destroying any films without the permission of the commission.

## § 2.23. Video patrol personnel.

The licensee shall appoint a sufficient number of qualified persons to operate the film or video patrol camera for the race meeting. The video patrol camera personnel shall be responsible for the recording of each race during meeting as provided for in VR 662-02-01. Among the duties of the video patrol camera personnel are:

1. Being in their assigned location in sufficient time prior to the first race to ensure that the video patrol cameras and equipment are in operable condition;
2. Making recording of the running of each race clearly showing the position and actions of the horses and jockeys or drivers at close range;
3. Replaying for the benefit of the stewards of any portion of the race requested by the stewards;
4. Notifying the stewards immediately of any malfunction in either the cameras or equipment or the inability to replay any portion of a race;
5. Replaying the running of each race for the benefit of the public and showing the public any riding fouls that resulted in a disqualification; and
6. Safekeeping the records of all races for one year after the closing of the race meeting, and not destroying any of the records without the permission of the commission.

## § 2.24. Program director.

The licensee shall appoint a qualified person to act as program director for the race meeting. The program director shall perform his duties under the supervision of the racing secretary, ensure that all of the information contained in the daily racing program is accurate, and provide all of the information in the daily racing program that is deemed appropriate to the type of racing.

## § 2.25. Track superintendent.

The licensee shall appoint a qualified person to act as track superintendent for the race meeting. The track superintendent shall (i) be responsible for the maintenance of the racing and training surfaces in a safe and humane condition, (ii) keep written records of the maintenance done on the racing and training surfaces and present records for inspection upon request of the stewards or commission, and (iii) keep the necessary equipment and personnel to maintain the racing and training surfaces in proper condition.

## § 2.26. Stall superintendent.

The licensee shall appoint a qualified person to act as stall superintendent for the race meeting. The stall superintendent shall assist the racing secretary in seeing that the horses are in their assigned stalls, establishing a system where horses may not leave or enter the stabling area without the racing secretary's permission, and seeing that the stabling area is maintained in a clean, neat and sanitary condition.

## § 2.27. Horsemen's bookkeeper.

The licensee shall appoint a qualified person to act as the horsemen's bookkeeper during the race meeting. The horsemen's bookkeeper shall assist the racing secretary in maintaining the separate bank account known as the horsemen's account. Among the duties of the horsemen's bookkeeper are:

1. Ensuring the purse money statutorily mandated is deposited in the account within 48 hours after the running of the race and informing the commission immediately of any deficiencies;
2. Making all portions of purse money available when the stewards have authorized payment to the earners;
3. Ensuring that no portion of the purse money, other than jockey fees, are deducted without proper authorization;
4. Ensuring that proper authorization is on file prior to making deductions from the purse money other than jockey fees;
5. Mailing to each owner a duplicate record of a deposit, withdrawal or transfer of funds affecting the owner's racing at the close of the race meeting; and
6. Assisting the claims clerk in determining whether there is sufficient funds available for an owner or authorized agent to claim another horse.

## § 2.28. Other.

The licensee may appoint qualified persons to assist the racing officials for the race meeting. No person shall act as an assistant in any capacity or serve under the supervision of a racing official unless the person has been issued a permit by the commission as provided for elsewhere in these regulations.

## FEE SCHEDULE FOR PERMIT HOLDERS

Type of Permit Fee	
Apprentice Jockey .....	\$ 10
Assistant General Manager .....	\$ 10
Assistant Racing Secretary .....	\$ 10
Assistant Starter .....	\$ 5
Assistant Trainer .....	\$ 10
Authorized Agent .....	\$ 10



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Bloodstock Agent .....	\$ 10	Stall Superintendent .....	\$ 10
Claims Clerk .....	\$ 10	Starter .....	\$ 10
Clerk of Scales .....	\$ 10	Timer .....	\$ 10
Clerk of the Course .....	\$ 10	Track Superintendent .....	\$ 10
Clocker .....	\$ 10	Trainer .....	\$ 10
Concessionaire/Vendor .....	\$ 25	Valet .....	\$ 5
Concessionaire/Vendor Employee .....	\$ 5	Veterinarian (Licensee) .....	\$ 10
Corporate Horse Owner .....	\$ 25	Veterinarian (Private Practice) .....	\$ 10
Custodian of Jockeys' Room .....	\$ 10	Video Patrol Personnel .....	\$ 10
Director of Security .....	\$ 10		
Driver .....	\$ 10		
Entry Clerk .....	\$ 10		
Equine Dentist .....	\$ 10		
Exercise Rider .....	\$ 10		
Farrier .....	\$ 10		
Foreman .....	\$ 10		
Gap Attendant .....	\$ 10		
General Manager .....	\$ 10		
Groom/Hotwalker .....	\$ 5		
Horse Identifier .....	\$ 10		
Horsemen's Bookkeeper .....	\$ 10		
Horse Owner .....	\$ 10		
Jockey .....	\$ 10		
Jockey Agent .....	\$ 10		
Lease .....	\$ 25		
Licensee-Administrative Employee .....	\$ 10		
Licensee-Marketing Employee .....	\$ 10		
Licensee-Medical Employee .....	\$ 10		
Licensee-Operations Employee .....	\$ 10		
Licensee-Plant Employee .....	\$ 10		
Licensee-Staff Employee .....	\$ 10		
Mutuel Clerk .....	\$ 10		
Mutuel Manager .....	\$ 10		
Nightwatchman .....	\$ 10		
Other .....	\$ 10		
Outrider .....	\$ 10		
Paddock Judge .....	\$ 10		
Partnership .....	\$ 25		
Patrol Judge .....	\$ 10		
Pharmaceutical Representative .....	\$ 25		
Photo-Finish Camera Operator .....	\$ 10		
Placing Judge .....	\$ 10		
Pony Rider .....	\$ 10		
Program Director .....	\$ 10		
Racing Secretary .....	\$ 10		
Security Officer .....	\$ 10		
Stable Name .....	\$ 25		

# Proposed Regulations

VIRGINIA RACING COMMISSION  
P.O. Box 1123  
Richmond, VA 23208  
Phone: (804) 371-7363

## APPLICATION FOR RACING OFFICIALS 19\_\_

FOR COMMISSION USE ONLY:

Permit Number: _____			
Type of Permit: _____			
Date Applied: _____			
Date Approved: _____			
Date Denied: _____			

**INFORMATION AND INSTRUCTIONS**

This application shall be accompanied by a fee prescribed by the Virginia Racing Commission and shall include the cost of fingerprinting. The applicant shall be fingerprinted upon making his initial application in the Commonwealth of Virginia and at least once every five years thereafter.

The applicant shall consult the Fee Schedule of the Virginia Racing Commission to ascertain the applicable fee, make out a check or money order payable to the Virginia Racing Commission or pay in cash the full amount of the fee, and submit the fee with the application.

All questions must be answered and the application signed by the applicant. If the applicant intends to serve as an assistant to a racing official, then the application must be signed as well by the supervisor of the applicant.

Applicant's Name		SOCIAL SECURITY FEDERAL IDENTIFICATION OR SOCIAL INSURANCE NUMBER	
MR ( ) MRS ( ) MISS ( ) MS ( )		U.S.A. NUMBER (if Applicable)	
Last First Middle		DATE OF BIRTH	
Permanent Mailing Address		TELEPHONE	
Number and Street or Rural Route/Box Number		Home _____	
City, Town or Post Office		Business _____	
State Zip		PLACE OF BIRTH   SEX	
Present Address		WEIGHT   HAIR	
Number and Street or Rural Route/Box Number		HEIGHT   EYES	
City, Town or Post Office		MARITAL STATUS	
State Zip		Married _____	
Maiden Name (if applicant is married)		Single _____	
Licenses or Employer		Divorced _____	
U.S. Citizen? Yes ( ) No ( ). If no, citizen of _____		Migration I.D. Number _____	
Person to notify in emergency:		Relationship _____	
Address		Telephone Number _____	
Number and Street or Rural Route/Box Number		City, Town or Post Office	
City, Town or Post Office		State Zip	
Have you ever had a license or permit denied, suspended or revoked, or is a complaint pending in any racing jurisdiction? Yes ( ) No ( )			
Have you ever pleaded guilty, pleaded nolo contendere, been found guilty or been convicted or forfeited bail or been fined for any criminal offense, either felony or misdemeanor (except traffic violations other than driving under the influence of alcohol or drugs)? Yes ( ) No ( )			
Is there now any indictment or complaint pending against you for any public offense? Yes ( ) No ( )			
Are you presently on parole or probation? Yes ( ) No ( ) Probation ends _____			

# Proposed Regulations

Have you ever been licensed in any state under any other name? Yes ( ) No ( ) If yes (in space provided below) the names and ages used and identify state and year.

Do you have any complaints in any racing jurisdiction for any offense? Yes ( ) No ( )

Have you used another (maiden, nickname or alias) name or have you ever been known by any other name? Yes ( ) No ( )

Have you ever had any permit or license of any type denied, suspended or revoked by any federal, state or local government agency? Yes ( ) No ( )

If the answer to any of the above questions is "yes," give complete details below (attach separate paper if necessary).

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List all of the racetracks where you have served as a racing official:

Racetrack	Capacity	Dates	Supervisor

List at least three racing officials whom the commission may contact:

Racing Official	Address	City, State	Phone Number

I hereby certify that I read this application and that the applicant will be employed by me as an assistant for the race meeting and for the dates listed below. I also hereby certify that I will be responsible for the actions of my assistant as they relate to racing matters.

Signature of Supervisor of the Applicant \_\_\_\_\_ Date \_\_\_\_\_

Capacity of supervisor \_\_\_\_\_

Race Meeting \_\_\_\_\_

Dates \_\_\_\_\_

I am knowledgeable about the regulations of the Virginia Racing Commission, and I agree to abide by the regulations of the commission as well as the rulings of the stewards, unless reversed or modified by the commission.

By submitting this application, I hereby irrevocably consent to a search and to the seizure of any drugs, stimulants, narcotic, hypodermic syringes, or other similar devices, and any batteries which could be used to affect the speed or action of a horse. I also hereby irrevocably consent to the right of commission personnel to enter into, or upon buildings, stables, rooms, automobiles or other places within the enclosure, as defined by the regulations of the commission, to examine them, and to inspect and examine my personal property and effects. I recognize that by refusing to consent to such searches and seizures that I am subject to disciplinary action.

I hereby certify that I have read this application and affirm that every statement contained therein is true and correct to the best of my knowledge and belief. I do hereby agree that my license may be revoked at any time for misstatements or omissions in this application.

I hereby agree to be subject to the subpoena powers of the Virginia Racing Commission or a written request issued in lieu of a subpoena and provide the commission with any and all information or documents which it may request. This agreement shall extend to anything which relates to any matter which is the subject of a commission hearing or investigation.

# 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.

## STATE BOARD OF CORRECTIONS

**Title of Regulation:** VR 230-30-007. Supervision Fee - Rules, Regulations and Procedures.

**Statutory Authority:** §§ 53.1-5 and 53.1-150 of the Code of Virginia.

**Effective Date:** September 1, 1990.

### Summary:

These rules, regulations and procedures have been promulgated by the Board of Corrections to carry out its statutory requirements. They address:

1. Eligibility requirements;
2. Exemption criteria;
3. Intake procedures;
4. Exemption procedures;
5. Collection procedures;
6. Record-keeping requirements;
7. Delinquency procedures;
8. Client transfer procedures; and
9. Closure procedures.

They also include samples of all the required forms.

These regulations apply to all persons placed under adult probation, parole or state work release supervision on or after July 1, 1981. They also apply to persons entering Community Diversion Incentive programs on or after July 1, 1988. Eligible persons must make up to a maximum of 60 payments at an amount fixed by the statute.

Generally, the regulations were originally adopted as emergency regulations on June 15, 1988. The proposed regulations were essentially the same as those on an emergency basis. However, the final regulations are substantially modified as follows:

1. The introduction was deleted as it was no longer pertinent to the current statutory requirement.
2. The definitions were revised to more closely

follow the definitions in Title 60.2 of the Code of Virginia relating to the Virginia Unemployment Compensation Act.

3. Many procedural steps were deleted so that the focus would be on those regulations required for implementation. Related procedures will be developed by the department.

4. The language throughout was revised as needed for clarity and to eliminate duplication.

5. The overall effect of the changes is a much more general and a shorter document which addresses general requirements, but deletes specific procedural steps which will be the focus of a separate document.

VR 230-30-007. Supervision Fee - Rules, Regulations and Procedures.

## 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:

"Delinquency" means a person is delinquent after the missing of one monthly supervision fee payment.

"Employment" means any service including service in interstate commerce, performed by an individual for remuneration, under any contract for hire, written or oral, expressed or implied.

"Income" means any money received from all sources, exclusive of social security and welfare.

"Legal dependents" means those persons legally eligible to be listed as exemptions for federal income tax purposes.

"Month" means a calendar month or fraction thereof.

"Monthly gross income" means income received in a calendar month.

"Supervision" means that period of time from the opening of the case by the execution of the Community Release Agreement, the Conditions of Probation or Parole, or the Community Diversion Incentive (CDI) Program

# Final Regulations

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Diversion Agreement until the case is terminated, or timely payments for 60 months have been made for 60 months.

"Unable to work" means having clinical documentation of a physical, mental or emotional disability which precludes work or employment for the client.

"Unreasonable hardship" means monthly gross income is less than the federal poverty guidelines provided by the Department of Social Services.

"Unreasonable hardship due to extenuating circumstances" means monthly gross income is reduced below federal poverty guidelines because of payments on financial obligations caused by court ordered sanctions, natural disasters, unreimbursed medical expenses or other unusual circumstances.

"Verified income" means written documentation establishing the client's income, such as check stubs, contracts, legal documents, etc.

## § 1.2. Supersession.

These standards supersede the emergency "Supervision Fee Rules and Regulations" adopted by the Board of Corrections on June 20, 1989.

## § 1.3. Eligibility.

All adults and juveniles sentenced as adults are subject to the provisions of § 53.1-150 of the Code of Virginia (See Appendix 1) with these notations:

1. A person shall not be liable for payment for the last month of supervision.
2. A person shall not be subject to double monthly fees in the event of concurrent supervision requirements.
3. In the event of concurrent parole and probation of CDI participation, the district or program shall open the case in accordance with existing program procedures and the fee collection shall be assigned to the active status.
4. In the event of concurrent work release, parole, community diversion or probation, the Department of Corrections (DOC) Accounts Receivable Section shall be responsible for collecting the fees.
5. Persons sentenced in Virginia who transfer to another state and transfer back to Virginia are eligible when accepted for supervision.
6. All persons eligible for inclusion in the provisions of § 53.1-150 are obligated for fee payments unless and until they are exempted by proper authority, are terminated from supervision, or comply with the

60-month provision.

## PART II. ADMINISTRATIVE PROCEDURES.

### § 2.1. Intake process.

A. All probationers, parolees and state work releasees entering supervision on or after July 1, 1981, and CDI offenders who agree to diversion on or after July 1, 1988, shall have the provisions of § 53.1-150 of the Code of Virginia and Supervision Fee Rules and Regulations explained to them by the supervising probation and parole officer, work release counselor of CDI case manager, respectively.

B. Explanation of this obligation shall be given at the time of initial interview and be evidenced by execution of the Client Introduction Form (See Appendix 2). The completed form shall be distributed to the client case file and the client.

C. Refusal to sign the Client Introduction Form does not relieve the person of its requirements. The supervising officer, work release counselor of CDI case manager should note this occurrence on the form, sign it and distribute the copies as shown above.

D. A Supervision Fee Record (See Appendix 3) shall be set up on each probationer, parolee, or state work releasee entering supervision on or after July 1, 1981, and each person entering community diversion status on or after July 1, 1988. This system may be manual or automated.

### § 2.2. Exemptions.

A. Section 53.1-150 provides for the exemption of eligible persons from the fee payment obligation if approved by proper authority on the grounds of unreasonable hardship.

B. The Division of Adult Community Corrections is responsible for reviewing and issuing federal poverty guideline information each fiscal year for purposes of determining unreasonable hardship.

#### C. Exemption process.

1. Exemptions for unreasonable hardship or for unreasonable hardship based on extenuating circumstances.

a. The exemption process for parolees shall be in accordance with procedures approved by the Virginia Parole Board.

b. The exemption process for probationers and CDI participants shall be in accordance with procedures approved by the sentencing court.

c. The exemption process for state work releasees

shall be in accordance with procedures approved by the Department of Corrections.

## 2. Exemption termination process.

a. Exemptions shall be terminated when the reasons for which the exemption was granted are no longer valid.

b. When the reasons for exemption are no longer valid, the supervising officer, CDI program director or work release program staff member shall document the invalidity and recommend exemption termination to the chief officer, CDI program director or work release director.

c. The chief probation and parole officer, CDI program director or appropriate work release program administrator may recommend termination of an exemption(s) to the exempting authority in accordance with approved steps.

d. The supervising officer, CDI case manager or work release program staff member, is responsible for monitoring the exemption reasons at least quarterly.

e. There is no appellate procedure for termination by the exempting authority.

## D. Exemption application.

1. A person may apply for an exemption at any time after entry into active supervision and completion of either the Client Introduction Form or the revised Community Release Agreement. Documentation of hardship shall be provided by the person seeking exemption (See Appendix 4).

2. If an exemption based on unreasonable hardship is denied, the client may apply for an exemption based on unreasonable hardship due to extenuating circumstances.

3. Persons who are denied an exemption for any reason may reapply whenever their circumstances have changed.

## PART III. PAYMENTS AND COLLECTION PROCEDURES.

### § 3.1. Payments.

A. Payments shall be made in full as specified in § 53.1-150 of the Code of Virginia or the sentencing general district court. This allows advance payments but not partial payments.

B. Payments shall be due no later than the fifth day of each month for the preceding calendar month.

C. Payments shall be in the form of certified checks, cashier's checks, corporate checks or money orders, made payable to the Department of Corrections.

D. By mutual agreement, the employer may deduct the fee payment from the person's pay and forward the payment to the district office or CDI program office.

E. All payments shall be made in person to the supervising officer or CDI case manager or mailed to the district office or CDI program office.

F. Payments will commence with the calendar month in which the exemption terminated.

### § 3.2. District/CDI program collection procedures.

A. The chief probation and parole officer and CDI program director are responsible for monitoring compliance with the fee collection rules and regulations in the probation and parole district or CDI program area.

B. The chief officer or CDI program director may establish written local office procedures to monitor compliance with the rules and regulations, subject to the approval of the regional probation and parole manager or community alternatives manager.

C. Probation and parole district and CDI offices issue sequentially numbered receipts or their equivalent to offenders upon payment. Clients should be strongly urged to retain the receipts in the event of theft or loss. This system may be manual or automated.

### D. The daily ledger sheet (See Appendix 5) shall:

1. Have all payments noted upon receipt by probation and parole or CDI staff members;

2. Be completed by the close of each business day. Daily ledger sheets should be submitted when the accumulated funds exceed \$200 or weekly whichever occurs first. It should be prepared in triplicate. Two copies, along with the checks/money orders, should be mailed to the DOC Accounts Receivable Section. One copy should be retained in the district or CDI office; and

3. Have all entries on daily ledger sheets and checks or money orders reconciled in accordance with § 4.1 and a copy of the daily ledger sheet returned to the district office or CDI office by the DOC Accounts Receivable Section. The reconciled amounts shall be posted to the supervision fee record within five days of receipt.

E. All supervision fee records shall be posted each month for all activity within the preceding calendar month. The entries shall reflect:

1. Amount paid - \$30.

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2. Exemption - Ex-1; Ex-2.
3. Unemployed - UN.
4. Delinquency - DEL.
5. Interstate - IS.
6. Ineligible - IN.
7. Closed - CL.

The entries shall reflect the date of the entry and the initials of the person making the entry.

F. All delinquent persons for a calendar month shall be identified and the delinquency procedures in § 4.2 initiated.

G. Any shortage shall be reported immediately to the regional probation and parole manager or regional community alternatives manager and to the cash receipts supervisor of the DOC Accounts Receivable Section in writing. Every effort should be made to recover lost or stolen payments.

H. Every effort shall be made to determine the source of unidentified payments. The regional probation and parole manager or regional community alternatives manager and cash receipts supervisor of the DOC Accounts Receivable Section should be notified in writing if such efforts are unsuccessful.

## § 3.3. State work release collection procedures.

A. The work release facility director for persons in state facilities or the community facilities managers for eligible persons in local programs are responsible for monitoring compliance at the unit or facility(s) for the fee collection rules and regulations.

B. Subject to the approval of the regional administrator for state facilities or community facilities manager the work release program facility director shall establish written local office procedures to monitor compliance with the rules and regulations.

C. The work release facility directors for persons in state facilities or the community facilities managers for eligible persons in local programs are responsible for advising the DOC Accounts Receivable Section of any work releasee subject to fee collection.

D. Directors or managers are responsible to advise the DOC Accounts Receivable Section in writing when persons are exempted from fee collection or are no longer subject to the provisions of § 53.1-150 of the Code of Virginia.

E. The accounts receivable manager is responsible for deducting the supervision fee each month from the pay of each eligible person. The deductions should be made in a

manner consistent with generally accepted accounting principles and in a manner approved by the DOC Assistant Comptroller, Accounting Operations.

F. By the 15th day of each month, the work release supervisor should provide the cash receipt's supervisor in the DOC Accounts Receivable Section with a monthly report noting (i) the amount of fees collected and (ii) that all moneys collected in the preceding calendar month will be forwarded. The actual transfer of funds shall be at such intervals and by such methods consistent with generally accepted accounting principles and as approved by the DOC Assistant Comptroller, Accounting Operations.

G. All supervision fee records should be posted as required in § 3.2.

## § 3.4. Refunds of payments.

A. Requests for refunds shall be made to the cash receipts supervisor of the DOC Accounts Receivable Section by the chief probation and parole officer, CDI program director or work release facility director in writing.

B. Any refunds authorized by the cash receipts supervisor shall be in accordance with accepted accounting principles or applicable state requirements.

## PART IV. OPERATIONAL PROCEDURES.

### § 4.1. General accounting DOC (Accounts Receivable Section) procedures.

The Accounts Receivable Section will be responsible for receiving supervision fee payments from the work release units and district offices for probationers and parolees, or CDI program offices as prescribed below:

1. The Cash Receipts Unit of the Accounts Receivable Section (i) shall receive such payments, (ii) reconcile the checks/money orders and entries on the daily ledger sheet (See Appendix 5), (iii) and return one copy of the daily ledger sheet to the sending unit, district or program within 10 days of its receipt.

2. The Cash Receipts Unit shall prepare a monthly report (See Appendix 6) concerning fees collected for the deputy director, Adult Community Corrections. The accounts receivable manager shall transmit the report.

3. The DOC Assistant Comptroller Accounting Operations shall, in accordance with generally accepted accounting principles, establish any fiscal procedures deemed necessary and not otherwise set forth to receive, account for, and disburse funds collected under the provisions of § 53.1-150 of the Code of Virginia.

### § 4.2. Delinquency procedures.

A. The probation and parole officer or CDI case manager should make every effort to encourage clients to meet their supervision fee obligations.

B. The chief probation and parole officer and CDI program director are responsible for developing written local office procedures, subject to the approval of the regional probation and parole manager or community alternatives manager for identifying delinquent clients and for recovering outstanding fee payments.

C. All persons who have failed to make payment for the preceding calendar month will be mailed a Supervision Fee Delinquency Notice (See Appendix 7). Under § 53.1-150 of the Code of Virginia, more than two months delinquency may constitute sufficient grounds for revocation of parole, probation, work release or community diversion status.

D. In the event of alleged violation by parolees, action should be taken in accordance with existing Parole Board violation procedures.

E. For probationers and CDI participants, the delinquency should be noted in the case file and the sentencing court shall be notified of the delinquency and the supervising officer's/case manager's recommendation.

F. Delinquency by state work releasees should be identified and addressed by the work release facility director.

#### § 4.3. Transfer procedures.

The general transfer procedures for persons subject to the provisions of the supervision fee, who transfer from one supervision status to another, from one probation and parole district to another, from one CDI program to another or from Virginia to other states, are:

1. Work release or community diversion incentive to parole or probation.

a. Persons being released from state work release status or CDI program participation to probation or parole supervision should be terminated from the work release or CDI program in accordance with existing program procedures.

b. The work release unit or CDI program director shall notify the accounts receivable manager of the program termination. A copy of the notice should be sent to the central criminal file and local case file. The supervision fee record shall be marked "closed."

c. The chief probation and parole officer shall enter such persons into supervision as a new case.

2. Parole to probation or vice versa. Persons who conclude either parole or probation supervision but

have a continuing probation or parole obligation shall have the supervision fee obligation continued without interruption.

3. Transfers to other districts. Persons may transfer to another probation and parole district or from one CDI program to another in accordance with existing program procedures.

a. The supervision fee record, the Client Introduction form and the Hardship Exemption Application, if applicable, should be included in the final transfer material. The sending district or CDI program shall mark the record "closed" and retain a copy.

b. The case file should reflect the transfer of these materials and the person's supervision fee status.

c. The receiving district or program shall continue the supervision fee collection process without interruption.

d. The exemption authority shall pass to the receiving chief probation and parole officer for parolees and to the receiving chief probation and parole officer or CDI program director for probationers or CDI participants, unless otherwise directed by the sentencing court.

4. Transfer to or from other states.

a. Persons may transfer to or be received from other states in accordance with existing interstate compact procedures. However, upon the effective date of transfer, they are not eligible for supervision fee payment.

b. Persons seeking transfer to another state are obliged to pay the supervision fee until the effective transfer date, except that they shall not be charged for the last month of supervision. The sending district shall mark the record "closed" and retain it.

#### § 4.4. Closure procedures.

Persons subject to the provisions of the supervision fee may be terminated for death, discharge, interstate transfer, or renovation. The general closure procedures after termination are:

1. Cases should be closed in accordance with existing program procedures including a reference to the supervision fee status;

2. The work release accountant shall be advised of any work release case closing in writing by the work release facility director with a copy forwarded to the central criminal file; and

3. The supervision fee record shall be posted with a



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closed entry and retained in the district, unit, or CDI program file.

## § 4.5. External requirements.

All rules, regulations and procedures are subject to any applicable auditing requirements and all records are governed by any applicable state library or statutory requirements. ]

## § 4.6. Limitations.

These regulations set forth the responsibilities of Department of Corrections and Community Diversion Incentive Program employees and do not establish rights or entitlements for any person subject to the provisions of § 53.1-150 of the Code of Virginia.

§ 53.1-150

CODE OF VIRGINIA

§ 53.1-150

to arrest to do so, by a written statement setting forth that the probationer has, in the judgment of the probation officer, violated one or more of the terms or conditions upon which the probationer was released on probation. Such a written statement by a probation officer delivered to the officer in charge of any local jail or lockup shall be sufficient warrant for the detention of the probationer. (Code 1950, § 53-278.5; 1962, c. 327; 1982, c. 636.)

§ 53.1-150. Contributions by persons on parole, probation, and work release; delinquency as grounds for revocation of parole or probation; exemptions. — A. Any person (i) who is placed on parole, who is granted suspension of sentence and probation by a court of competent jurisdiction, who is participating in a community diversion program as provided in § 53.1-181, or who is participating in a work release program pursuant to the provisions of § 53.1-60, (ii) who is under the supervision of the Department, which shall include being under the supervision of a court services officer who is employed by the Department and serves a general district court, or of a community diversion program as provided in § 53.1-181, and (iii) who is gainfully employed, shall be required to contribute fifteen dollars per month or, if such person is under the supervision of a court services officer of a general district court, then, in the discretion of the court, an amount not to exceed fifteen dollars per month, toward the cost of his supervision beginning thirty days from the date he is employed.

Such sums shall be deducted by the parolee, probationer, or participant in a community diversion program from his monthly net earned income and shall be delivered to the Department pursuant to rules and regulations adopted by the Board of Corrections. By prior agreement between an employer and parolee, probationer, or participant in a community diversion program, an employer may deduct fifteen dollars from the monthly earned income of the parolee or probationer and remit such amount to the Department pursuant to rules and regulations adopted by the Board of Corrections. In the case of prisoners employed pursuant to § 53.1-60, such sums shall be deducted by the Director from any wages earned by the prisoners. All such funds collected by the Department shall be deposited in the general fund of the state treasury.

In the event of more than two months' delinquency in making such contributions by a parolee or probationer, such delinquency may constitute sufficient grounds for revocation of his parole or probation. In the event that a probationer or parolee has made timely payments pursuant to this subsection for a total of sixty months without revocation of his probation or parole or extension of the length of his probation or parole, then he shall have no further obligation to contribute toward the cost of his supervision for the offense or offenses for which he was originally placed on probation or parole.

B. The Virginia Parole Board may exempt a parolee from the requirements of subsection A on the grounds of unreasonable hardship, and the sentencing court may exempt a probationer or participant in a community diversion program from the requirements of subsection A on the grounds of unreasonable hardship. The Director may exempt a work releasee from the requirements of subsection A on the grounds of unreasonable hardship. Any parolee or probationer transferred to or from other states under the supervision of the interstate compact for the supervision of parolees or probationers shall be exempt from the requirements of subsection A.

C. The provisions of subsection A shall not apply to any person against whom further proceedings have been deferred pursuant to § 18.2-251. (Code 1950, § 53-19.40; 1981, c. 634; 1982, cc. 492, 636; 1984, c. 668; 1988, c. 824.)

DEPARTMENT OF CORRECTIONS  
SUPERVISION FEE

CLIENT INTRODUCTION FORM

NAME: John S. Doe VSP/SS# 000001  
(Print/Type)

Section 53.1-150, Code of Virginia, requires that all persons, unless exempted, who are placed on probation, parole and/or work release/Community Diversion Program pay a monthly supervision fee of \$     toward the cost of his/her supervision. The requirement begins thirty (30) days from the date he/she is initially employed.

The following is furnished for your information:

1. The fee is due by the fifth of the month following the thirtieth (30th) day of gainful employment and will continue each month thereafter. If you make timely payments for 60 months without revocation or extension of your probation/parole, you will have no further obligation to pay the fee. Further, you will not be obligated to pay the fee during the last month you are under supervision.
2. Payments may be made at the District Office, or CDI Office, either in person or by mail or in person to the supervising officer or Case Manager.
3. Payments will be made by certified check, cashier's check, or money order made payable to the "Department of Corrections".
4. When you obtain a certified check, cashier's check, or money order, you will be furnished a receipt. Please keep it. It will serve as your proof of payment and may be used in the event of theft or loss.
5. There are provisions for hardship exemptions which will be discussed with you by your supervising officer or CDI Case Manager. If you feel you qualify, you may apply for an exemption.
6. If you become behind by three (3) payments, your probation, parole or work/release or community diversion status may be revoked.

I have read (or had read to me) and understand the above.

July 1, 1988  
Date

John S. Doe  
Client

Nathan Fortescu  
Supervising Officer  
Distribution: Client, District/Unit File

40  
District

Appendix 2

SUPERVISION FEE RECORD

CLIENT NAME		Jane S. Doe		# 000001		P. O. N. Fortescu		DIST. # 10			
Date of Supervision			July 1, 1981			Expiration Date			September 30, 1982		
Date	Code	By	Date	Code	By	Date	Code	By	Date	Code	By
1981			1982			19					
Jan			Jan (2-5)	\$15	NF	Jan			Jan		
Feb			Feb (3-5)	\$15	NF	Feb			Feb		
Mar			Mar (3-31)	\$15	NF	Mar			Mar		
Apr			Apr (4-19)	\$15	NF	Apr			Apr		
May			May (6-2)	\$15	NF	May			May		
Jun			Jun (6-30)	\$15	NF	Jun			Jun		
Jul (7-31)	IN	NF	Jul (8-5)	DEL/pd.	NF	Jul			Jul		
Aug (8-31)	\$15	NF	Aug (9-2)	\$30	NF	Aug			Aug		
Sep (9-30)	\$15	NF	Sep (9-30)	CL	NF	Sep			Sep		
Oct (10-22)	\$15	NF	Oct			Oct			Oct		
Nov (12-4)	\$15	NF	Nov			Nov			Nov		
Dec (12-28)	\$15	NF	Dec			Dec			Dec		

Probation/Parole Codes		Work Release		CDI Program	
A. Amount Paid - \$15.00		A. Employed - EM		A. Amount Paid - \$15.00	
B. Exemption - Ex-la		B. Exemption - Ex-la		B. Exemption - Ex-la	
C. Unemployed - Un		C. Unemployed - Un		C. Unemployed - Un	
D. Delinquency - Del		D. Delinquency - Del		D. Delinquency - Del	
E. Interstate - IS		E. Ineligible - IN		E. Interstate - IS	
F. Ineligible - IN		F. Closed - CL		F. Ineligible - IN	
G. Closed - CL				G. Closed - CL	

In the date column, show the actual payment date next the month to which the payment/entry is to be credited.

Appendix 3

DEPARTMENT OF CORRECTIONS  
HARDSHIP EXEMPTION APPLICATION

SUPERVISION FEE DAILY LEDGER FOR October 5, 1988

TO: Exempting Authority Virginia Parole Board

Applicant: Doe John Socrates  
Last Name First Name Middle Name

Probationer SS# \_\_\_\_\_ Parolee VSP# 000001 Work Releasee VSP# \_\_\_\_\_  
CDI Offender \_\_\_\_\_

In accordance with Section 53.1-150 of the Code of Virginia, I am requesting an exemption from paying the supervision fee beginning August 1, 1988 for the following reason(s) \_\_\_\_\_  
(Date)

- XX 1. Insufficient income due to (a) inadequate earnings, (b) Court ordered financial obligations, (c) Verified uninsured medical expenses other than nonprescription drugs.
- 2. Verified Extenuating Circumstances. (Briefly explain) \_\_\_\_\_  
\_\_\_\_\_

I understand that if this application is approved, I will be exempt from paying the supervision fee only during that period of time in which the above-noted reason(s) for exemption exist(s).

July 12, 1988 \_\_\_\_\_  
Date Applicant's Signature (optional)  
John S. Doe

I. Approval XXX Disapproval \_\_\_\_\_  
Reason: Doe has been laid off from his job. However, he is working part-time at another place but earns only \$25.00 weekly.

July 14, 1988 \_\_\_\_\_  
Date Supervising Officer/WR Staff, CDI Case Manager  
Nathan Fortescu

II. Approval XXX Disapproval \_\_\_\_\_  
Reason: The man's earnings are less than \$130.00 net per month.

July 21, 1988 \_\_\_\_\_  
Date Chief Officer/WR Administrator/CDI Program Director  
P. Ramsworthy Legree

III. Approval \_\_\_\_\_ Disapproval \_\_\_\_\_  
Reason: \_\_\_\_\_

\_\_\_\_\_  
Date Exempting Authority

Attachments: Current Pay Stubs

Appendix 4

Name	Money Order or Check No.	Amt. Paid	For Month(s) of
Doe, John S.	AS-3118	\$15	September
McWirtt, L.B.	11-A11	\$15	September
Mandlikova, M.A.	21B-302	\$30	August/September

Total Collected \$60 Received and Verified on \_\_\_\_\_  
Total Money Orders or Checks 3 Date October 8, 1988  
By: R. Ramsworthy Legree Nimrod Natt  
Probation and Parole District 40 Cash Receipts Section  
Community Diversion Program \_\_\_\_\_ Accounts Receivable Section

Appendix 5

Virginia Register of Regulations  
3518

MEMORANDUM

TO: Deputy Director, Adult Community Services  
FROM: Accounts Receivable Section  
SUBJECT: Supervision Fee Monthly Collection Report  
DATE: October 15, 1988

- (1) Supervision Fees for September, 1988  
(Month) (Year)
- (2) Number of clients paid 200
- (3) Total amount collected \$3,090

Nimrod Natt  
Signature  
Accounts Receivable Manager

cc: General Accounting Manager

NOTICE OF SUPERVISION FEE DELINQUENCY

John S. Doe, VSP #000001  
Client Name and Number

District office records indicate that you have failed to pay your Supervision Fee for January, 1988  
Date

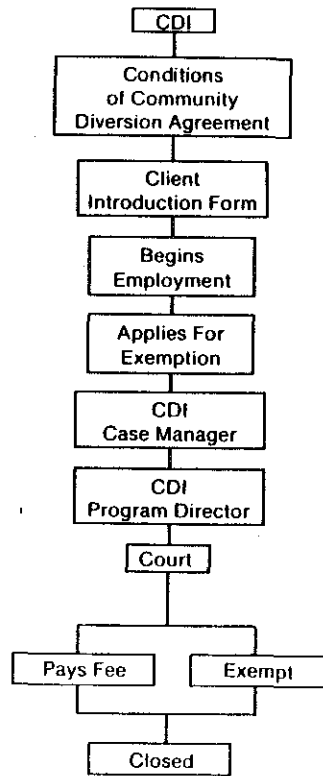
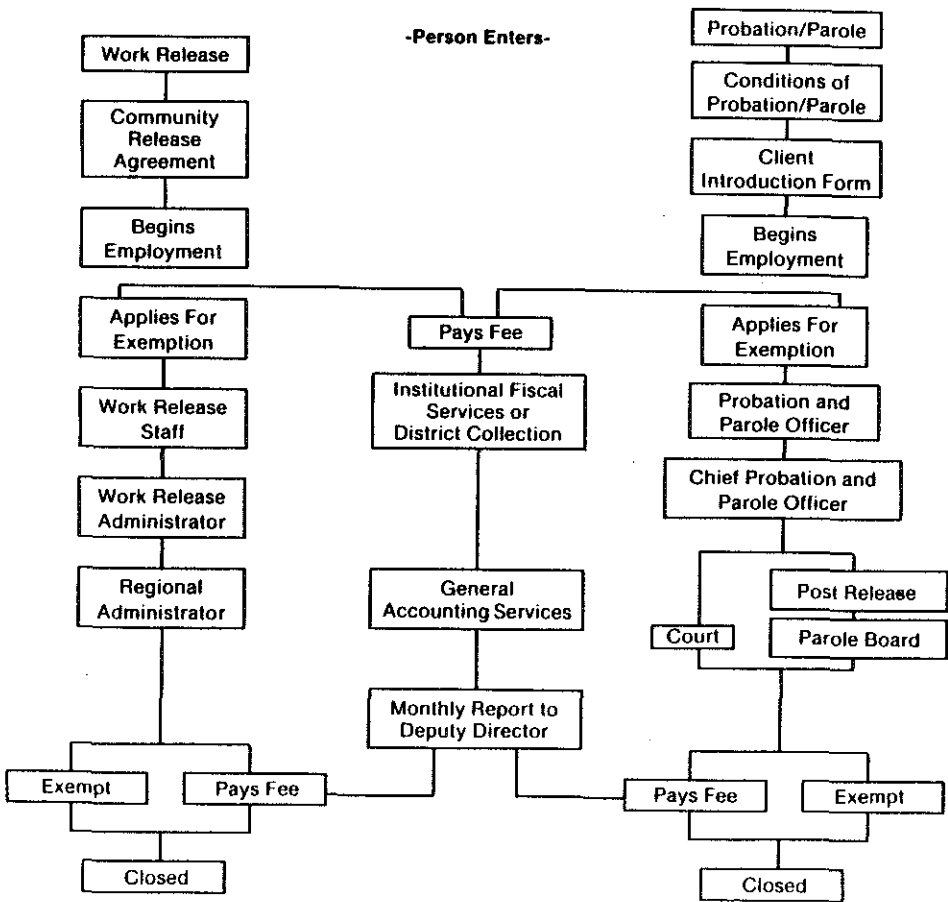
As you are aware the fee is to be paid by the 5th of each month and failure to do so could result in revocation.

Please contact this office at the earliest possible time.

Nathan Fortescu  
Probation and Parole Officer/  
Work Release Officer/  
CDI Case Manager

40  
District #

SUPERVISION FEE PROCESS



New Flow Chart Process to Incorporate CDI Program

Appendix 8

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

REGISTRAR'S NOTICE: The following regulations are exempted from the Administrative Process Act under the provisions of § 9-6.14:4 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 394-01-102. Single Family Rehabilitation and Energy Conservation Loan Program.

NOTICE: This regulation is being repealed and replaced with VR 394-01-102:1. Local Housing Rehabilitation Program: Program Guidelines.

\*\*\*\*\*

Title of Regulation: VR 394-01-102:1. Local Housing Rehabilitation Program: Program Guidelines.

Statutory Authority: §§ 36-137 and 36-141 et seq. of the Code of Virginia.

Effective Date: August 29, 1990.

Summary:

The Local Housing Rehabilitation Program, a part of the Virginia Housing Partnership Fund, provides loans and grants to owners of substandard low-and-moderate income housing through local governments and nonprofit organizations. The purpose of the program is to upgrade substandard housing in order to increase the supply of safe, decent and affordable housing for low-and-moderate income owners and tenants. The proposed regulations address eligibility, fund reservation, program design, and evaluation criteria.

VR 394-01-102:1. Local Housing Rehabilitation Program: Program Guidelines.

PART I. PURPOSE.

§ 1.1. Purpose.

The Local Housing Rehabilitation Program under the Virginia Housing Partnership Fund allows an approved local government, nonprofit organization, or housing authority to reserve a pool of funds in order to make low-interest loans to residential property owners within their service area for the improvement of their properties. The purpose is to increase the supply and availability of decent and affordable housing for low and moderate income Virginians through preservation of existing housing stock.

PART II. GENERAL PROVISIONS.

§ 2.1. Definitions.

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

"Acquisition" means the purchase of real property.

"Administrative agreement" means a contract between DHCD and the local administrator setting forth the terms and conditions for the operation of the program.

"Application" is the written request for a loan or grant funding under this program.

"Appraised value" means the value assigned to the property as determined by an independent fee appraiser.

"Area median income" means the median income established by HUD for counties, cities or multijurisdictional areas of the Commonwealth.

"Assessed value" is the value assigned to a property as determined by the real estate assessment office of the local government where the same is located for tax purposes. (The applicable assessed value shall be that value in effect as of the date of the application.)

"Borrower" means the individual, for-profit, nonprofit or government entity that has applied and received commitment under this program.

"Commitment fee" means the amount charged by a local administrator to cover the cost of processing a loan. This fee is collected at the closing.

"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 in rehabilitation projects.

"Energy-related improvements" means physical improvements to structures which are being rehabilitated which contribute to fuel cost savings and overall less energy consumption, and which have been so designated by this department.

"Fund" [ or "VHPF" ] means the Virginia Housing Partnership Fund.

"General improvements" means permanent additions, alterations, renovations, or repairs made for the purpose of making housing more habitable and more desirable to live in.

"Gross income" is the total income from all sources, before taxes or withholdings, of all residents residing in a housing unit, age 18 or older.

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"HQS" means the Housing and Urban Development Section 8 Housing Quality Standards.

"Household" means all persons related or unrelated living together as one economic unit.

"HUD" means the U.S. Department of Housing and Urban Development.

"LMI" means low and moderate income person(s) that have income levels not exceeding 80% of the area's median income.

"Loan" means funds provided to program recipients under the Virginia Housing Partnership Fund wherein repayment is required at rates and terms as established by DHCD.

"Local administrator" is the nonprofit, for-profit, incorporated organization or PHA unit of local government that enters into a contract/agreement with DHCD for undertaking project activities.

"Locality" means a city, county or town.

"Multifamily" means property with two or more complete dwelling units.

"Nonprofit" means an organization certified by the Internal Revenue Service as having § 501(c)(3) nonprofit status.

"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, assure safe and sanitary occupancy including general improvements.

"Reservation" means funds set aside for a project prior to negotiation of an administrative agreement or commitment.

"Service area" means the geographic area/jurisdiction which the applicant intends to serve.

"Single family" means a structure with one complete dwelling unit.

"Stripper oil well funds" are United States Department of Energy moneys awarded to the Commonwealth for specific purposes to resolve alleged pricing violations in effect between 1973 and 1981 by crude oil providers.

"Substandard" means does not meet HQS.

"VHDA" means the Virginia Housing Development Authority.

## PART III. ELIGIBILITY.

### § 3.1. Eligible applicants.

1. Units of local government.
2. Housing authorities.
3. Nonprofit organizations incorporated under the Commonwealth of Virginia.

## PART IV. FUND RESERVATION.

### § 4.1. Fund reservation.

A. Funds will be made available initially on a competitive basis to eligible applications that meet the minimum requirements, as set forth in Part VI of these guidelines. DHCD may reduce the amount of funds requested upon review of the application.

B. Approved local administrators, in good standing, may apply for funds at any time once 80% of existing funds are committed.

C. Any funds remaining after the competitive awards will be available to applicants on a first come/first serve basis. This will include new applicants as well as existing local administrators who have committed 80% of their previous allocation.

D. Upon selection as a local administrator, a reservation will be made for up to a three-month period to allow time for program start-up and administrative agreement negotiation. The reservation may be divided into two portions:

1. Loan funds; and
2. Grant funds for energy-related improvements.

Local administrators who have not entered into an administrative agreement within the three-month reservation period may lose all or a portion of their reservation.

E. Applicants will propose a timeframe for the operation of their program. The maximum term for completion of the program will be 24 months. ALL FUNDS SHALL BE COMMITTED AND ALL WORK COMPLETED DURING THE APPROVED PROJECT PERIOD.

F. Up to 5.0% of funds allocated may be used for administration and project management based on performance.

### § 4.2. Maximum reservation requests.

A. The maximum request per application shall be \$500,000.

B. The maximum amount which can be used as grant

funds for energy-related repairs shall be no more than 15% of the funds requested.

## § 4.3. Coordination.

DHCD will ensure delivery of the program based on geographic distribution and service area. In cases where there may be more than one applicant serving the same jurisdiction, DHCD will work to coordinate the programs with the applicants regarding their service area or population.

## PART V. PROGRAM DESIGN.

### § 5.1. Eligible borrowers.

1. LMI Owner/occupants of single family dwellings; or
2. Owners of rental property that house LMI persons.

### § 5.2. Eligible properties.

A. Substandard single family properties, owner-occupied or rental, that house LMI persons.

B. Substandard multifamily properties containing 10 or fewer units, that house LMI persons.

C. Properties must be feasible for rehabilitation. Building permits must be obtained, and upon completion the properties must comply with HQS as well as local zoning and code requirements.

### § 5.3. Eligible activities.

A. Rehabilitation including general improvements and energy-related improvements.

B. Replacement housing when rehabilitation is not economically feasible. **GRANT FUNDS MAY NOT BE USED ON REPLACEMENT HOUSING.**

C. Acquisition when rehabilitation is also being done may be approved by the state on a case-by-case basis upon verification of need. Evidence of need must be documented for all improvements undertaken. **LUXURY IMPROVEMENTS ARE PROHIBITED.**

### § 5.4. Loan terms and conditions.

#### A. Maximum loan amounts.

1. Owner-occupied properties may use up to \$20,000 in VHPF funds of which up to 15% may be a grant for energy-related improvements. Grants must be a part of a VHPF loan package.
2. The following per unit maximum loans/grants will apply to rental property. Of these amounts, 15% may be a grant for energy-related improvements.

Efficiency/1 bedroom – \$10,000

2 bedroom – \$12,500

3 bedroom – \$15,000

4 or more bedroom – \$17,500

#### B. Interest rate.

All loans will be at a fixed rate of interest. Interest rates may range from 0.0% to 8.0% at the discretion of the local administrator. The local administrator must describe the method of establishing rates in the program application. The local administrator must ensure an average return of 4.0% for the entire portfolio.

#### C. Term of loans.

The maximum term of loans shall not be more than 15 years (180 months). Loan terms should be adjusted so that payments are not less than \$25 per month.

#### D. Term of grants.

The grant portion of funds shall be secured along with the loan portion. The grant will be deferred for the first three years and forgiven at a rate of 25% for the next four years, provided that any grant amount remaining on June 30, 1998, will be forgiven in full.

#### E. Requirements of securing the loan grant.

On owner/occupied property the applicant/borrower must have the majority ownership (at least 51%) interest in the property. All owners must sign the deed of trust. For investor owned property, all owners must be applicant/borrowers. Liens will be recorded on the property secured by a deed of trust. The liens shall be divided between loan proceeds and grant proceeds.

Title insurance shall be required on all loans and loan/grant combinations exceeding \$7,500.

DHCD will accept a subordinate position to an existing mortgage or when primary rehabilitation financing is provided by another source.

#### F. Loan-to-value ratio.

The loan-to-value ratio shall be based on the appraised value of the property after repairs and improvements. In general the loan-to-value shall not exceed 90% of the appraised value. However, for single family properties, the assessed value may be used providing the loan-to-value does not exceed 100% of the pre-rehabilitation assessed value. **ALL INCUMBRANCES AGAINST THE PROPERTY WHICH ARE SUPERIOR TO THE VHPF DEBT MUST BE CALCULATED IN THE LOAN-TO-VALUE RATIO.**

#### G. Sale or transfer restrictions.



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A loan or loan/grant may be assumed by a subsequent purchaser if the purchaser meets the income requirements or will rent to tenants that meet the income requirements. Approval of DHCD will be required for any such assumptions.

## H. Waivers.

DHCD will accept requests for waivers to one or more of the program requirements on a case-by-case basis. In granting any such waiver, DHCD will look at the merits of each case relative to need, benefits, and intent of the program.

## PART VI. EVALUATION CRITERIA.

### § 6.1. Application evaluation criteria.

#### A. Project need.

The application shall address the need and demand for rehabilitation activities in the service area for low and moderate income persons. **AT A MINIMUM THIS NEED MUST BE DOCUMENTED BY A HOUSING SURVEY IN A FORM AS MAY BE PRESCRIBED BY THE COMMONWEALTH.** Census data may be used as references but will not be accepted as a needs assessment.

#### B. Program design.

The program design shall address all phases of the operation of the program to include outreach, application intake, underwriting, project management, cost estimating and any other aspects of the local rehabilitation program. **THE PROGRAM DESIGN SHALL BE CONSISTENT WITH THE REQUIREMENTS SET FORTH IN THESE GUIDELINES.** The application shall include the proposed timeframe and the number of units proposed for the program period.

#### C. Leveraging.

The amount of other program funds will be used to determine leverage ratios. These ratios will be considered in ranking proposals. **OTHER FUNDS MAY INCLUDE HOUSING AND OTHER NEIGHBORHOOD IMPROVEMENTS WHICH ARE A PART OF THE PROPOSED PROJECT.**

#### D. Administrative capacity.

The application shall include information on staff expertise in all areas of program administration and project management. Plans for hiring any additional staff should be noted. Applications will be evaluated on staff expertise and ability to implement the program in a timely manner. Percentages should be given to represent each staff person's time directly related to this program.

\* \* \* \* \*

**Title of Regulation:** VR 394-01-103. Multifamily Rehabilitation and Energy Conservation Loan Program.

**Statutory Authority:** §§ 36-137 and 36-141 et seq. of the Code of Virginia.

**Effective Date:** August 29, 1990.

### Summary:

Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Revolving Loan Fund. The purpose of the fund is to increase the availability of decent and affordable housing for low and moderate income Virginia residents. The Multifamily Loan Program provides low interest loans from the Virginia Housing Partnership Fund. This program is available to owners of rental housing. The purpose of the program is to increase the supply and quality of rental housing available for low and moderate income residents.

These regulations include amendments to Part I, Definitions; Part II, Eligibility; Part III, Occupancy and Rent Requirements; Part IV, Distribution of Funds; Part V, Loan Terms and Conditions; Part VI, Displacement; and Part VII, Evaluation Criteria.

Substantial changes made in this regulation after it was published in the proposed version are as follows:

1. Funds will only be available for lower-income housing units.
2. Energy grant funds will only be available for rehabilitation projects and will be limited to 15% of the total rehabilitation cost of low-income units.

VR 394-01-103. Multifamily Loan Program.

## 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:

"Accessibility improvement" means an eligible interior or exterior modification made to an eligible property to compensate for a disabled person's reduced mobility or ability to perform necessary, everyday tasks in the home.

"Acquisition" means the purchase of real property.

"Applicant" is a nonprofit, incorporated organization or governmental entity which has submitted to the state, an

**application for consideration to become a local administrator of the Multifamily Housing Rehabilitation and Energy Conservation Loan Program:** means an individual incorporated nonprofit, for-profit, or government entity, that makes application for funds under the Virginia Housing Partnership Fund.

**"Application"** is the written request for a loan or grant funding under the Virginia Housing Partnership Fund.

**"Appraised value"** is the value of the home as determined by an independent fee appraiser means the monetary worth of property as determined by an appraiser .

**"Area median income"** means the median income established by HUD from time to time for various areas of the Commonwealth, or the state median income, means the statewide median income, as established by the University of Virginia Center for Public Services .

**"Assessed value"** is a monetary worth of the facility/property as determined by the real estate assessment office of the local government where the same is located for tax purposes. (The applicable assessed value shall be that value in effect as of the date of the application.)

**"Borrower"** is the person(s), family, nonprofit or for-profit organization who has been approved by the state, for funding from the multifamily rehabilitation and energy conservation loan program means the individual, for-profit, nonprofit or government entity that has been approved for funding under the Virginia Housing Partnership Fund .

**"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.

**"Energy-related improvements"** means physical improvements to structures which are being rehabilitated which contribute to fuel cost savings and overall less energy consumption, and which have been so designated by this department.

**"Fund"** means the Housing Partnership Revolving Loan Fund.

**"General improvements"** means improvements made for the purpose of making housing more desirable to live in or to make the home more habitable. These improvements must be permanent and may include additions, alterations, renovations, or repairs to the home made for the purpose of making housing more habitable and more desirable to live in . Improvements shall not include materials, fixtures, or landscapes of a type or quality which exceed that customarily used in the locality for properties of the same general type as the property to be improved.

**"Grant"** means funds provided to program recipients under the Virginia Housing Partnership Fund.

**"Grant agreement"** means the contract between DHCD and the project sponsor containing the terms and conditions provided for within the program.

**"Gross income"** is the total income from all sources and before taxes or withholdings of all residents or residing in a housing unit, age 18 or older ; from all sources and before taxes or withholding .

**"HQS"** means ~~HUD~~ the Housing and Urban Development Section 8 Housing Quality Standard Standards .

**"Household"** means all persons related or unrelated living together as one economic unit.

**"HUD"** means the Department of Housing and Urban Development.

**"Individual"** is a single person who submits an applicant pursuant to the program guidelines.

**"Loan"** means money lent with interest for a specified period of time.

**"Loan application"** is to means the request to a local administrator or VHDA, by the borrowers, to obtain for funding for purposes as defined in the Multifamily Rehabilitation and Energy Conservation Loan Program Guidelines program guidelines .

**"Local administrator"** is a nonprofit, incorporated organization or governmental entity, with which the Department of Housing and Community Development, in its sole discretion, enters into a contract for local administration of the Multifamily Rehabilitation Loan Program. Examples of eligible local administrators include but are not limited to cities, counties, towns, redevelopment and housing authorities, community action agencies, area agencies on aging, independent nonprofit housing organizations and others.

**"Locality"** means a city or county.

**"Loan application date"** means the date on which a completed application is received by DHCD.

**"Loan note"** means the agreement between DHCD and the project sponsor pertaining to the terms and conditions governing funding by the Virginia Housing Partnership Fund, including repayment provisions.

**"Lower-income"** means 80 of median income for the service area as established by the U. S. Department of Housing and Urban Development also referred to LMI.

**"Multifamily"** means property with two or more complete dwelling units.

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"Oil overcharge expenditure trust fund" are the United States Department of Energy moneys awarded to the Commonwealth for specific purposes to resolve alleged pricing violations in effect between 1973 and 1981 by crude oil providers; also referred to as Oil Overcharge Funds.

"Program" is the means the plan for funding under the Multifamily Housing Rehabilitation and Energy Conservation Loan Program.

"Project sponsor" is a nonprofit, for-profit or governmental entity seeking to obtain funds for the acquisition and/or rehabilitation of a specific multifamily structure in accordance with the program guidelines means an individual, family, nonprofit, for profit or incorporated organization that enters into a contract/agreement with DHCD to undertake activities in accordance with the program guidelines .

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

"Set-aside" means funds reserved for a specified period, by the department, to finance a multifamily project.

"Site control" means the possession of or authorization to use real property by means of ownership, lease or option.

"Servicing fee" is an addition to the loan interest rate of up to 1/2% by the local administrator for the purpose of defraying the cost of servicing the loan.

"State" means the Virginia Department of Housing and Community Development or other entity designated by the department to act on its behalf , also referred to as DHCD and the department .

"VHDA" means Virginia Housing Development Authority.

"VHPF" means the Virginia Housing Partnership Fund.

## PART II. ELIGIBILITY.

### § 2.1. Eligible local administrators.

A. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia; or

B. Governmental entities.

### § 2.2. Eligible project sponsors applicants .

A. Year I - 1989-90.

1. Nonprofit organizations; incorporated under the laws

of the Commonwealth of Virginia; or

2. Governmental entities , including local redevelopment and housing authorities ;

B. Year II - 1990-91.

1. Those defined in § 2.2 A;

2. 3. Private, for-profit corporations; organizations; or

3. 4. Individual investors.

### § 2.3. 2.2. Eligible activities.

Loan funds may be used to rehabilitate existing multifamily housing, or to acquire and rehabilitate existing multifamily housing , or to construct new multifamily housing. A second priority will include projects which involve only acquisition .

A. After acquisition, funds must first be used to bring the In rehabilitation projects, property must be brought up to HUD Section 8 Housing Quality Standard (HQS).

B. Energy improvements which exceed HUD Section 8 Housing Quality Standards are encouraged. Eligible energy improvements must be prior approved are authorized and published by the state. The following are examples of eligible energy improvements:

1. Installation or replacement of storm doors and windows;

2. Caulking/weatherstripping;

3. Roof, floor and wall repair as associated with insulation improvements;

4. Furnace repair.

C. Funds may also be used for other General Improvements.

D. Luxury improvements are prohibited.

E. Upon completion of the rehabilitation, the property must comply with zoning and other local requirements for planned use. Upon completion of a new construction project, the property must meet the Uniform Statewide Building Code.

F. Reasonable fees and expenses incurred in the process of obtaining the loan may be financed in the loan, including credit report fee, appraisals, surveys, engineering and architectural fees, legal fees, recording costs, and commitment fees.

G. DHCD will accept requests for waivers to one or more of the program requirements on a case by case basis. In granting such a waiver, DHCD will look at the

merits of each case relative to need, benefits, and intent of the program.

H. Construction financing will be available only when the sponsor can demonstrate that alternative financing is not available. Construction financing will only be disbursed in order of lien priority.

I. Refinancing of existing debt may be available if necessary for project feasibility.

## § 2.4. 2.3. Eligible properties projects .

A. Existing structures with All projects must contain two or more units.

B. To qualify as a rehabilitation project, 75% of the exterior walls must be retained.

C. Conversion of commercial or institutional properties to residential use is permitted as long as the property is in conformance with zoning and other local requirements for multifamily use upon completion of the project.

D. No improvements to non-LMI units will be eligible for Multifamily Loan Program funds.

E. Existing properties must not meet have existing HUD Section 8 Housing Quality Standards (HQS) violations or incipient violations prior to rehabilitation, unless otherwise approved by the state.

## PART III. TARGET POPULATION OCCUPANCY AND RENT REQUIREMENTS .

### § 3.1. Target population Occupancy requirements .

The target population for occupancy of multifamily housing sponsored funded with Housing Partnership Funds will be Multifamily Loans is low and moderate income persons and families. A minimum The percentage of the units which must be occupied by low and moderate income these persons for the entire term of the loan. varies based upon the income level served by the project. A minimum threshold has been set as follows, and may be exceeded at the option of the project sponsor. All occupancy requirements must be met for the full term of the loan. The Project sponsor sponsors must select one of three occupancy options at the time of application and must comply with it for the term of the loan:

#### Option 1: OPTION 1:

A minimum of 20% of the units must be reserved for persons with incomes at 50% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service whichever is higher

#### Option 2: OPTION 2:

A minimum of 40% of the units must be reserved for persons within with incomes at 60% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher .

#### Option 3: OPTION 3:

A minimum of 80% of the units must be reserved for persons within with incomes at 80% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service whichever is higher .

### § 3.2. Rent requirements.

The owner must inform the state of any changes in rents charged within the project. Annual rent increases may not exceed the percentage increase in the Maximum Rent Schedule published by the department as appropriate to the unit size. State approval is required if proposed rents on low- and moderate-income units exceed rent limits as set by the department.

## PART IV. DISTRIBUTION OF FUNDS.

### § 4.1. Distribution of funds.

Funds will be distributed annually through a competitive process. Any funds remaining after the competition will be made available first come/first serve. Funds will be awarded to at least one rehabilitation and one new construction project. Funding allocation priorities will be given first to new construction, rehabilitation, and acquisition and rehabilitation projects. Second priority will be given to acquisition-only projects.

A. Dollar limitation per locality Maximum funding for project sponsor .

During the first year (1988-89) each locality will be limited to a maximum of \$500,000 in Multifamily Rehabilitation Loan Funds. During the second year (1989-90) There will be a limitation of \$1 million per project sponsor and \$2 million per locality in any single funding cycle . [ Funds will only be available for lower-income housing units. ] This limitation may be waived if no other approvable applications have been submitted. Energy grant funds will only be available for rehabilitation projects and will be limited to 15% of the total rehabilitation cost [ of low-income units ].

B. Fund reservation for local administrators.

1. Loan funds will be made available initially on a competitive basis to eligible local administrators.

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2. Upon selection, an allocation will be reserved for a six-month period to allow time for program start-up.

3. The allocation will be divided into two portions: The nonenergy related rehabilitation portion will be provided from the state's General Fund Appropriation. The energy related rehabilitation portion will be provided from the state's Stripper Oil Well Fund. Local administrators will only be able to use the Stripper Oil Well moneys for eligible energy related improvements as defined in § 2-2.

4. Local administrators will have 18 months to fully commit their initial allocation. Projects will be reviewed quarterly.

5. Any funds remaining after the competitive awards may be available to applicants on a first come/first serve basis. Eligible applicants for first come/first serve funds include new applicants or previous applicants who have committed 80% of their initial allocation.

## C. B. Fund reservation set-aside for project sponsor.

1. Loan and Energy Grant funds will be made available initially on a competitive basis to eligible project sponsors in accordance with the selection/evaluation criteria established in § 8.1 of these guidelines .

2. Upon selection, a program Loan or Energy Grant Set-Aside reservations will be made to a project sponsor for up to six months. This will allow time to complete project development activities including arranging finalizing for other financing and assistance from other local, state or federal housing programs. Extensions may be granted by the state, if appropriate ; but under no circumstances to exceed six additional months .

3. A project sponsor's allocation Set-Aside will be divided into two portions: The nonenergy related rehabilitation unrestricted portion will be provided from the state's General Fund Appropriation and may be used for any eligible improvements, as defined in § 1.1 . The eligible energy-related rehabilitation portion will be provided from the state's Stripper Oil Well Fund Oil Overcharge Expenditure Trust Fund and may be used only for eligible energy-related improvements, as defined in § 1.1 by the department .

## C. Term of project sponsor set asides.

Set asides for project sponsors will be in effect for six months. If unallocated funds are available or are recaptured after six months, the state may make funds available on a first come, first serve basis to eligible applicants.

## D. Per unit limitation.

The limitation on the loan amount per unit is based upon unit size. The following per unit limitations will apply:

Bedroom Size	Dollar Loan Limitation
Efficiency or 1	\$10,000
2	12,500
3	15,000
4 or more	17,500

## PART V. LOAN TERMS AND CONDITIONS.

### § 5.1. Loan terms and conditions.

#### A. Interest rate.

~~Statewide program.~~ The target average interest rate for loans originated and serviced by VHDA or local administrators and funded from the General Fund Appropriation is 6.0%. Loans may be made at rates as low as 2.0% and as high as 8.0%, dependent upon the needs of the project. Final determination of the interest rate will be made by VHDA in the underwriting.

Loans for Eligible energy improvements which are funded from the Stripper Oil Well Fund Overcharge Expenditure Funds shall bear an interest rate of 0% will be provided as a grant .

#### B. Term.

The maximum term for loans will be 15 years for loans funded from the General Appropriation Fund . Longer amortization schedules not to exceed 30 years may be considered. All repayments are due in 15 years. Grants are subject to repayment if the project sponsor violates program requirements. Repayment must be made in full if such violation occurs within three years from the date the grant is closed. Beginning in the fourth year, this repayment obligation is reduced at the rate of 25% per year. Notwithstanding the above, as of July 1, 1998, any remaining grant repayment obligations shall be forgiven.

The energy related portion of the loan, if funded from the Stripper Oil Well Fund, shall be deferred for the first four years and shall be forgiven at a rate of 25% per year beginning in the fifth year.

#### C. Deferrals.

Deferrals of principal payments or of both principal and interest payments may be allowed for up to five years. An alternative deferral technique allowing a delayed amortization of the loan may also be permitted. The loan underwriter will state shall determine the feasibility of

any payment deferral or amortization deferral for each project. The use of such options may require higher interest rates to be paid during the loan repayment period.

## C. D. Instruments for loan security.

1. General requirements. The borrowers(s) must be the sole owner(s) of the property. A title opinion and title insurance will be required for all loans unless otherwise approved by the state. *Hazard insurance is required in such terms and amounts as specified by the state.*

2. Lien requirements. A lien ~~will~~ shall be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the ~~energy related rehabilitation~~ *General Fund* portion of the loan and the amount securing the ~~nonenergy related Oil Overcharge funds~~ portion of the loan. The ~~nonenergy related~~ *General Fund* portion shall remain in effect until the loan is ~~amortized~~ *for the term of the loan*. Starting the ~~fifth~~ *fourth* year, the ~~energy related Oil Overcharge~~ portion of the lien will be forgiven at a rate of 25% per year, provided program requirements continue to be met. *In no event shall the Oil Overcharge lien extend beyond July 1, 1998.*

The state will accept a subordinate position only to an existing mortgage or where the primary ~~rehabilitation~~ financing is being provided from another source.

## D. E. Loan underwriting criteria.

~~Other Specific~~ underwriting criteria which ~~will apply~~ *are applicable* to these loans ~~will be have been~~ established by ~~VHDA~~ *the state*. These will include an evaluation of the ~~locational amenities, site, project design and amenities, the market for the project, the experience and credit rating of the financial capacity of sponsors and contractors, architectural and engineering studies, site topography, the value of the project, financial risks and other considerations.~~ Each project will be evaluated to assess the potential cash flow available to pay debt service and operating expenses.

### *Loan-to-value ratio.*

*The loan-to-value ratio shall be based on the appraised value of the structure after completion. A loan-to-value ratio of up to 100% will be considered for loans/grants to nonprofit housing sponsors and up to 90% for other sponsors. The state may permit the ratio to exceed 100% under special circumstances to be considered on a case by case basis. The loan/grant amount may not exceed 100% of cost, as determined by the fund.*

## E. F. Loan servicing.

VHDA will close the loans, conduct *construction* inspections ~~when applicable~~, disburse proceeds, service the loans and provide ongoing management oversight.

Local administrators may service loans upon approval by the state of servicing procedures. Such approved agents may charge a servicing fee of up to 1-2% and a reasonable commitment fee.

## F. Loan-to-value ratio.

The loan-to-value ratio shall be based on the appraised value of the structure after repairs and improvements. A loan-to-value ratio of up to 100% will be considered for loans to nonprofit housing sponsors and up to 90% for other sponsors. The state may permit the ratio to exceed 100% under special circumstances to be considered on a case by case basis.

## G. Sale or transfer restrictions.

Loans made under this program will be assumable as long as the property use, income requirements, ~~occupancy levels~~ *rent requirements*, housing conditions and other state program requirements are maintained for the term of the loan. An annual review will be made to assure project compliance. Approval by the state will be required for loans to be assumed.

## H. Prepayment of loan.

Prepayment of a ~~loan~~ *loans* under this program will be prohibited unless approved by the state.

## I. Loan liability.

Organizations involved in the underwriting and approval of program loans will not be held liable to the state for repayment of any loan in the event of default by a project.

## PART VI. DISPLACEMENT.

### § 6.1. Displacement.

Projects which result in no or minimal displacement are encouraged. Where displacement is unavoidable, a sponsor's willingness and ability to assist current tenants in finding alternative housing both temporarily during rehabilitation and permanently will be considered in the selection of projects. A project which causes no displacement will be given the ~~highest priority~~ *higher ranking*. Other projects will be required to include a description of the assistance (including counseling and financial reimbursement) to be given to displaced persons. Projects providing a greater level of assistance will be given a ~~higher priorities for loans ranking score~~.

## PART VII. EVALUATION CRITERIA.

### § 7.1. Evaluation criteria.

Due to the limited funds available and the expected

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high demand for such loans, a competitive system will be established to determine which projects will receive loans. Criteria for evaluating and ranking projects are described below:

## A. Local need, demand and impact.

The need and demand for affordable multifamily housing for low and moderate income persons in each local area will be used as a basis for determining the award of housing loan funds. A local housing market analysis must be provided and will be used to determine demand for such facilities and to indicate the impact on the community of the proposed project.

## B. Income level served.

Projects which serve a higher proportion of lower income households than the minimum required in § 3.1 shall be given a higher priority.

## C. Program design.

For eligible organizations applying to become local administrators, the extent to which the program design effectively and appropriately addresses the identified local needs and the priorities. Also, the extent to which the program design is thorough and complete.

## D. Leveraging.

The extent to which other federal, local or private below market financing or other housing assistance is included in the project will be a significant factor in evaluating proposals.

## E. Family housing.

Projects which provide a greater proportion of units with two or more bedrooms shall be given a higher priority.

## F. Displacement.

As described in § 6.1 the extent to which a project causes displacement, and the displacement assistance provided by the sponsor shall be a factor in ranking proposals.

Project sponsors are selected to receive program funding through a competitive funding cycle. Criteria for evaluating and ranking projects are described below:

1. *Income level and households served.* Projects which serve the lowest income groups (see § 3.1) will receive higher ranking priorities. Projects which serve a higher proportion of lower income households than the minimum required shall be given a higher score.

2. *Project feasibility.* Projects will be evaluated based upon the appropriateness of the project to the

*population to be served, achievable time frame for accomplishments, realistic project budget, and current operations costs.*

3. *Project readiness.* Projects will be evaluated on the strength of site control, zoning and displacement issues, completeness of plans and specifications, and commitment of financial sources to meet project costs.

4. *Leveraging.* Projects will be evaluated based on a comparison of the Multifamily Loan Program request to the total development cost for the project.

5. *Administrative experience.* Projects will be evaluated based

\* \* \* \* \*

**Title of Regulation:** VR 394-01-104. Congregate Housing Program Guidelines.

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

**Effective Date:** August 29, 1990.

## Summary:

*The Department of Housing and Community Development has adopted the program guidelines for the purpose of more effectively responding to the housing problems facing elderly and disabled residents. The Congregate Housing Loan Program provides low interest loans from the Virginia Housing Partnership Fund. This program is to increase the supply and quality of congregate housing available to low- and moderate-income residents.*

*The program guidelines provide the basic technical and administrative framework for administering the Congregate Housing Program throughout Virginia. These guidelines amend definitions and guidelines pertaining to eligibility, loan and grant terms and conditions and evaluation criteria.*

*The final submission includes the following changes:*

1. *Establishes a maximum grant amount as 15% of the total rehabilitation costs for low and moderate income units to that VHPF are being used for low income units; and*

2. *Changes the target group to special needs populations.*

VR 394-01-104. Congregate Housing Program Guidelines.

PART I.  
PURPOSE OF THE PROGRAM.

## § 1.1. Purpose of the program.

Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Revolving Loan Fund. The purpose of the fund is to create and increase the availability of quality decent and affordable housing for low and moderate Virginia residents. The primary purpose of the Congregate Housing and Energy Conservation Loan Rehabilitation Program will be to provide decent, affordable housing opportunities and to expand the number of congregate housing units available for [ the elderly, the mentally disabled and ; the physically disabled ; and substance abusers special needs population ] throughout the Commonwealth of Virginia.

## PART II. DEFINITIONS.

### § 2.1. Definitions.

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

*"Accessibility improvement"* means an interior or exterior a modification made to an eligible a property to compensate for a disabled person's reduced mobility or ability to perform necessary tasks in the home make more accessible to individuals with physical impairments .

*"Acquisition"* means the purchase of real property.

*"Applicant"* is a nonprofit or for-profit corporation or governmental entity, which has submitted to the state, an application for funding from the Congregate Housing Rehabilitation Program according to the program guidelines means an incorporated nonprofit, for-profit, or government entity that makes application for funds under the Virginia Housing Partnership Fund .

*"Application"* is the written request ; on behalf of the applicant, for a loan or grant funding from the Congregate Housing Rehabilitation Program under this program .

*"Appraised value"* is the value of the facility as determined by an independent fee means the monetary worth of property as determined by an appraiser.

*"Area median income"* means the median income established by the HUD from time to time for various areas of the Commonwealth, or the state median income , means the statewide median income as established by the University of Virginia Center for Public Service.

*"Assessed value"* is the value of the home monetary worth of the facility/property as determined by the real estate assessment office of the local government body where the same is located for tax purposes. The applicable assessed value shall be that value which is in

effect as of the loan application date.

*"Borrower"* is means the individual, for-profit , or nonprofit corporation or governmental or government entity eligible to receive funding from the Congregate Housing Program that has been approved for funding this program .

*"Congregate housing"* means a building or facility with a central food preparation and eating area which houses elderly and disabled persons who must live in a supervised environment, but do not require medical treatment or institutional care.

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

*"Disabled person"* means an individual who has a physical or mental condition which limits his activities or functions either temporarily or permanently.

*"Energy-related improvements"* means physical improvements to structures which are being rehabilitated which contribute to fuel cost savings and overall less energy consumption, and which have been so designated by this department.

*"Fund"* means the Housing Partnership Revolving Loan Fund.

*"General improvements"* means improvements additions, alterations, renovations or repairs made for the purpose of making housing more habitable or more desirable to live in or to make the home more habitable . These improvements must be permanent and may include additions, alterations, renovations, or repairs to the home . Improvements shall not include materials, fixtures, or landscapes of a type or quality which exceed that customarily used in the locality for the properties of the same general type as the property to be improved.

*"Gross income"* is the total annual income of from all sources and before taxes or withholdings of all residents , of a residing in a housing unit, from all sources and before taxes or withholding age 18 years or older .

*"HQS"* means the HUD Section 8 Housing Quality Standard.

*"HUD"* means the Department of Housing and Urban Development.

*"Loan application"* means the request to the state on behalf of the borrower to obtain funds for the purpose for funding for purposes as defined in the Congregate Housing Program Guidelines program guidelines .

*"Loan application date"* is the date on which a completed application is received by the state DHCD .

*"Locality"* means a city or county.



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[ "Lower-income" means 80 of median income for the service area as established by the U.S. Department of Housing and Urban Development also referred to as LMI. ]

"Oil Overcharge Expenditure Trust Fund" are United States Department of Energy moneys awarded to the Commonwealth for specific purposes to resolve alleged pricing violations in effect between 1983 and 1981 by crude oil providers.

"Program" means the Congregate Housing Program.

[ "Site control" means the possession of or authorization to use real property by means of ownership, lease or option. ]

"State" means the Department of Housing and Community Development or such other entity as DHCD shall designate.

"VHDA" means the Virginia Housing Development Authority.

[ "VHPF" means the Virginia Housing Partnership Fund. ]

## PART III. ELIGIBILITY.

### § 3.1. Eligible applicants.

A. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia;

B. ~~Public~~ Governmental entities including Public Housing Authorities; or

C. For-profit ~~corporations~~ individuals and organizations .

### § 3.2. Eligible properties.

Eligible properties shall :

1. Contain fewer than 30 units;
2. provide a central food preparation and eating area even if individual units have kitchen facilities.

### § 3.3. Eligible use of loan funds.

Loan funds may be used for the residential living portion of any project and for other facilities which are an integral part of the entire congregate housing facility. Examples of such facilities include ~~elms~~ ; cafeterias and recreational areas that are part of a total residential project. The type of construction activities which are eligible include the following:

A. Purchase/rehabilitation.

Loan funds may be used to rehabilitate or acquire and rehabilitate existing facilities properties to appropriately serve [ the needs of elderly or disabled persons special needs population ].

### B. Rehabilitation.

1. Funds shall be used to bring the property up to the applicable Uniform Statewide Building Code.

2. Energy improvements which exceed the Uniform Statewide Building Code are encouraged. Such improvements should comply and be approved according to with special energy guidelines established by the state Commonwealth and may be eligible to be funded with grant funds from the Oil Overcharge Expenditure Trust Fund . Energy grant funds will only be made available for projects involving rehabilitation.

3. Remaining funds may be used for general improvements.

4. Luxury improvements are prohibited.

5. Upon completion of the rehabilitation the property must comply with zoning and other local requirements for planned use.

### C. New construction.

Loan funds may also be used for the construction of new congregate housing. ~~Stripper Oil Well funds with Oil Overcharge Expenditure funds~~ may not be used for energy improvements for any project involving new construction.

## PART IV. TARGET POPULATION GROUP AND OCCUPANCY REQUIREMENTS.

### § 4.1. Target populations.

A. Client groups Target group .

The primary target groups to benefit from loans made under this program will be [ special needs populations such as the ] elderly, mentally disabled and , physically disabled persons , and substance abusers . During the first program year, [ The state Commonwealth will endeavor to fund at least one residential project to serve each of these three four groups ].

B. Income Occupancy requirements.

Loans made under this program will be used only to provide residential facilities for low- and moderate-income persons that cannot otherwise afford decent housing in the private market . A minimum percentage of the units must be occupied by these persons for the entire term of the loan. The sponsor must select one of three options at the time of application and comply with it for the term of the

loan:

Option 1: A minimum of 40% of the units *must* be reserved and occupied by persons with incomes at 40% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

Option 2: A minimum of 50% of the units *shall* be reserved and occupied by persons with incomes at 50% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

Option 3: A minimum of 60% of the units are reserved and occupied by persons with income of 60% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

## PART V. PROJECT AUTHORIZATION DISTRIBUTION OF FUNDS .

### § 5.1. Maximum project authorization *Loan reservations .*

#### A. Maximum dollar amount *per project .*

The maximum program loan for developing an individual congregate housing facility is \$250,000. *The maximum grant amount shall not exceed 15% of the total rehabilitation costs [ of low and moderate income units ] .*

#### B. Time period of Loan ~~commitment~~ *reservation period .*

Congregate Housing Program loan reservations will be made to project sponsors for an initial six-month period. This will allow time to complete project development activities including arranging for other financing and assistance from other local, state or federal housing programs. Extensions may be granted by the [ state *Commonwealth* ], if applicable, but under no circumstances to ~~extend~~ *exceed* six additional months.

## PART VI. LOAN AND GRANT TERMS AND CONDITIONS.

### § 6.1. Loan *and grant* terms and conditions.

#### A. Interest rate.

The interest rate will be fixed at 2.0%, except that the eligible energy related portion of the loan, if funded from Stripper Well proceeds, shall have an interest rate of 0% *Oil Overcharge Expenditure Funds, shall be in the form of a grant .*

#### B. Term.

The loan term will be 20 years ; except that the eligible energy related portion of the loan shall have a term of eight years. Principal payments are deferred and the loan shall be forgiven at the rate of 25% per year beginning in the fifth year . *Grants are subject to repayment if the borrower violates program requirements. Repayment must be made in full if such violation occurs within a period determined by DHCD from the date the grant is closed. This repayment obligation is reduced at the rate of 25% per year based on a schedule established by DHCD . Notwithstanding the above, as of July 1, 1998, any remaining grant repayment obligations shall be forgiven.*

#### C. Instrument for securing loan.

1. General provisions *requirements .* The borrower(s) shall be the sole owner(s) of the property *which secures the debt .* A title opinion and , title insurance , and hazard insurance will be required for all loans.

2. Lien requirements. A lien will be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the energy related ~~rehabilitation~~ *general fund* portion of the loan, and the amount securing the ~~nonenergy~~ *related Oil Overcharge Expenditure Trust Fund* portion of the loan *grant .* The ~~nonenergy~~ *related general fund* portion shall remain in effect until the loan is fully amortized. The energy related portion of the lien shall be deferred the first four years of the program as long as program requirements are met *and forgiven as described in § 6.1 B .* Starting the fifth year, the energy related portion of the lien will be forgiven at a rate of 25% per year, provided program requirements continue to be met. The state will accept a subordinate position only to an existing mortgage or where the primary rehabilitation financing is being provided from another source.

#### D. Loan underwriting criteria.

~~Other Specific~~ underwriting criteria which will apply are applicable to these loans will be established by VHDA DHCD . These will include an evaluation of the ~~location~~ *amenities site, project design and amenities, the market for the project ,* the experience and ~~credit rating~~ *financial capability* of the sponsors and contractors, architectural and engineering studies, ~~site topography~~ *the value of the project ,* financial risks and other considerations. Each project will be evaluated to assess its potential cash flow to pay debt service and operating expenses.

Services which will be available to residents must be clearly defined and service providers must be identified. The state *Commonwealth* reserves the right to have outside review of service proposals from appropriate community service agencies.

#### E. Loan servicing.

VHDA will close the loans, conduct *construction*

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inspections, disburse *loan* proceeds, service the loans and provide ongoing management oversight.

## F. Loan to value ratio.

Congregate housing for elderly and disabled persons may require additional facilities and amenities not ordinarily found in conventional housing. The cost or value of the installation of such facilities may not, therefore, be reflected in the market value of the housing. In order to encourage the development of properly designed and equipped congregate housing, a loan-to-value ratio of up to 100% will be allowed for projects developed by nonprofit sponsors and up to 90% for other sponsors. Exceptions may be considered by the state under extraordinary circumstances and on a case by case basis. *The loan-to-value ratio shall be based on the appraised value of the structure after repairs and improvements. A loan-to-value ratio of up to 100% will be considered for loans to nonprofit housing sponsors and up to 90% to other sponsors. The Commonwealth may permit a ratio to exceed 100% under special circumstances to be considered on a case-by-case basis. In no case shall the total fund assistance exceed 100% of cost as determined by DHCD.*

## G. Sale or transfer restrictions.

Loans made under this program shall be assumable as long as the property use, income and occupancy restrictions, housing conditions and other state requirements are maintained by the new owner .

## H. Prepayment of loans.

Prepayment of loans under this program will be is prohibited unless approved by the state Commonwealth .

## PART VII. EVALUATION CRITERIA.

### § 7.1. Evaluation criteria.

Due to the limited funds available and the expected high demand for these loans, a competitive system will be used in deciding which projects will receive loans. Criteria to rank the applications are described below:

#### A. Local need, demand and impact.

The need and demand for affordable housing facilities for low income elderly and disabled persons in each local area will be used as a basis for determining the award of housing loan funds. A local housing market analysis must be provided and will be used to determine demand for such facilities and to indicate the impact on the community for the proposed project.

#### B. Income level served.

Projects which serve a higher proportion of lower income households than the minimum required in § 4.1

shall be given higher priority.

#### C. Service Program design.

Consideration will be given to projects which provide additional services that will meet the special needs of residents. A proposed home for adults will have to meet governmental licensing requirements, while a facility for mentally disabled will need to be approved by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

#### D. Leveraging.

The extent to which other federal, local or private below market financing or other housing assistance is included in the project will be a significant factor for evaluating proposals.

#### E. Target group served.

The state shall endeavor to fund at least one residential facility for each of the three target populations during the first program year.

#### E. Administrative capacity.

*Project sponsors will be evaluated on development/construction experience, property management experience, congregate care experience, organizational structure, and completeness of application.*

#### F. Sprinkler system.

*While DHCD will not require that projects be sprinklered, projects are encouraged to have a sprinkler system or to include installation of sprinklers as part of the project package.*

#### G. Project readiness and project feasibility.

*The project sponsor must have obtained site control, secured other financial commitments, developed final plans and specifications, and received zoning verification. Projects must be financially feasible and construction must begin within a reasonable period.*

\* \* \* \* \*

Title of Regulation: VR 394-01-105. ~~SHARE-Expansion Loan and SHARE-Expansion Grant Programs~~  
*Share-Expansion Grant/Loan Program .*

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

Effective Date: August 29, 1990.

#### Summary:

*The amendments: (i) clarify that this is one program*

with three funding sources; (ii) allow the loan and energy funds to be used for nonexpansion projects; (iii) allow for-profit entities to apply for loan and energy funds for single-room-occupancy (SRO) projects; (iv) add site control and project design to the ranking criteria; (v) revise the maximum request for SRO projects from \$500,000 for all projects to \$15,000 per unit up to \$500,000; and (vi) make several minor clarifications and revisions to the regulations.

VR 394-01-105. SHARE-Expansion Grant/Loan Program.

## PART I. GENERAL.

### § 1.1. Definitions.

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

*"Acquisition"* means the purchase of real property (building, structures, land).

*"Application"* is the request, on behalf of the applicant to the State, for a loan or grant fund reservation under the SHARE-Expansion Loan and Grant Programs.

*"Appraised value"* is the value of the building and land as determined by a certified appraiser for marketing purposes.

*"Assessed value"* is the value of the building and land as determined by the real estate assessment office of the local government for tax purposes. The applicable assessed value shall be that which is in effect as of the application date.

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

*"Emergency shelter"* means a building or facility operated on a nonprofit and nondiscriminatory basis, which provides free temporary accommodations and related human services for homeless persons, wherein the typical stay is less than 30 days.

*"Energy grant"* means a grant which may be awarded to finance certain energy-related improvements within the SHARE-Expansion Grant/ Loan Program.

*"Energy-related improvements"* means physical improvements to structures which are being rehabilitated which contribute to fuel cost savings and overall less 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.

*"Expansion"* means increasing the number of beds

provided by the sponsor through rehabilitation, addition of new space to an existing building, through the acquisition of an existing building, or through construction. The addition or rehabilitation of nonresidential space which is essential to the operation of the facility is also permitted, but only in conjunction with an increase in beds.

*"Facility"* means either an emergency shelter, transitional shelter, or single room occupancy housing.

*"Fund"* means the Virginia Housing Partnership Fund.

*"Grant"* means a grant made under SHARE-Expansion Grant /Loan Program.

*"Grant agreement"* means the agreement between DHCD and the project sponsor pertaining to the terms and conditions provided within the SHARE-Expansion Grant /Loan Program.

*"Grantee"* means a grant recipient under the SHARE-Expansion Grant/Loan Program.

*"Homeless"* means persons or families who are without housing or who are in imminent danger of being without housing.

*"Loan"* means a loan made under SHARE-Expansion Grant/ Loan Program.

*"Loan agreement"* means the agreement between DHCD and the project sponsor pertaining to the terms and conditions provided in the SHARE-Expansion Grant/ Loan Program.

*"Locality"* means a city or county.

*"Project sponsor"* is a nonprofit, incorporated organization or, a governmental entity, or a for-profit (limited to SRO projects and only for loan and energy funds). Examples of project sponsors include, but are not limited to, cities, counties, towns, redevelopment and housing authorities, area agencies on aging, independent nonprofit housing organizations and others.

*"Program"* means the SHARE-Expansion Grant/ Loan and SHARE-Expansion Grant Programs Program.

*"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.

*"State"* means the Department of Housing and Community Development or such other entity as DHCD shall designate to act on its behalf.

*"Single room occupancy housing"* means permanent residential facilities for the homeless, consisting of a single room housing unit with either private or shared bath

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facilities with the optional provision of kitchen facilities, and in which rents may be charged to occupants.

“*Transitional housing*” means residential facilities for the homeless designed to meet their longer-term housing and human services needs, wherein the typical stay is over 30 days and less than two years, and in which rents may be charged to occupants.

“*VHDA*” means Virginia Housing Development Authority.

## PART II ELIGIBILITY.

### § 2.1. Eligible applicants.

To be eligible applicants must be:

1. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia; or
2. Governmental entities, including redevelopment and housing authorities ; ; or
3. For-profit entities (may only apply for Expansion Loan and Energy Grant funds for SRO projects).

### § 2.2. Eligibility requirements.

To be eligible applicants:

1. Must be providing for expansion of number of beds, not just rehabilitation;
2. Must match SHARE funds for non-Virginia Housing Partnership Funds on a one-for-one basis. The department DHCD reserves the right to reduce the match for SRO's in order to meet the goals and objectives of the program; and
3. Must operate on year-round basis.

### § 2.3. Eligible activities.

To be eligible activities must be related to:

1. Acquisition, new construction, rehabilitation, and furnishings which will result in an increase in the number of beds provided .
2. Energy-related improvements are encouraged.

NOTE: Luxury improvements are prohibited.

### § 2.4. Operational requirements.

To be eligible applicants:

1. Must operate facility for the homeless.
2. Must practice nondiscrimination in all programs and

services including, but not limited to the delivery of services, opportunities or benefits based on race, national origin, color, or religion;

3. Must not require participation in a religious, sectarian, or philosophical service, rite, meeting or ritual as a condition for receiving shelter or related services;

4. Must not require a fee or donation as a condition for receiving emergency shelter or related services (transitional and SRO housing are excluded); and

5. Must 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 the department shall determine.

## PART III DISTRIBUTION OF FUNDS.

### § 3.1. Distribution of funds.

#### A. Funding priority.

There are no set asides although the department DHCD shall endeavor to fund at least one emergency shelter, one transitional facility, and one single room occupancy facility.

#### B. Competitive ranking.

All applications will be ranked competitively by the department within the areas of cost effectiveness, administrative capacity, leveraging, project readiness design , unmet needs, site control and the provision of support services. There are no geographic set asides of funds; however, the department DHCD shall seek to achieve an equitable geographic distribution of funds.

Further explanation of selection criteria is as follows:

**Cost effectiveness.** The number of additional persons sheltered or housed versus dollars expended.

**Administrative capacity.** The ability of the applicant to carry out the proposed activities.

**Leveraging.** Preference is given to projects with local match over 50%.

**Project readiness.** Firmness of the match funds, the availability or readiness of the site, application for use permits, and other appropriate factors which indicate that the project will move forward in a timely fashion if funded.

**Unmet need.** Needs assessment of area based on what is or is not currently available in the geographic area the project will serve.

Provision of support services. For emergency shelters and transitional housing, the degree to which local human services are or will be provided to assist homeless persons in making a transition to permanent accommodations. For SRO projects, the amount and type, if any, of support services that will be provided.

In addition, bonus points will be given to all projects that include a SHARE-Expansion Loan request as part or all of the project.

### C. Maximum amount for each application.

The maximum amount available for each loan or grant application, or both, is as follows:

1. Loan or grant, or both, to shelter or transitional facility - \$125,000.
2. Loan or grant, or both, to SRO - \$15,000 per unit up to \$500,000.

## PART IV. LOAN AND GRANT TERMS AND CONDITIONS.

### § 4.1. Loan and grant terms and conditions.

A. Loans will have a 0% interest rate for a term of up to 15 years. Energy-related improvements may be eligible for an energy grant. Loan recipients will sign a loan agreement, note, and deed of trust with the state.

B. Grants must be repaid to the state, if during the first five years after the closing of the grant(s), the facility is used for some purpose other than that stated in the grant or loan agreement, unless approved by the state.

C. All loans and grants exceeding \$10,000 total will be secured by a lien on the property. This lien may be subordinate to any primary financing on the project. Title insurance will be required unless waived by the department DHCD for loans or grants, or both, over \$10,000.

D. Loan and grant applications will be analyzed by DHCD staff on two financial criteria:

1. The project sponsor's track record and potential for raising the funds needed for loan amortization will be analyzed.
2. The loan or grant amount plus any existing debt may not exceed 100% of the after-rehab property value. After-rehab property value may be estimated by the local tax assessor based on the current tax assessed value and the work write-up, cost estimates, and design plans for the rehabilitation, or it may be estimated by an appraiser using the current market appraisal and the related plans for rehabilitation.

E. The Virginia Housing Development Authority will

disburse funds and collect payments for loans.

F. The project sponsor must own the property or have a lease for use of the building. If the project sponsor is leasing the property, that lease must be for a period of not less than 10 years, unless otherwise approved by the state.

G. A 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 by DHCD.

H. SHARE-Expansion Loans may not be prepaid unless authorized by the state.

\* \* \* \* \*

**Title of Regulation:** VR 394-01-106. Homeownership Assistance Program (Formerly: Single and Multifamily Production Loan Program).

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

**Effective Date:** August 29, 1990.

### Summary:

*The Homeownership Assistance Program, under the Virginia Housing Partnership Fund, provides low-interest loans for the production and mortgage financing of single family homes. The program is designed to increase the supply of affordable housing and to provide affordable financing for the purchase of this housing by low- and moderate-income Virginians. These regulations are proposed guidelines for providing the basic framework for the administration of the Home Ownership Assistance Program throughout the Commonwealth. These regulations, entitled Homeownership Assistance Program, amend and rename current regulations pertaining to the Single and Multifamily Production Loan Program.*

VR 394-01-106. Homeownership Assistance Program.

## PART I. PROGRAM SUMMARY.

### § 1.1. Program summary.

*Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Revolving Loan Fund. The purpose of the Fund is to increase the availability of decent and affordable housing for low- and moderate-income Virginia residents. The Homeownership Assistance Program provides low-interest loans from the Virginia Housing Partnership Fund. The purpose of this program is to*

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increase homeownership opportunities for Virginia's low and moderate-income residents through the provision of affordable financing.

## 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.

"Applicant" means a for-profit, nonprofit or governmental entity making an application or proposal under these guidelines.

"Application" means a written request to the Department of Housing and Community Development by a prospective applicant to the program on such form as the department shall provide.

"Area median income" means the median income established by the U. S. Department of Housing and Urban Development from time to time for various areas of the Commonwealth.

"Borrower" means an individual(s) or organization who has applied for and received a commitment of funds.

"Fund" means the Virginia Housing Partnership Revolving Loan Fund.

"Program" means the Homeownership Assistance Program.

"Project" means houses within a defined geographic area which are receiving funds under the program.

## PART III. PURPOSE AND APPLICABILITY.

### § 3.1. Purpose and applicability.

The purpose of the Homeownership Assistance Program (HAP) is to increase the supply of housing and homeownership opportunities for low- and moderate-income Virginians. Program funds will be available to projects involving financing of new homes and downpayment assistance on existing homes.

There will be emphasis on creative uses which result in the most effective use of resources in providing decent housing at an affordable cost to lower-income Virginians. The program shall be used to encourage partnerships with both public and private sectors including nonprofit, local government and for-profit organizations. The goal is to maximize the variety of resources used to solve housing problems of lower-income Virginians.

## PART IV.

## ELIGIBLE APPLICANTS, APPLICATIONS AND ACTIVITIES.

### § 4.1. Eligible applicants.

A. Nonprofit organizations incorporated under the laws of the Commonwealth Virginia;

B. For-profit entities;

C. Governmental entities including local redevelopment and housing authorities.

### § 4.2. Eligible applications.

Eligible applicants may submit more than one project in the same application provided the total request for all projects does not exceed \$500,000.

### § 4.3. Eligible activities.

Eligible uses include:

1. Primary financing (e.g., 1st deed of trust permanent mortgages; lease/purchase);
2. Secondary financing (e.g., downpayment assistance, 2nd deed of trust gap mortgages);
3. Development and construction financing.

All projects funded must serve households with incomes at or below 80% of the area median income.

## PART V. DISTRIBUTION AND USES OF THE FUND.

### § 5.1. Funding allocations.

The Commonwealth may reserve a portion of funds for one or more of the listed eligible activities pursuant to requirements of the funding source. Funds are awarded annually through a competitive process. Applications may be funded in the full amount of the request or a portion thereof.

### § 5.2. Maximum fund reservations.

The maximum request per sponsor is \$500,000. The maximum request for downpayment assistance activities shall be limited to \$75,000. Any funds remaining after initial reservations may be awarded to approved sponsors based on performance and availability of funds.

### § 5.3. Geographic distribution.

The Commonwealth will seek an equitable geographic distribution of funds.

## PART VI. LOANS TERMS.

## § 6.1. Loan-to-value.

Loans for primary and secondary financing shall not exceed 100% of the appraised value of the property. Construction and development loans shall not exceed 80% of the appraised value of the property.

## § 6.2. Term of loans.

Maximum loan terms may be determined by the Commonwealth based on the type of assistance. However, the term shall be no more than 15 years.

## § 6.3. Interest rate.

The interest rate shall be determined based on the type of assistance but in no case shall be less than 3.0%.

## § 6.4. Deferrals.

Deferral of principal payments or of both principal and interest payments may be allowed for up to three years. However, such deferrals do not extend the maximum 15-year term.

### PART VII. PROJECT DESIGN.

## § 7.1. Project design.

The applicant must detail the need for the proposed project, the availability of sites/units, financial data for the project and evidence of commitment of other necessary financing.

## § 7.2. Eligible borrowers.

Households purchase home shall include individuals and families with total household income that does not exceed 80% of the area median income. Individuals or organizations receiving funds for development or construction must meet the requirements of Part IV.

## § 7.3. Eligible projects.

### A. New homes.

The applicant must have a specific site identified; i.e. subdivision or neighborhood. The sales price of the properties must be affordable to the population identified to be served. Cost analysis shall be computed to indicate feasibility of project and the need for HAP funds. Projects may include development, construction, primary and/or secondary financing.

### B. Existing homes.

HAP funds may be used for only downpayment assistance for sale of existing houses. The applicant must target a service area (not larger than a city or county) identifying a pool of available houses, the need for such a

program and evidence of availability of permanent financing.

### PART VIII. EVALUATION CRITERIA.

## § 8.1. Criteria.

Projects will be evaluated based on:

1. Income level of households served. The Commonwealth will give priority to those projects serving the lowest income households.

2. Leveraging HAP funds with other resources. Priority will be given to projects which have the higher amounts of other public/private funds.

### 3. Project design.

a. Affordability. Projects will be evaluated based on cost of housing compared with income of households served.

b. Readiness. Priority will be given to projects that are ready to proceed with construction activities or which have houses available to sell.

c. Types of assistance. Priority will be given to projects which make the best use of the funds based on evidenced need.

4. Sponsor experience. Priority will be given to projects which have experience in construction or financing on homes, or both.

### MARINE RESOURCES COMMISSION

**Title of Regulation:** VR 450-01-0060. Pertaining to the Use of Crab Traps and Pounds.

**Statutory Authority:** §§ 28.1-23 and 28.1-173.3 of the Code of Virginia.

**Effective Date:** July 1, 1990.

#### Preamble:

Section 28.1-173.3 specifies that the Virginia Marine Resources Commission shall promulgate regulations governing the use, placement, and maintenance of crab traps and crab pounds. This regulation complies with that directive. Section 28.1-173, containing necessary regulatory provisions pertaining to crab traps and crab pounds, was repealed by the 1989 General Assembly of Virginia.

VR 450-01-0060. Pertaining to the Use of Crab Traps and Pounds.



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## § 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-173.3 of the Code of Virginia.

B. Other restrictions on crabbing can be found in Title 28.1, Chapter 6, of the Code of Virginia or in VR 450-01-0005, VR 450-01-0007, VR 450-01-0009, VR 450-01-0012, VR 450-01-0033, VR 450-01-0036, VR 450-01-0041, VR 450-01-0049 and VR 450-01-8205.

C. The effective date of this regulation is July 1, 1990.

## § 2. Placement of crab traps and crab pounds.

It shall be unlawful to place, set, or use crab traps or crab pounds within 100 yards of any other crab trap or crab pound without respect to whether or not the other crab trap or pound is owned by the same or some other person, firm, corporation or association.

## § 3. Removal of traps, leads, poles, gear.

A. Every owner or user of a crab trap or crab pound shall completely remove traps, leads, wire, poles, and all other related gear from the water not later than December 31 of each year, except that they may leave two poles at each crab trap or crab pound site to facilitate relocation of the traps, lead and poles in the upcoming crab season, except as provided in subsection B below. If the trap site is not licensed and used in any subsequent year the trap owner shall be required to remove all poles from the site.

B. In the Tangier Island vicinity (from the southern tip of Tangier Island north to the Maryland line), it shall be lawful for every owner or user of a crab trap or crab pound to leave poles at crab trap or crab pound stands; provided such poles will be used at said location the following season and not be abandoned.

## § 4. Minimum mesh size.

It shall be unlawful to use a crab trap or crab pound with a head or retention box with a mesh size of less than one inch.

## § 5. Penalty.

A. As set forth in § 28.1-173.3 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

B. No licenses for crab traps or crab pounds for a subsequent year shall be issued to any person, corporation or association failing to accomplish such removal as stipulated in § 3 above until the same has been accomplished.

/s/ William A. Pruitt

Commissioner

\* \* \* \* \*

**NOTE:** Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purposes of promulgating regulations. However, they are required to publish the full text of final regulations.

**Title of Regulation:** VR 450-01-0059. Pertaining to the Taking of Bluefish.

**Statutory Authority:** § 28.1-23 of the Code of Virginia.

**Effective Date:** July 1, 1990.

### Preamble:

This regulation establishes a daily bag limit of 10 bluefish for hook and line anglers fishing in Virginia waters. The purpose of the limit is to protect spawning stocks and prevent recruitment overfishing. This regulation responds to the recommendations of the Interstate Fishery Management Plan for the Bluefish Fishery, as adopted by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (MAFMC).

VR 450-01-0059. Pertaining to the Taking of Bluefish.

## § 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

B. No prior regulations pertain to bluefish.

C. The effective date of this regulation is July 1, 1990.

## § 2. Purpose.

Stock assessment information indicates that bluefish stocks along the Atlantic Coast are fully exploited and show signs of declining abundance. The purpose of this regulation is to control the hook and line harvest of bluefish (which constitutes approximately 90% of the fishing coastwide) in cooperation with MAFMC and other coastal states to prevent overfishing.

## § 3. Daily bag limit.

A. It shall be unlawful for any person fishing with hook and line to catch and retain more than 10 bluefish per day. Any bluefish taken after the daily limit has been reached shall be returned to the water immediately.

B. When fishing from any vessel, the daily limit shall be equal to the number of persons on board the vessel multiplied by 10. Retention of the legal number of bluefish is the responsibility of the vessel captain or operator.

§ 4. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of the regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt  
Commissioner

\* \* \* \* \*

Title of Regulation: VR 450-01-0062. Pertaining to Eastern Shore Bayside Management Areas.

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: July 1, 1990.

Preamble:

*This regulation is designed to minimize gear conflicts existing between gill net fishermen and hook and line fisherman. This regulation establishes a prohibition on the use of gill nets in four Eastern Shore Bayside Creek Management Areas, between June 1 and November 1.*

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.1-23 of the Code of Virginia.

B. No prior regulations pertain to gill net management area.

C. The effective date of this regulation is July 1, 1990.

§ 2. Purpose.

*The purpose of this regulation is to minimize gear conflicts existing between gill net fishermen and hook and line fishermen in the mouths of four Eastern Shore Bayside Creeks.*

§ 3. Prohibition.

*During the period June 1 to October 31, inclusive, it shall be unlawful for any person, firm or corporation to place, set or fish any gill net, including licensed fixed fishing devices, in the management areas defined below.*

A. The Gulf.

*Beginning at mean low water at the northernmost point of Smith Beach Road (State Route 666); thence in a southwesterly direction along the mean low water line, for approximately one mile, to a point opposite where State Route 666 turns inland; thence due west 500 yards to a point offshore; thence in a northeasterly direction to a point being 500 yards west of mean low water at the end of State Route 630; thence in an easterly direction 500*

*yards to the mean low water line at the end of State Route 630; thence in a southerly direction across the mouth of the Gulf to the mean low water line at the northernmost point of Smith Beach Road (State Route 666), being the point of beginning.*

B. Hungars Creek.

*Beginning at mean low water at the northernmost point of Hungars Beach; thence in a southerly direction along the mean low water line to the end of State Route 630; thence in a westerly direction 500 yards to a point offshore; thence in a northeasterly direction to a point 500 yards west of mean low water at the southernmost point of Great Neck; thence in an easterly direction to mean low water at the southernmost point of Great Neck; thence in a southwesterly direction to mean low water at the northernmost point of Hungars Beach, being the point of beginning.*

C. Nassawadox Creek.

*Beginning at mean low water at Shooting Point, in a westerly direction for 250 yards; thence in a northwesterly direction to a point 250 yards west of mean low water at Nassawadox Point; thence in an easterly direction to mean low water at Nassawadox Point; thence in a southeasterly direction to the northernmost point of Horse Island; thence in a southwesterly direction to mean low water at Shooting Point, being the point of beginning.*

D. Occohannock Creek.

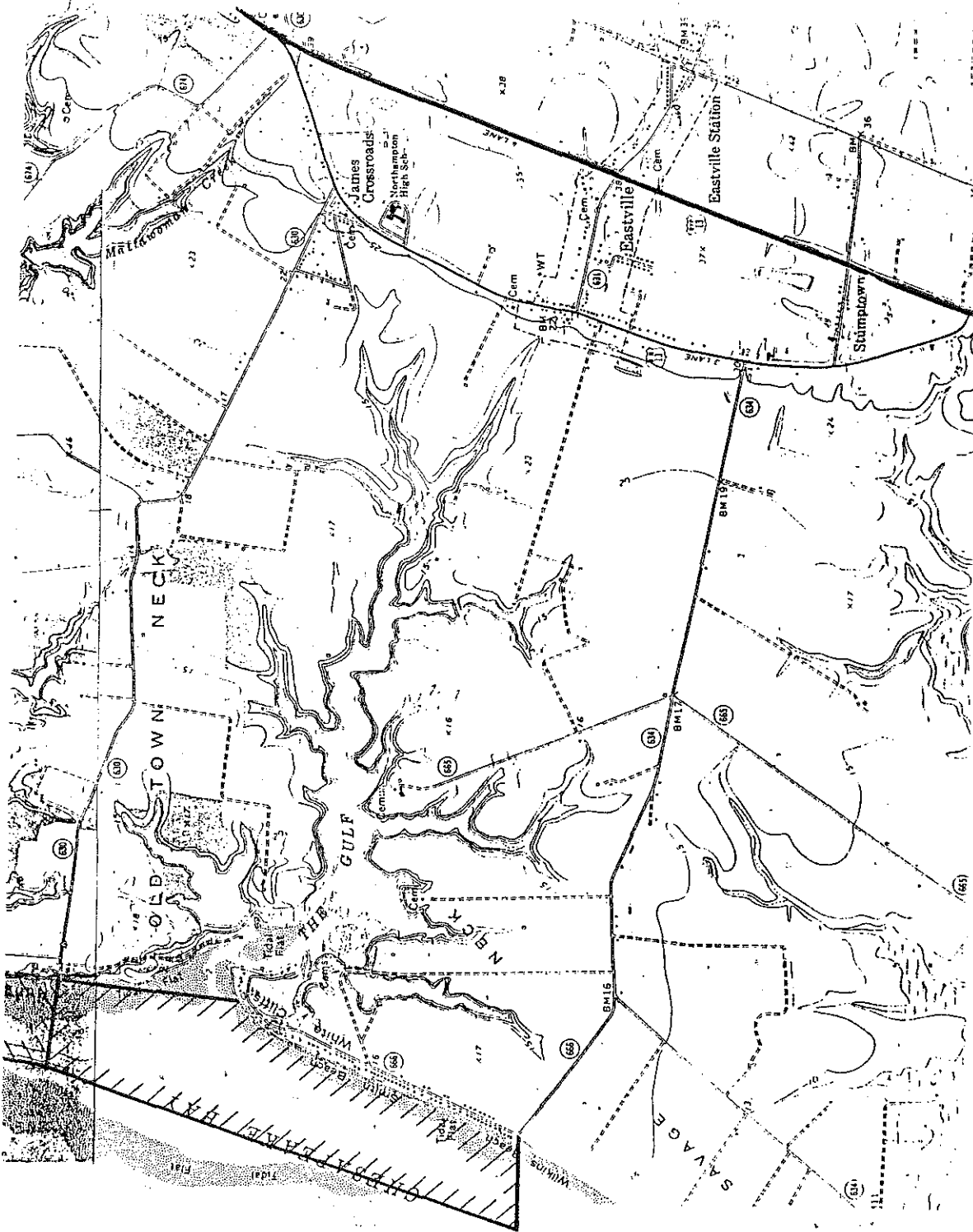
*Beginning at mean low water at Sparrow Point, in a westerly direction for 500 yards; thence in a northeasterly direction to a point 500 yards west of mean low water at Powell's Bluff; thence in an easterly direction to mean low water at Powell's Bluff; thence in a southeasterly direction to a point on the eastern headland of Killmon Cove (Old Neck); thence in a southwesterly direction to Sparrow Point, being the point of beginning.*

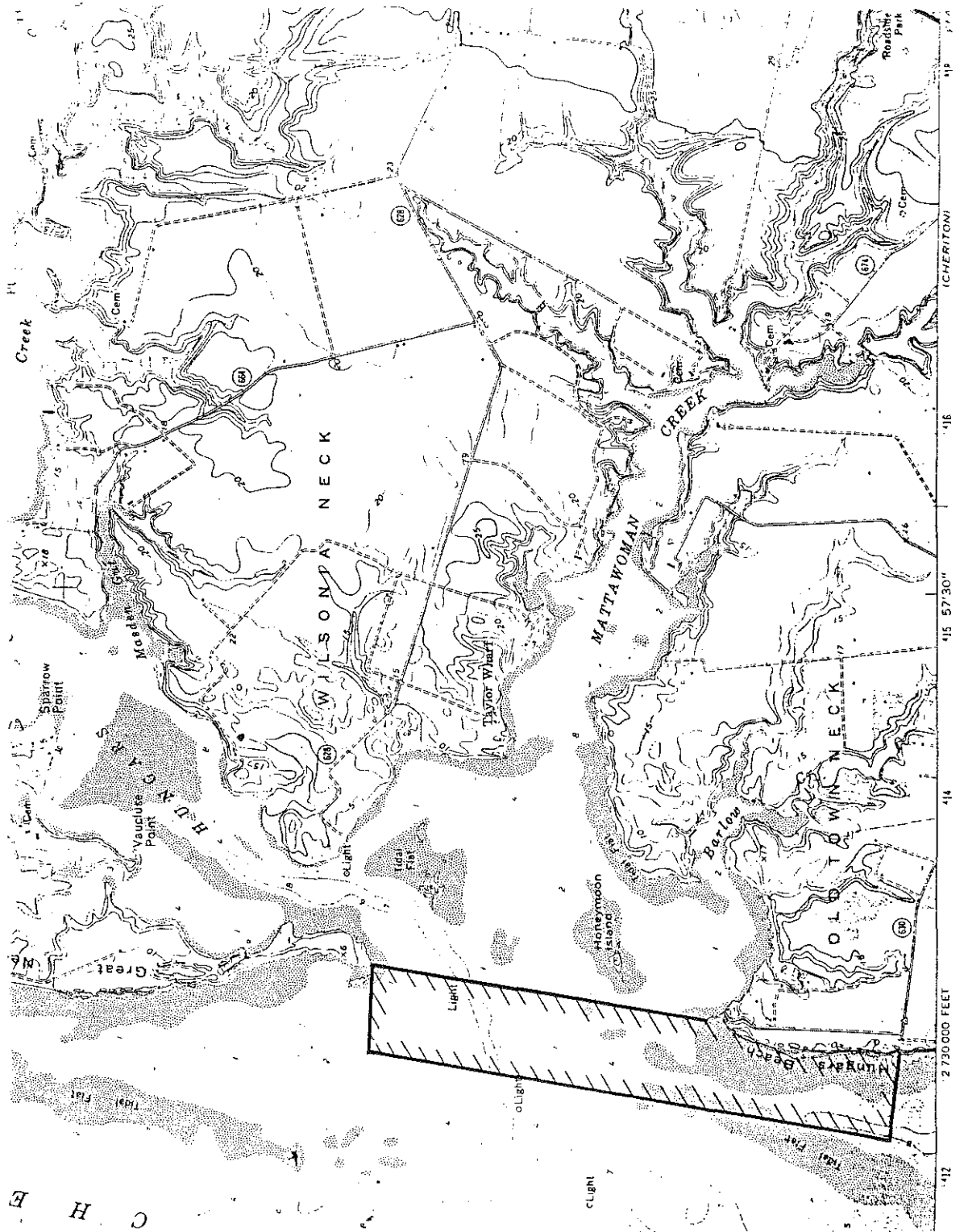
§ 4. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

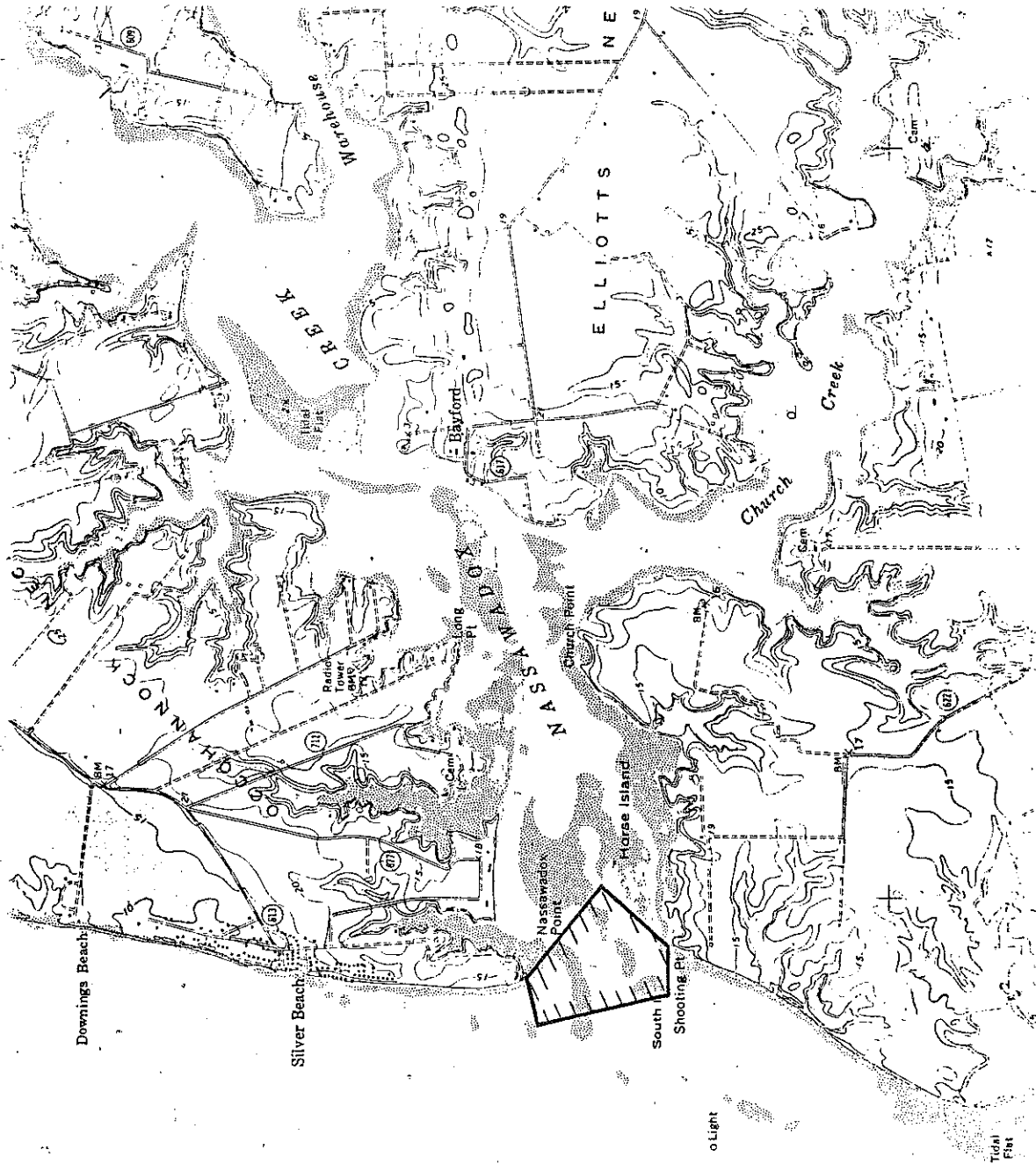
/s/ William A. Pruitt  
Commissioner

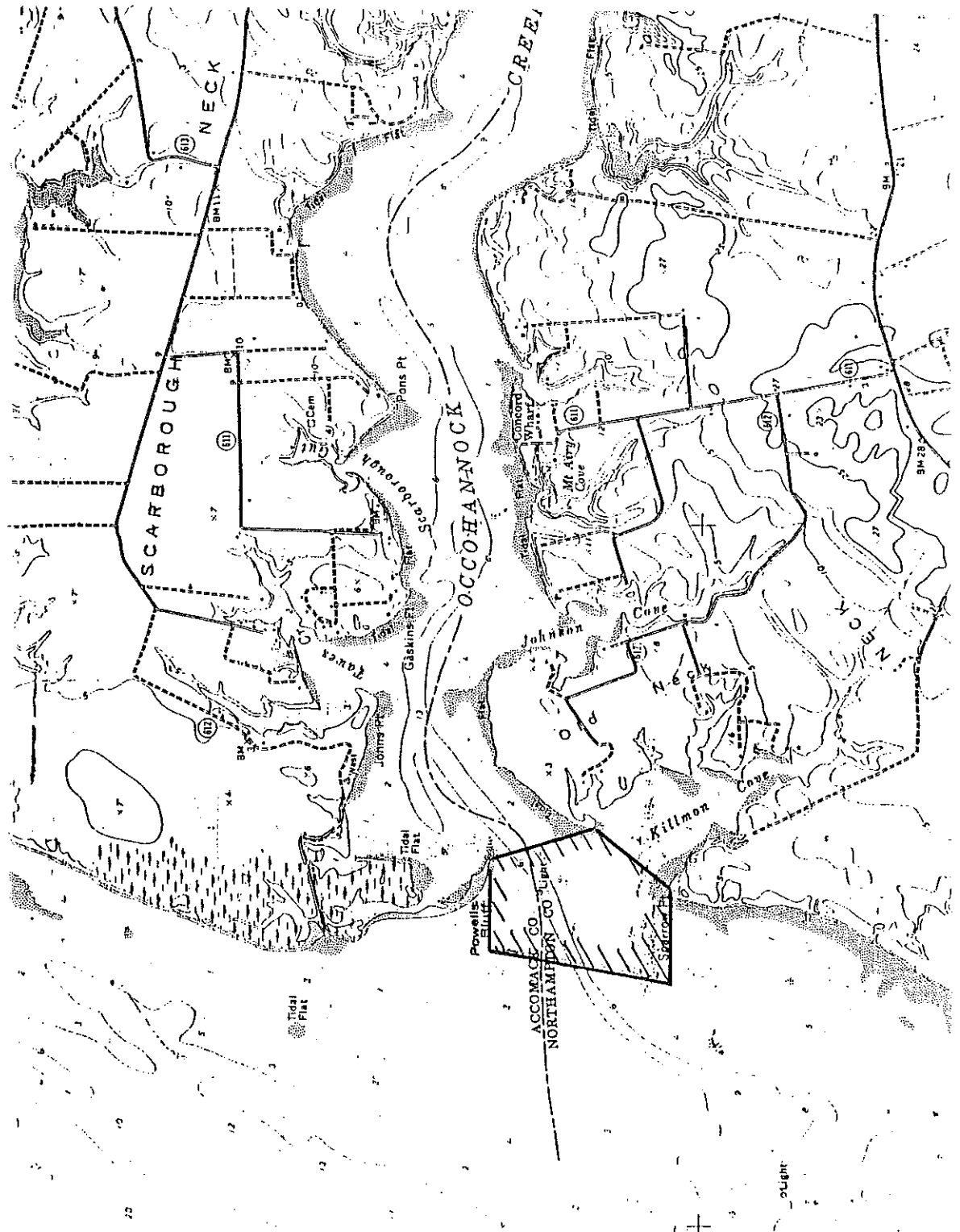
# Final Regulations





# Final Regulations





# Final Regulations

## DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

**REGISTRAR'S NOTICE:** This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14.4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Social Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** VR 615-01-29. Aid to Dependent Children (ADC) Program - Disregarded Income and Resources.

**Statutory Authority:** § 63.1-25 of the Code of Virginia.

**Effective Date:** September 1, 1990.

### Summary:

*This regulation will ensure that the Aid to Dependent Children (ADC) Program is in compliance with Public Law 101-201 and Public Law 101-239. Pursuant to the provisions of this regulation, payments to veterans from the Agent Orange Settlement Fund, or any other fund established in accordance with the Agent Orange product liability litigation, will be disregarded from consideration as income and resources in the determination of eligibility for assistance and the amount of assistance to which a family is entitled in the ADC program.*

*Other pension and disability benefits received by veterans from the Veterans Administration, which are not issued from the Agent Orange Settlement Fund, will continue to be considered countable income for the purpose of determining ADC eligibility and the amount of assistance to which the family is entitled.*

VR 615-01-29. Aid to Dependent Children (ADC) Program - Disregard of Income and Resources.

### PART I. DEFINITIONS.

#### § 1.1. Definitions.

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

*"Agent Orange payments" means any payment from the Agent Orange Settlement Fund or any other fund established pursuant to the Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).*

*"Aid to Dependent Children (ADC) Program" means the*

program administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

*"Allowable reserve" means the type and amount of real and personal property, including cash and liquid assets, which may be retained by the assistance unit without affecting eligibility for financial assistance.*

*"Assistance unit" means those persons who have been determined categorically and financially eligible to receive an assistance payment.*

*"Emergency" means any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.*

*"Major disaster" means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship or suffering caused thereby.*

### PART II. DISREGARDED INCOME AND RESOURCES.

#### § 2.1. Disregarded income.

A. The following income of members of the assistance unit, a parent not included in the assistance unit or anyone whose income is used in determining eligibility or the amount of assistance in the Aid to Dependent Children (ADC) program, *must shall* be disregarded.

B. Income which is disregarded under the following provisions *must shall* not be counted in determining the need for assistance of any individual under any other federal assistance program:

1. Home produce of the assistance unit utilized for their own consumption;
2. The value of food coupons under the Food Stamps program;
3. The value of foods donated under the U.S.D.A. Commodity Distribution Program, including those furnished through school meal programs;
4. Payments received under Title II of the Uniform

Relocation Assistance and Real Property Acquisition Policies Act of 1970;

5. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

6. Grants or loans to any undergraduate students for educational purposes made or insured under any program administered by the U.S. Commissioner of Education.

Programs that are administered by the U.S. Commissioner of Education include: Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan, Guaranteed Student Loan (including the Virginia Education Loan), PLUS Loan, Congressional Teacher Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program;

7. Funds derived from the College Work Study Program;

8. A scholarship, loan, or grant obtained and used under conditions which preclude its use for current living costs;

9. Training allowance (transportation, books, required training expenses, and motivational allowance) provided by the Department of Rehabilitative Services (DRS) for persons participating in Rehabilitative Services Programs.

This disregard is not applicable to the allowance provided by DRS to the family of the participating individual;

10. Any portion of an SSI payment or Auxiliary Grant;

11. Payments to VISTA Volunteers under Title I, when the monetary value of such payments is less the minimum wage as determined by the Director of the Action Office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-13, the Domestic Volunteer Service Act of 1973;

12. The Veterans Administration educational amount for the caretaker 18 or older is to be disregarded when it is used specifically for educational purposes.

Any additional money included in the benefit amount for dependents is to be counted as income to the assistance unit;

13. Foster care payments received by anyone in the

assistance unit;

14. Unearned income received from Title IV, Part B (Job Corps) of the Job Training Partnership Act (JTPA) by an eligible child is to be disregarded as an incentive payment. However, any payment received by any other Job Corps participant or any payment made on behalf of the participant's eligible child(ren) is to be counted as income to the assistance unit;

15. Income tax refunds including earned income tax credit advance payments and refunds;

16. Payments made under the Fuel Assistance program;

17. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs; the Women, Infants, and Children (WIC) program; and the Child Care Food program;

18. HUD Section 8 and Section 23 payments;

19. Unearned income received by an eligible child under Title II, Parts A and B, and Title IV, Part A, of the Job Training Partnership Act (JTPA) is to be disregarded;

20. Funds distributed to, or held in trust for, members of any Indian tribe under Public Laws 92-254, 93-134, 94-540, 98-64, 98-123, or 98-124. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are disregarded;

21. Tax exempt portions of payments made under the Alaska Native Claims Settlement Act (Public Law 92-203);

22. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 92-114);

23. The first \$50 of total child or spousal support payments received each month by an assistance unit, including Social Security benefits received by a child, prior to the issuance of the first ongoing check.

For ongoing cases, an assistance unit is entitled to receive one disregard of the first \$50 of combined support and Social Security benefits received per month;

24. Payments sent to the recipient by the Commonwealth which are identified as disregarded support;

25. Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988, and disaster



# Final Regulations

assistance provided by state and local governments and disaster assistance organizations (Public Law 100-707); and

26. Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Islands Restitution Act (Public Law 100-383) ; ; and

27. Agent Orange payments.

## § 2.2. Disregarded resources.

In determining eligibility for financial assistance for the Aid to Dependent Children (ADC) program, all resources ~~must~~ shall be considered in relation to the \$1,000 allowable reserve, except as specifically disregarded below. These resources ~~are to~~ shall be disregarded as long as they are kept separate from the allowable reserve. In the event any funds derived from subdivisions 3 through 14 of this section are combined with other resources, they ~~must~~ shall be considered in determining eligibility.

1. The value of the food coupons under the Food Stamp Program;

2. The value of foods donated under the U.S.D.A. Commodity Distribution Program;

3. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

4. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

5. Grants or loans to undergraduate students for educational purposes, made or insured under any program administered by the U.S. Commissioner of Education.

Programs that are administered by the U.S. Commissioner of Education include: Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan, Congressional Teacher Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program;

6. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs, the Women, Infants, and Children (WIC) program, and the Child Care Food program;

7. Payments to VISTA volunteers under Title I, when the monetary value of such payments is less than minimum wage as determined by the director of the Action Office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents,

senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-113, the Domestic Volunteer Service Act of 1973;

8. Funds distributed to, or held in trust for, members of any Indian tribe under Public Law 92-254, 93-134, 94-540, 98-64, 98-123, or 98-124. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are disregarded;

9. Tax exempt portions of payments made under the Alaska Native Claims Settlement Act (Public Law 92-903);

10. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 94-114);

11. Disregarded support payments which were sent to the recipient by the Virginia Department of Social Services or determined to be a disregard by the eligibility worker;

12. Tools and equipment belonging to a temporarily disabled member of the assistance unit during the period of disability, when such tools and equipment have been and will continue to be used for employment;

13. Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988, and disaster assistance provided by state and local governments and disaster assistance organizations (Public Law 100-707); and

14. Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Island Restitution Act (Public Law 100-383) ; ; and

15. Agent Orange payments.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION  
General Assembly Building

JOHN W. SMITH  
REGISTRAR OF REGULATIONS

POST OFFICE BOX # 44  
RICHMOND VIRGINIA 23204  
JWS:11/2/89

July 12, 1990

Larry D. Jackson, Commissioner  
Department of Social Services  
8007 Discovery Drive  
Richmond, Virginia 23219

Re: VR 615-01-29. Aid to Dependent Children (ADC) Program -  
disregard of Income and Resources

This will acknowledge receipt of the above-referenced regulations  
from the Department of Social Services.

As required by § 9-6.14:4.1 C.4.(c), of the Code of Virginia, I  
have determined that these regulations are exempt from the operation of  
Article 2 of the Administrative Process Act since they do not differ  
materially from those required by Federal law.

Virginia Register of

3548

Sincerely,  
*John W. Smith*  
John W. Smith  
Registrar of Regulations

JWS:all

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**Title of Regulation:** VR 615-01-90. Degree Requirements for Social Work/Social Work Supervision Classification Series.

**Statutory Authority:** § 63.1-26 of the Code of Virginia.

**Effective Date:** September 1, 1990.

**Summary:**

*This regulation sets forth requirements that must be met by applicants for vacancies within the stated series. Substitution of other degrees and years of experience have been added. Once an applicant has met the basic requirement, further consideration will be given to the application during the evaluation process.*

VR 615-01-90. Degree Requirements for Social Work/Social Work Supervision Classification Series.

**§ 1. Definitions.**

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

*“Human services field” means the field of social work and related degrees, including counseling, gerontology, guidance and counseling, family and child development, psychology, sociology, or other related degrees [ based upon curriculum and course content similar to degrees listed above, determined by the Division of Human Resource Management based on the similarity of the curriculum and course content. It is the applicant’s responsibility to provide information with the application, if the applicant wishes the course content and curriculum to be so evaluated. ]*

*“Service Program/Service Program Supervision series” means the following classifications:*

- Senior Social Work Supervisor*
- Social Work Supervisor*
- Principle Social Worker*
- Child Protective Services Worker II*
- Senior Social Worker*
- Child Protective Services Worker I*
- Social Worker*

**§ 2. Policy.**

*Section 63.1-26 of the Code of Virginia requires the*

*board to establish minimum entrance and performance standards,*

*Effective [ (date) applicants for the Service Program/Service Program Supervision classification series vacancies must possess a minimum of a baccalaureate degree in the Human Services field in order to be evaluated for the position vacancy. September 1, 1990, in order to be evaluated for vacancies in the Service Program/Service Program Supervision classification series, applicants shall:*

- 1. Possess a minimum of a baccalaureate degree in the Human Services field; or*
- 2. Possess a minimum of a baccalaureate degree in any field accompanied by a minimum of two years appropriate and related experience in a Human Services related area; or*
- 3. To be considered for promotion, persons currently employed in the Service Program/Service Program Supervision series by a local agency prior to September 1, 1990, who do not meet the requirements of subdivision 1 or 2 above, shall possess four years of appropriate and related experience in a human services area and must have successfully completed all available competency-based training related to the promotional area. ]*

*If an individual does not indicate possession of [ a baccalaureate degree in the human services field the requirements in subdivision 1, 2 or 3 above ] on the application, he will not be qualified for the position.*

*Once the applicant has noted the possession of a baccalaureate degree in the Human Services field on the application or resume, the evaluation process will continue using knowledge, skill, and ability criteria.*

*Individuals employed in the [ Service Program/Service Program Supervision ] classification series prior to the [ adoption September 1, 1990 of this regulation ] who do not [ possess a baccalaureate degree in the Human Services field meet the requirements of subdivision 1, 2, or 3 above, ] will be retained in their current classification or any lesser classification without having to meet the [ degree in the Human Services field requirement above requirements ]. This includes the same classification in another local agency. These individuals will be required to meet the [ degree requirement in the Human Services field requirements of subdivision 1, 2, or 3 above ] for application to any higher classification other than their current classification.*

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# EMERGENCY REGULATIONS

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## DEPARTMENT OF HEALTH (STATE BOARD OF)

**Title of Regulations:** VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

**Statutory Authority:** §§ 32.1-12 and 32.1-102.2 et seq. of the Code of Virginia.

**Effective Dates:** July 5, 1990 - July 4, 1991.

**Summary:**

*Nature of Emergency - On July 1, 1990, amendments to the Virginia Medical Care Facilities Certificate of Public Need Law will become effective. The amendments extend the currently effective nursing home moratorium through June 30, 1991 and provide two additional exceptions to the moratorium for the filing of nursing home applications with the State Health Commissioner. One exception provides for the replacement off-site of an existing nursing home within the same city or county and within reasonable proximity to the current site when replacement on the current site is proven unfeasible. Such replacement must be for the purpose of complying with life safety codes, licensure, certification or accreditation standards.*

*The other exception provides for the conversion on site of existing beds in a home for adults (HFA) facility licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 as of March 1, 1990 to nursing facility beds. In filing the application for the HFA facility, there must be a demonstration that (i) the total number of beds to be converted does not exceed the lesser of thirty beds or twenty-five percent of the beds in the HFA facility; (ii) the nursing facility beds are necessary to serve a patient population of AIDS, or ventilator-dependent or head and spinal cord injured patients or any combination of the three and that such patients otherwise will not have access to such services in existing or approved facilities; (iii) there is a commitment to admit the patient population identified in (ii) to the nursing facility beds once certified and operational; and (iv) the licensed HFA facility otherwise meets the standards for nursing facility beds as set forth in the Regulations of the Board of Health.*

*The amendments also exempt the state home for aged and infirm veterans authorized by Chapter 668, 1989 Acts of the Assembly from any certificate of public need review requirement.*

*Purpose - To amend the existing Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations so that compliance with the amended law is possible on July 1, 1990.*

Public Need Rules and Regulations.

## PART I. DEFINITIONS.

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

*"Acquisition"* means an expenditure of (i) \$700,000 or more that changes the ownership of a medical care facility or (ii) \$400,000 or more for the purchase of new major medical equipment. It shall also include the donation or lease of a medical care facility or new major medical equipment. An acquisition of a medical care facility shall not include a capital expenditure involving the purchase of stock.

*"Amendment"* means any modification to an application which is made following the public hearing and prior to the issuance of a certificate and includes those factors that constitute a significant change as defined in these regulations. An amendment shall not include a modification to an application which serves to reduce the scope of a project.

*"Applicant"* means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.

*"Application"* means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.

*"Board"* means the State Board of Health.

*"Capital expenditure"* means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See definition of person.

*"Certificate of public need"* means a document which legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.

*"Clinical health service"* means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

*"Commissioner"* means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.

*"Competing applications"* means applications for the

VR 355-30-01. Virginia Medical Care Facilities Certificate of

same or similar services and facilities which are proposed for the same planning district or medical service area and which are in the same review cycle. See §§ 5.8 and 6.5

*"Construction"* means the building of a new medical facility and/ or the expansion, remodeling, or alteration of an existing medical care facility.

*"Construction, initiation of"* means project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and (iv) the completion of building foundations.

*"Date of issuance"* means the date of the commissioner's decision awarding a certificate of public need.

*"Department"* means the State Department of Health.

*"Ex parte"* means any meeting which takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.

*"Health planning region"* means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

*"Informal fact-finding conference"* means a conference held pursuant to § 9-6.14:11 of the Code of Virginia.

*"Inpatient beds"* means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric, substance abuse, medical rehabilitation and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are

excluded from this definition.

*"Medical care facilities"* means any institution, place, building, or agency, whether or not licensed or required to be licensed by the board or the State Mental Health, Mental Retardation and Substance Abuse Services Board, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a local governmental unit, (i) by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled, or crippled or (ii) which is the recipient of reimbursements from third party health insurance programs or prepaid medical service plans. For purposes of these regulations, only the following medical care facility classifications shall be subject to review:

A. *"Medical care facility classifications"* means the following:

1. General hospitals.
2. Sanitariums.
3. Nursing homes.
4. Intermediate care facilities.
5. Extended care facilities.
6. Mental hospitals.
7. Mental retardation facilities.
8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.
9. Specialized centers or clinics developed for the provision of out-patient or ambulatory surgery.
10. Rehabilitation hospitals.

B. *"Exclusions"* means that the following shall not be included as a medical care facility classification subject to review:

1. Any facility of the Department of Mental Health, Mental Retardation and Substance Abuse Services.
2. Any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Mental Health, Mental

# Emergency Regulations

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Retardation and Substance Abuse Services Comprehensive Plan.

*"Medical service area"* means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.

*"Modernization"* means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereto, including that which is incident to the initial and subsequent installation of equipment in a medical care facility. See definition of "construction."

*"Operator"* means any person having designated responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner."

*"Operating expenditure"* means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.

*"Other plans"* means any plan(s) which is formally adopted by an official state agency or regional health planning agency and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in these regulations.

*"Owner"* means any person which has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.

*"Person"* means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the applicant for a certificate of public need; the regional health planning agency for the health planning region in which the proposed project is to be located; any resident of the geographic area served or to be served by the applicant; any person who regularly uses health care facilities within the geographic area served or to be served by the applicant; any facility or health maintenance organization (HMO) established under § 38.2-4300 et seq. which is located in the health planning region in which the project is proposed and which provides services similar to the services of the medical care facility project under review; third party payors who provide health care insurance or prepaid coverage to 5% or more patients in the health planning region in which the project is proposed to be located; and any agency which reviews or establishes rates for health care facilities.

*"Physician's office"* means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office.

*"Planning district"* means a contiguous area within the boundaries established by the Department of Planning and Budget as set forth in § 15.1-1402 of the Code of Virginia.

*"Predevelopment site work"* means any preliminary activity directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing, clearing, grading, extension of utilities and power lines to the site.

*"Progress"* means actions which are required in a given period of time to complete a project for which a certificate of public need has been issued. See § 7.3 on Progress.

*"Project"* means:

A. The establishment of a medical care facility; See definition of medical care facility.

B. An increase in the total number of beds in an existing medical care facility.

C. Relocation of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another in any two-year period; however, a hospital shall not be required to obtain a certificate for the use of 10% of its beds as nursing home beds as provided in § 32.1-132 of the Code of Virginia.

D. The introduction into any existing medical care facility of any new nursing home service such as intermediate care facility services, extended care facility services or skilled nursing facility services except when such medical care facility is an existing nursing home as defined in § 32.1-123 of the Code.

E. The introduction into an existing medical care facility of any new open heart surgery, psychiatric, medical rehabilitation, or substance abuse treatment service which the facility has never provided or has not provided in the previous 12 months.

*"Public hearing"* means a proceeding conducted by a regional health planning agency at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application which is the subject of the proceeding and for which a verbatim record is made. See subsection A of § 5.4 or subsection B of § 6.6.

*"Regional health plan"* means the regional plan adopted by the regional health planning agency board.

*"Regional health planning agency"* means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform health planning activities within a health planning region.

*"Registration"* means the filing of information by the owner on affected new clinical health services established and major medical equipment acquired with an expenditure or expenditure value of \$400,000 or more on or after July 1, 1989, in a format prescribed by the Commissioner to satisfy the requirements of these regulations. For purposes of registration, affected clinical health services and major medical equipment shall include only the following:

- (1) radiation therapy;
- (2) cardiac catheterization;
- (3) obstetrical;
- (4) neonatal special care unit;
- (5) lithotripsy;
- (6) magnetic resonance imaging;
- (7) position emission tomography (PET) scanning;
- (8) computed tomography (CT) scanning
- (9) heart, lung and kidney transplants;
- (10) other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the Commissioner.

*"Schedule for completion"* means a timetable which identifies the major activities required to complete a project as identified by the applicant and which is set forth on the certificate of public need. The timetable is used by the commissioner to evaluate the applicant's progress in completing an approved project.

*"Significant change"* means any alteration, modification or adjustment to a reviewable project for which a certificate of public need has been issued or requested following the public hearing which:

- A. Changes the site;
- B. Increases the capital expenditure amount approved for the project by 10% or more;
- C. Changes the number or type of beds including the reclassification of beds from one medical care facility classification to another such as acute care to long

term care except when such reclassification is allowable as provided for in these regulations. See definition of "medical care facility";

D. Changes the service(s) proposed to be offered;

E. Extends the schedule for completion of the project for more than a 12-month period of time beyond that originally approved by the Commissioner. See § 3.4 under *Mandatory Requirements*.

*"State health plan"* means the document approved by the Virginia Health Planning Board which shall include, but not be limited to, analysis of priority health issues, policies, needs and methodologies for assessing statewide health care needs. The State Health Plan 1980-84 and all amendments thereto including all methodologies therein shall remain in force and effect until any such regulation is amended, modified or repealed by the Board of Health.

*"State medical facilities plan"* means the planning document adopted by the Board of Health which shall include, but not be limited to (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services. In developing the plan, the Board of Health shall take into consideration the policies and recommendations contained in the State Health Plan. The most recent applicable State Medical Facilities Plan shall remain in force until any such regulation is amended, modified or repealed by the Board of Health.

*"Virginia Health Planning Board"* means the statewide health planning body established pursuant to § 32.1-122.02 of the Code of Virginia which serves as the analytical and technical resource to the Secretary of Health and Human Resources in matters requiring health analysis and planning.

## PART II. GENERAL INFORMATION.

### § 2.1. Authority for regulations.

The Virginia Medical Care Facilities Certificate of Public Need Law, which is codified as §§ 32.1-102.1 through 32.1-102.11 of the Code of Virginia, requires the owners or sponsors of medical care facility projects to secure a certificate of public need from the State Health Commissioner prior to initiating such projects. Sections 32.1-102.2 and 32.1-12 of the Code of Virginia direct the Board of Health to promulgate and prescribe such rules and regulations as are deemed necessary to effectuate the purposes of this statute.

### § 2.2. Purpose of rules and regulations.

The board has promulgated these rules and regulations

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to set forth an orderly administrative process for making public need decisions.

## § 2.3. Administration of rules and regulations.

These rules and regulations are administered by the following:

### A. State Board of Health.

The Board of Health is the governing body of the State Department of Health. The Board of Health has the authority to promulgate and prescribe such rules and regulations as it deems necessary to effectuate the purposes of the Act.

### B. State Health Commissioner.

The State Health Commissioner is the executive officer of the State Department of Health. The commissioner is the designated decision maker in the process of determining public need under the Act.

## § 2.4. Public meetings and public hearings.

All meetings and hearings convened to consider any certificate of public need application shall be open to the public in accordance with the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.) of the Code of Virginia.

## § 2.5. Official records.

Written information including staff evaluations and reports and correspondence developed or utilized or received by the commissioner during the review of a medical care facility project shall become part of the official project record maintained by the Department of Health and shall be made available to the applicant, competing applicant and review bodies. Other persons may obtain a copy of the project record upon request. All records are subject to the Virginia Freedom of Information Act.

## § 2.6. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act (§ 9-6.14:1, et seq.) of the Code of Virginia apply to their promulgation.

## § 2.7. Effective date of rules and regulations.

These rules and regulations shall become effective ~~December 6, 1989~~ July 5, 1990 .

## § 2.8. Powers and procedures of regulations not exclusive.

The commissioner and the board reserve the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provisions set

forth herein and the provisions of § 32.1-102.1 et seq. of the Code of Virginia.

## § 2.9. Annual report.

The department shall prepare and shall distribute upon request an annual report on all certificate of public need applications considered by the State Health Commissioner. Such report shall include a general statement of the findings made in the course of each review, the status of applications for which there is a pending determination, an analysis of the consistency of the decisions with the recommendation made by the regional health planning agency and an analysis of the costs of authorized projects.

## PART III. MANDATORY REQUIREMENTS.

### § 3.1. Requirements for reviewable medical care facility projects.

Prior to initiating a reviewable medical care facility project the owner or sponsor shall obtain a certificate of public need from the commissioner. In the case of an acquisition of an existing medical care facility, the notification requirement set forth in § 3.3 of these regulations shall be met.

### § 3.2. Requirements for registration of affected clinical health services and major medical equipment.

Within 30 days following operation, the owner of a new clinical health service established or major medical equipment with an expenditure or expenditure value of \$400,000 or more acquired on or after July 1, 1989, that is not defined as a project under these regulations and that has not been previously authorized by the State Health Commissioner prior to July 1, 1989, shall in writing register such service or equipment with the commissioner and copy the regional health planning agency. The format for registration shall be prescribed by the commissioner and shall include information concerning the owner and operator, description, site, capital, financing and lease costs, beginning date and hours of operation of clinical health service and major medical equipment. For purposes of registration, (i) owner shall include any person offering affected clinical health services and major medical equipment and (ii) affected clinical health services and major medical equipment shall include only the following:

- (1) radiation therapy;
- (2) cardiac catheterization;
- (3) obstetrical;
- (4) neonatal;
- (5) lithotripsy;
- (6) magnetic resonance imaging;

- (7) positron emission tomography (PET) scanning;
- (8) computed tomography (CT) scanning;
- (9) heart, lung, and kidney transplants
- (10) other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the commissioner.

The commissioner shall acknowledge registration within 15 days of receipt.

### § 3.3. Requirement for notification of proposed acquisition of medical care facilities.

At least 30 days before any person is contractually obligated to acquire an existing medical care facility, the cost of which is \$700,000 or more, that person shall provide written notification to the commissioner and the regional health planning agency that serves the area in which the facility is located. Such notification shall identify the name of the medical care facility, the current and proposed owner, the cost of the acquisition, the services to be added or deleted, the number of beds to be added or deleted, and the projected impact that the cost of the acquisition will have upon the charges of the services to be provided in the medical care facility. The commissioner shall provide written notification to the person who plans to acquire the medical care facility within 30 days of receipt of the required notification. If the commissioner finds that a reviewable clinical health service or beds are to be added as a result of the acquisition, the commissioner may require the proposed new owner to obtain a certificate prior to the acquisition. If such certificate is required, an application will be considered under an appropriate review procedure which will be identified at the time of written notification by the commissioner to the applicant for such acquisition.

### § 3.4. Significant change limitation.

No significant change in a project for which a certificate of public need has been issued shall be made without prior written approval of the commissioner. Such request for a significant change shall be made in writing by the owner to the commissioner with a copy to the appropriate regional health planning agency. The written request shall identify the nature and purpose of the change. The regional health planning agency shall review the proposed change and notify the commissioner of its recommendation with respect to the change within 30 days from receipt of the request by both the department and the regional health planning agency. Failure of the regional health planning agency to notify the commissioner within the 30-day period shall constitute a recommendation of approval. The commissioner shall act on the significant change request within 35 days of receipt. A public hearing during the review of a proposed significant change request is not required unless determined necessary by the commissioner.

### § 3.5. Requirements for health maintenance organizations.

An HMO must obtain a certificate of public need prior to initiating a project. Such HMO must also adhere to the requirements for the acquisition of medical care facilities if appropriate. See definition of "project" and § 3.3.

## PART IV. DETERMINATION OF PUBLIC NEED (REQUIRED CONSIDERATIONS).

§ 4.1. In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable:

A. The recommendation and the reasons therefor of the appropriate regional health planning agency.

B. The relationship of the project to the applicable health plans of the regional health planning agency, and the Virginia Health Planning Board and the Board of Health.

C. The relationship of the project to the long-range development plan, if any, of the person applying for a certificate.

D. The need that the population served or to be served by the project has for the project.

E. The extent to which the project will be accessible to all residents of the area proposed to be served.

F. The area, population, topography, highway facilities and availability of the services to be provided by the project in the particular part of the health planning region in which the project is proposed.

G. Less costly or more effective alternate methods of reasonably meeting identified health service needs.

H. The immediate and long-term financial feasibility of the project.

I. The relationship of the project to the existing health care system of the area in which the project is proposed.

J. The availability of resources for the project.

K. The organizational relationship of the project to necessary ancillary and support services.

L. The relationship of the project to the clinical needs of health professional training programs in the area in which the project is proposed.

M. The special needs and circumstances of an applicant for a certificate, such as a medical school, hospital, multidisciplinary clinic, specialty center or regional health service provider, if a substantial portion of the applicant's services or resources or both is provided to individuals not



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residing in the health planning region in which the project is to be located.

N. The need and the availability in the health planning region for osteopathic and allopathic services and facilities and the impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.

O. The special needs and circumstances of health maintenance organizations. When considering the special needs and circumstances of health maintenance organizations, the commissioner may grant a certificate for a project if the commissioner finds that the project is needed by the enrolled or reasonably anticipated new members of the health maintenance organizations or the beds or services to be provided are not available from providers which are not health maintenance organizations or from other maintenance organizations in a reasonable and cost effective manner.

P. The special needs and circumstances for biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

Q. The costs and benefits of the construction associated with the proposed project.

R. The probable impact of the project on the costs of and charges for providing health services by the applicant for a certificate and on the costs and charges to the public for providing health services by other persons in the area.

S. Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.

T. In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities in the area similar to those proposed.

## PART V. ADMINISTRATIVE REVIEW PROCESS.

### 5.1. Applicability.

The administrative review procedure shall be applicable to projects involving (i) a capital expenditure of \$700,000 but not more than \$3 million which does not change bed capacity or replace existing beds or relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a clinical health service unless such service is determined to be exempt from review procedures by the commissioner or these regulations, or (ii) a capital expenditure of less than \$700,000 and which does change bed capacity or replace existing beds or relocate 10 beds or 10% of the beds whichever is less from one physical facility to

another in any two year period or add a new clinical health service unless such service is determined to be exempt from review procedures by the commissioner and these regulations.

### § 5.2. Preconsultation.

Each regional health planning agency, in consultation with the department shall provide upon request, advice and assistance concerning community health resources needs to potential applicants submitting projects under the administrative review process. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the regional health planning agency or the commissioner.

### § 5.3. Application forms.

#### A. Obtaining application forms.

Applications forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. A copy of the request should also be submitted by the applicant to the appropriate regional health planning agency. The department shall transmit application forms to the applicant within 15 days of receipt of request.

#### B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate regional health planning agency. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency.

### § 5.4. Review of application.

#### A. Review cycle.

The department shall notify applicant(s) upon receipt of an application by the department and the regional health planning agency of the review schedule including the date, time and place for any informal fact-finding conference held. See §§ 5.9 and 6.6. The regional health planning agency shall within 30 days of the first day of the review cycle of the application and following the public hearing conducted in accordance with subsection B of § 6.6 of these regulations, notify the commissioner of its recommendation. Failure of the regional health planning agency to notify the commissioner within the 30 day time period shall constitute a recommendation of approval. The department shall transmit its report and the information transmitted to the commissioner by the regional health planning agency to the applicant(s) by the 30th day of the review cycle.

## B. Ex parte contact.

After commencement of a public hearing and before a final decision is made there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte" contact.

## § 5.5. Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate regional health planning agency and the commissioner at appropriate times for consideration prior to their final action.

## § 5.6. Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment which is made to an applicant following the public hearing specified in subsection A of § 6.4 and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part V of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § 3.4 of these regulations.

## § 5.7. Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice, by written notification to the commissioner.

## § 5.8. Consideration of applications.

All competing applications shall be considered at the same time by the regional health planning agency and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate regional health planning agency.

## § 5.9. Action on an application.

### A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificate of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with

such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

### B. Notification process-extension of review time.

The commissioner shall make final determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the regional health planning agency by the 35th day of the review cycle unless an extension is agreed to by the applicant or an informal fact-finding conference described in § 6.6 is held. When an informal fact-finding conference is necessary, the review cycle shall automatically be extended to no more than 120 days unless otherwise agreed to by the parties to the conference. Such written notification shall reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant. See definition of "ex parte."

## PART VI. STANDARD REVIEW PROCESS.

### § 6.1. Preconsultation.

Each regional health planning agency and the department shall provide upon request advice and assistance concerning community health resources needs to potential applicants. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the regional health planning agency or the commissioner.

### § 6.2. Application forms.

#### A. Obtaining application forms.

Application forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. Such letter must be directed to the commissioner prior to the submission of the application. A copy of the request should also be submitted by the applicant to the appropriate regional health planning agency. The department shall transmit application forms to the applicant within 15 days of receipt of request.

#### B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the

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appropriate regional health planning agency. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency.

## 6.3. Review for completeness.

The applicant shall be notified by the department within 15 days following receipt of the application if additional information is required to complete the application or the application is complete as submitted. No application shall be reviewed until the department has determined that it is complete. To be complete, all questions on the application must be answered to the satisfaction of the commissioner and all requested documents supplied, when applicable. Additional information required to complete an application should be submitted to the department and the appropriate regional health planning agency five days prior to the beginning of a review cycle in order to ensure review in the same review cycle. The review cycle for completed applications begins on the 10th day of each month or in the event that the 10th day falls on the weekend, the next work day. See subsection A of § 6.6.

## § 6.4. One hundred twenty-day review cycle.

The review of a completed application for a certificate of public need shall be accomplished within 120 days of the beginning of the review cycle. See subsection A of § 6.6.

## § 6.5. Consideration of applications.

All competing applications shall be considered at the same time by the regional health planning agency and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate regional health planning agency.

## § 6.6. Review of complete application.

### A. Review cycle.

At the close of the work day on the 10th day of the month, the department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications including a proposed date for any informal fact-finding conference that may be held. The regional health planning agency shall conduct no more than two meetings, one of which must be a public hearing conducted by the regional health planning agency board or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the regional health planning agency staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall complete its review and recommendation of an application and transmit the same to the applicant(s) and other

appropriate persons. Such notification shall also include the proposed date, time and place of any informal fact-finding conference.

An informal fact-finding conference shall be held when (i) determined necessary by the department or (ii) requested by any person opposed to a project seeking to demonstrate good cause at the conference. Any person seeking to demonstrate good cause shall file no later than seven days prior to the conference written notification to the commissioner, applicant(s) and other competing applicants and regional health planning agency stating the grounds for good cause.

For purposes of this section, good cause shall mean that (i) there is significant, relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the regional health planning agency. See § 9-6.14:11 of the Code of Virginia.

The commissioner shall render a final determination by the 120th day of the review cycle. Unless agreed to by the applicant and, when applicable, the parties to any informal fact-finding conference held, the review schedule shall not be extended.

### B. Regional health planning agency required notifications.

Upon notification of the acceptance date of a complete application as set forth in subsection A of § 6.6 of these regulations, the regional health planning agency shall provide written notification of its review schedule to the applicant. The regional health planning agency shall notify health care providers and specifically identifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days prior to such public hearing. Such notification by the regional health planning agency shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in these rules and regulations, in the county or city wherein a project is proposed or a contiguous county or city and (ii) the date, time and place the final recommendation of the regional health planning agency shall be made. The regional health planning agency shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one year time period following the final decision on a certificate of public need application. See definition of "public hearing."

### C. Ex parte contact.

After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte."

## § 6.7. Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate regional health planning agency and the commissioner for consideration prior to their final action.

## § 6.8. Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment which is made to an application following the public hearing and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part VI of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § 3.4 of the regulations.

## § 6.9. Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice by written notification to the commissioner.

## § 6.10. Action on an application.

### A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificates of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

### B. Notification process-extension of review time.

The commissioner shall make a final determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the regional health planning agency by the 120th day of the review

cycles unless an extension is agreed to by the applicant and an informal fact-finding conference described in § 6.6 is held. When an informal fact-finding conference is held, the 120 day review cycle shall not be extended unless agreed to by the parties to the conference. Such written notification shall also reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant.

## PART VII. DURATION/EXTENSION/REVOCAION OF CERTIFICATES.

### § 7.1. Duration.

A certificate of public need shall be valid for a period of 12 months and shall not be transferrable from the certificate holder to any other legal entity regardless of the relationship, under any circumstances.

### § 7.2. Extension.

A certificate of public need is valid for a 12-month period and may be extended by the commissioner for additional time periods which shall be specified at the time of the extension.

#### A. Basis for certificate extension within 24 months.

An extension of a certificate of public need beyond the expiration date may be granted by the commissioner by submission of evidence to demonstrate that progress is being made towards the completion of the authorized project as defined in § 7.3 of the regulations. Such request shall be submitted to the commissioner in writing with a copy to the appropriate regional health planning agency at least 30 days prior to the expiration date of the certificate or period of extension.

#### B. Basis for certificate extension beyond 24 months.

An extension of a certificate of public need beyond the two years following the date of issuance may be granted by the commissioner when substantial and continuing progress is being made towards the development of the authorized project. In making the determination, the commissioner shall consider whether: (i) delays in development of the project have been caused by events beyond the control of the owner; (ii) substantial delays in development of the project may not be attributed to the owner; and (iii) a revised schedule of completion has been provided and determined to be reasonable. Such request shall be submitted in writing with a copy to the appropriate regional health planning agency at least 30 days prior to the expiration date of the certificate of

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period of extension.

## C. Basis for indefinite extension.

A certificate shall be considered for an indefinite extension by the commissioner when satisfactory completion of a project has been demonstrated as set forth in subsection C of § 7.3 and the definition of "Construction, initiation of."

## D. Regional health planning agency review.

All requests for an extension of a certificate of public need shall be reviewed by the appropriate regional health planning agency within 30 days of receipt by the department and the regional health planning agency. The recommendations on the request by that agency shall be forwarded to the commissioner who shall act upon the progress report within 35 days of receipt by the department and the regional health planning agency. Failure of the regional health planning agency to notify the commissioner within the time frame prescribed shall constitute a recommendation of approval by such regional health planning agency.

## E. Notification of decision.

Extension of a certificate of public need by the commissioner shall be made in the form of a letter from the commissioner with a copy to the appropriate regional health planning agency and shall become part of the official project file.

## § 7.3. Demonstration of progress.

The applicant shall provide reports to demonstrate progress made towards the implementation of an authorized project in accordance with the schedule of development which shall be included in the application. Such progress reports shall be filed in accordance with the following intervals and contain such evidence as prescribed at each interval:

A. Twelve months following issuance. Documentation that shows: (i) proof of ownership or control of site; (ii) the site meets all zoning and land use requirements; (iii) architectural planning has been initiated; (iv) preliminary architectural drawings and working drawings have been submitted to appropriate state reviewing agencies and the State Fire Marshal; (v) construction financing has been completed or will be completed within two months and (vi) purchase orders of lease agreements exist for equipment and new service projects.

B. Twenty-four months following issuance. Documentation that shows that (i) all required financing is completed; (ii) preconstruction site work has been initiated; (iii) construction bids have been advertised and the construction contractor has been selected; (iv) the construction contract has been awarded and (v) construction has been initiated.

C. Upon completion of a project. Any documentation not previously provided which: (i) shows the final costs of the project, including the method(s) of financing; and (ii) shows that the project has been completed as proposed in accordance with the application originally submitted, including any subsequent approved changes.

## § 7.4. Revocation of certificate.

### A. Lack of progress.

Failure of any project to meet the progress requirements stated in § 7.3 shall be cause for certificate revocation, unless the commissioner determines sufficient justification exists to permit variance, considering factors enumerated in § 7.3.

### B. Failure to report progress.

Failure of an applicant to file progress reports on an approved project in accordance with § 7.3 of these regulations shall be cause for revocation, unless due to extenuating circumstances the commissioner in accordance with subsection B of § 7.2 of these regulations.

### C. Unapproved changes.

Exceeding a capital expenditure amount not authorized by the commissioner or not consistent with the schedule of completion. See definition of "significant change" and "schedule of completion." See definition of significant change and schedule of completion.

### D. Failure to initiate construction.

Failure to initiate construction of the project within two years following the date of issuance of the certificate of public need shall be cause for revocation, unless due to extenuating circumstances the commissioner extends the certificate, in accordance with subsection B of § 7.2 of these regulations.

### E. Misrepresentation.

Upon determination that an applicant has knowingly misrepresented or knowingly withheld relevant data or information prior to issuance of a certificate of public need, the commissioner may revoke said certificate.

### F. Noncompliance with assurances.

Failure to comply with the assurances or intentions set forth in the application or written assurances provided at the time of issuance of a certificate of public need shall be cause for revocation.

## PART VIII. APPEALS.

## § 8.1. Court review.

A. Appeal to circuit court. Appeals to a circuit court shall be governed by applicable provisions of Virginia's Administrative Process Act, § 9-6.14:15 et seq. of the Code.

Any applicant aggrieved by a final administrative decision on its application for a certificate, any third party payor providing health care insurance or prepaid coverage to 5.0% or more of the patients in the applicant's service area, a regional health planning agency operating in the applicant's service area or any person showing good cause or any person issued a certificate aggrieved by a final administrative decision to revoke said certificate, within 30 days after the decision, may obtain a review, as provided in § 9-6.14:17 of the Code of Virginia by the circuit court of the county or city where the project is intended to be or was constructed, located or undertaken. Notwithstanding the provisions of § 9-6.14:16 of the Administrative Process Act, no other person may obtain such review.

#### B. Designation of judge.

The judge of the court referred to in subsection A of § 8.1 of these regulations shall be designated by the Chief Justice of the Supreme Court from a circuit other than the circuit where the project is or will be under construction, located or undertaken.

#### C. Court review procedures.

Within five days after the receipt of notice of appeal, the department shall transmit to the appropriate court all of the original papers pertaining to the matter to be reviewed. The matter shall thereupon be reviewed by the court as promptly as circumstances will reasonably permit. The court review shall be upon the record so transmitted. The court may request and receive such additional evidence as it deems necessary in order to make a proper disposition of the appeal. The court shall take due account of the presumption of official regularity and the experience and specialized competence of the commissioner. The court may enter such orders pending the completion of the proceedings as are deemed necessary or proper. Upon conclusion of review, the court may affirm, vacate or modify the final administrative decision.

#### D. Further appeal.

Any party to the proceeding may appeal the decision of the circuit court in the same manner as appeals are taken and as provided by law.

### PART IX. SANCTIONS.

#### § 9.1. Violation of rules and regulations.

Commencing any project without a certificate required by this statute shall constitute grounds for refusing to issue a license for such project.

#### § 9.2. Injunctive relief.

On petition of the commissioner, the Board of Health or the Attorney General, the circuit court of the county or city where a project is under construction or is intended to be constructed, located or undertaken shall have jurisdiction to enjoin any project which is constructed, undertaken or commenced without a certificate or to enjoin the admission of patients to the project or to enjoin the provision of services through the project.

### PART X SEVERABILITY CLAUSE.

§ 10.1. If any clause, sentence, paragraph, subdivision, section or part of these rules and regulations, shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

### PART XI. OTHER.

#### §11.1. Certificate of public need moratorium.

Notwithstanding any law to the contrary, the Commissioner shall not approve, authorize or accept applications for the issuance of any certificate of public need pursuant to the regulations for a medical care facility project which would increase the number of nursing home beds from the effective date of the regulations through ~~January 1, 1991~~ June 30, 1991. However, the commissioner may approve or authorize the issuance of a certificate of public need for the following projects:

A. The renovation or replacement on site of a nursing home, intermediate care or extended care facility or any portion thereof or *replacement off-site of an existing facility at a location within the same city or county and within reasonable proximity to the current site when replacement on the current site is proven unfeasible* when a capital expenditure is required to comply with life safety codes, licensure, certification or accreditation standards. *Under no circumstances shall the State Health Commissioner approve, authorize, or accept an application for the issuance of a certificate for any project which would result in the continued use of the facility replaced as a nursing home.*

B. The conversion on site of existing licensed beds of a medical care facility other than a nursing home, extended care, or intermediate care facility to beds certified for skilled nursing services (SNF) when (i) the total number of beds to be converted does not exceed the lesser of 20 beds or 10% of the beds in the facility; (ii) the facility has demonstrated that the SNF beds are needed specifically to serve as specialty heavy care patient

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population, such as ventilator-dependent and AIDS patients and that such patients otherwise will not have reasonable access to such services in existing or approved facilities; and (iii) the facility further commits to admit such patients on a poverty basis once the SNF unit is certified and operational.

C. The Commissioner of Health may approve or authorize the issuance of a certificate of public need for any project for the conversion on site of existing beds in a home for adults facility licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 as of March 1, 1990, to beds certified as nursing facility beds when (i) the total number of beds to be converted does not exceed the lesser of thirty beds or twenty five percent of the beds in the home for adults facility; (ii) the home for adults facility has demonstrated that nursing facility beds are needed specifically to serve a patient population of AIDS, or ventilator-dependent, or head and spinal cord injured patients, or any combination of the three, and that such patients otherwise will not have reasonable access to such services in existing or approved nursing facilities; (iii) the home for adults facility further commits to admit such patients once the nursing facility beds are certified and operational; and (iv) the licensed home for adults facility otherwise meets the standards for nursing facility beds as set forth in the regulations of the Board of Health.

D. Notwithstanding the foregoing and other provisions of Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1, of the Code, the state home for aged and infirm veterans authorized by Chapter 668, 1989 Acts of Assembly, shall be exempt from all certificates of public need review requirements as a medical care facility.

§ 11.2. Expiration of requirements for general hospitals and outpatient or ambulatory surgery centers or clinics.

Notwithstanding any law to the contrary, as of July 1, 1991, general hospitals and specialized centers or clinics developed for the provision of outpatient or ambulatory surgery shall no longer be medical care facilities subject to review pursuant to these Regulations except with respect to the establishment of nursing home beds in general hospitals.

Submitted:

/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: June 6, 1990

Approved:

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 30, 1990

Filed:

/s/ Joan W. Smith

Registrar of Regulations

Date: July 5, 1990

\* \* \* \* \*

Title of Regulation: Regulations Governing the Virginia Medical Scholarship Program.

Statutory Authority: § 32.1-122.6 B of the Code of Virginia.

Effective Dates: July 2, 1990, through July 1, 1991.

Summary:

These regulations incorporate amendments to the Virginia Medical Scholarship Program that were enacted by the 1990 Virginia General Assembly, and that become effective July 1, 1990.

Promulgation of these regulations on the effective date of the amendments is of particular importance to carrying out the legislative intent of the amendments, to provide an incentive to medical students to become committed to the practice of medicine in medically underserved areas of Virginia.

The regulations must be in the hands of the guidance and financial aid staff of Virginia's medical schools at the earliest possible date for their use in informing incoming 1990-91 students of the benefits available under the Virginia Medical Scholarship Program.

The amendments set forth the criteria for eligibility, circumstances under which awards will be made, and the process for awarding Virginia Medical Scholarships to medical students; the general terms and conditions applicable to the obligation of each recipient of a medical scholarship to practice medicine in a medically underserved area of Virginia, as identified by the Board of Health by regulation, or to practice medicine in a designated state facility as defined by regulation; and penalties for a recipient's failure to fulfill the practice requirements of the Virginia Medical Scholarship Program. These regulations and the Regulations for Determining Medically Underserved Areas supersede and replace Definitions of "Practice of Family Medicine" and "Areas of Need" under State Medical Scholarship Program which were adopted and became effective December 1, 1979.

Purpose. To amend the existing State Medical Scholarship Regulations in order to make scholarship funds available during the forthcoming academic year, and so that compliance with the amended law is possible on July 1, 1990.

Regulations Governing the Virginia Medical Scholarship Program.

§ 1. General information.

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## 1.1. Authority.

Title 23 32.1, Chapter 4 6, § 32.1-122.6.B of the Code of Virginia (1950), as amended; Section 23-35.3 authorizes, requires the State Board of Health, after consultation with Medical College of Virginia, the University of Virginia School of Medicine, and the Medical College of Hampton Roads, to define the terms, "Practice of Family Medicine" and "Area of Need", taking into consideration the distribution of physicians in the Commonwealth and the concept of the practice of family medicine prevailing in the community promulgate regulations to administer the Virginia Medical Scholarship Program.

## 1.2. Purpose.

These definitions regulations are to be used in granting approval to recipients of State medical scholarships to practice medicine in such a manner as to fulfill the State medical scholarship, set forth: the criteria for eligibility, circumstances under which awards will be made, and the process for awarding Virginia Medical Scholarships to medical students; the general terms and conditions applicable to the obligation of each recipient of a medical scholarship to practice medicine in a medically underserved area of Virginia, as identified by the Board of Health by regulation, or to practice medicine in a designated state facility as defined in these regulations; and penalties for a recipient's failure to fulfill the practice requirements of the Virginia Medical Scholarship Program. These regulations and the Regulations for Determining Virginia Medically Underserved Areas supersede and replace Definitions of "Practice of Family Medicine" and "Areas of Need" Under State Medical Scholarship Program which were adopted by the Board of Health and became effective December 1, 1979.

## 1.3. Administration.

The State Health Commissioner, as executive officer of the Board of Health, shall administer this program. Any requests for deviation variance from the prescribed definitions these regulations shall be considered on an individual basis by the board in regular session.

## 1.4. Applicancee Applicability .

These definitions regulations shall apply to all recipients who begin fulfillment of their scholarship obligation on July 1, 1979 1990, or later; provided that approval given by the Commissioner prior to the effective date of these regulations shall remain in full force and effect.

## 1.5. Effective date.

These regulations shall be effective on December September 1, 1979 1990.

## Section 2 : Definition of Practiee of Family Medicine Definitions

## § 2. Definitions.

Unless the context clearly indicates a contrary interpretation, the words and terms used in these regulations shall have the following meanings:

"Accredited internship" means a graduate medical education program of one year duration accredited by the Liaison Committee on Graduate Medical Education.

"Accredited residency" means a graduate medical education program in family practice medicine, general internal medicine, pediatric medicine or obstetrics and gynecology accredited by the Liaison Committee on Graduate Medical Education.

"Approved by the medical school from which the graduate matriculated" means that medical school affirms that the graduate has accepted placement in an accredited residency or internship at a hospital or institution located in Virginia, or affirms that such placement has been accepted in a program not located in Virginia due to such placement through the match.

"Board" or "Board of Health" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Designated state facility" means a facility operated by the Virginia Departments of Corrections, Youth Services, or Mental Health, Mental Retardation and Substance Abuse Services.

"Interest at the prevailing bank rate for unsecured debt" means the Prime lending rate as published in the Wall Street Journal on the last day of the month in which the decision to repay is communicated to the Commissioner by the recipient, plus two percentage points.

"The match" means the National Resident Matching Program, a nationwide system by which medical school graduates are placed in graduate medical education programs by mutual agreement.

"Medically underserved area" means a geographic area in Virginia designated by the State Board of Health, in accordance with the Rules and Regulations for the identification of Medically Underserved Areas.

"Practice" means the practice of medicine by a recipient in one of the designated primary care specialties in an area determined to be medically underserved or in a designated state facility, in fulfillment of the recipient's scholarship obligation.

"Primary care" means the specialties of family practice medicine, general internal medicine, pediatric medicine, or obstetrics and gynecology.

"Recipient" or "scholarship recipient" means an eligible



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medical student or graduate medical student who enters into a contract with the Commissioner and receives one or more scholarship awards via the Virginia Medical Scholarship Program.

"Virginia medical scholarship" means an award of \$10,000 made to a student enrolled in a Virginia medical school or to a graduate student of a Virginia medical school pursuing the first year of graduate training at a hospital or institution approved by the Virginia medical school that the graduate attended as a medical student and for which the medical student or graduate medical student entered a contractual obligation to repay.

"Virginia medical school" means the Eastern Virginia Medical School of the Medical College of Hampton Roads, or the Medical College of Virginia of the Virginia Commonwealth University, or the School of Medicine of the University of Virginia.

## § 3. Eligible applicants.

Any currently enrolled student in full-time attendance at a Virginia medical school or a graduate of such school who has accepted placement in, but not entered the first year of an accredited internship or accredited residency approved by the medical school from which the graduate matriculated, shall be eligible for the Virginia medical scholarship. Preference for the scholarship award shall be given to: residents of the Commonwealth over non-residents; residents from medically underserved areas of Virginia as determined by the Board of Health in accordance with the provisions of its regulations for that purpose; and students or first year graduates from racial minorities. Additionally, preference shall be given to first-year graduates serving in approved internships or primary care residencies in Virginia over first-year graduates in approved out-of-state internships or residencies.

## § 4. Scholarship amount.

A Virginia medical scholarship award shall be ten thousand dollars (\$10,000) for each academic year and shall be awarded to the recipient upon or following the recipient's execution of a contract with the Commissioner for scholarship repayment.

## § 5. Distribution of scholarships.

Annually, by May 1 of each calendar year, the Commissioner shall inform the Deans of the Virginia medical schools of the number of medical schools scholarships that are available for the school's medical students during the next academic year. The annual number of medical scholarships available for award at each Virginia medical school shall be uniformly distributed among the schools, and shall be equal, and shall be based upon funds appropriated by the Virginia General Assembly. The Deans of the respective Virginia medical schools shall annually nominate qualified students and/or first year

residents, in accordance with the criteria for preference enumerated in § 3 of these regulations, to receive scholarships. The number of nominees submitted to the Commissioner at this time will not exceed the number of scholarships that are available for each medical school. The State Health Commissioner shall award scholarships to the nominees of the Deans at the Virginia medical schools in accordance with the number of scholarships available for each medical school. Any scholarships that have not been awarded following the initial annual distribution among the medical schools shall be available for redistribution to qualified students in any of the medical schools at the discretion of an awards committee consisting of the Commissioner, who shall serve as Chairman and ex officio member without vote, and the Deans of the medical schools or their designees. The awards committee shall convene for this purpose only when the scholarships available to one or more of the medical school exceed the number of qualified nominees by the Dean(s). A scholarship shall be awarded to qualified students based upon majority vote of the awards committee. Individual scholarship recipients may be nominated for and receive to a maximum of five scholarships.

## § 6. Contract provisions.

Prior to the award of a scholarship, the Commissioner shall enter into a contract with the recipient. The contract shall:

6.1. Provide that the recipient will pursue the medical course of the school nominating the recipient for the award until the recipient's graduation or will pursue the recipient's first year of primary care graduate training in an accredited internship or residency program approved by the school nominating the recipient for the award and, upon completing a term not to exceed three\* years as an intern or resident in an approved program, will promptly begin and thereafter continuously engage in full-time primary care practice in a medically underserved area of Virginia, or in a designated state facility, for a period of years equal to the number of annual scholarships received. At any time prior to entering practice, the scholarship recipient shall be allowed to select a future practice location from the listing of medically underserved areas maintained by the Board, and the recipient shall be allowed to fulfill the scholarship repayment obligation in the pre-selected medically underserved area. However, after making an initial selection of a medically underserved area in which to practice, the recipient may not alter the decision until the recipient is fully prepared to enter practice, at which time the recipient must choose from the current list of medically underserved areas maintained by the Board or the pre-selected medically underserved area.

6.2. Provide that the recipient repaying the scholarship obligation by practicing primary care medicine in a

medically underserved area will provide services to persons who are unable to pay for the service and will participate in all government sponsored insurance programs designed to assure access of covered persons to medical care services.

6.3. Provide that the recipient repaying the scholarship obligation by practicing primary care medicine on a full-time basis in a medically underserved area will maintain office hours convenient for the population of the area to have access to the recipient's services.

6.4. Provide that the recipient will not voluntarily obligate himself for more than the minimum period of military service required of physicians by the laws of the United States;

6.5. Provide that upon completion of the minimum period of military service, the recipient will promptly begin and thereafter continuously engage in full-time primary care practice in a medically underserved area of Virginia, or in a designated state facility, for the period of years equal to the number of scholarships received.

6.6. Provide for termination of the contract by the recipient while the recipient is enrolled in medical school, upon the recipient's notice and immediate repayment to the Commonwealth of the total amount of the scholarship funds received plus interest at the prevailing bank rate for similar amounts of unsecured debt, computed from the date of receipt of funds by the recipient.

6.7. Provide that if the recipient fails to maintain satisfactory academic progress, the recipient may, upon certification of the Commissioner, be relieved of the contract obligation to engage in full-time primary care practice in a medically underserved area, or in a designated state facility, upon repayment to the Commonwealth of the total amount of scholarship funds received plus interest at the prevailing bank rate for similar amounts of unsecured debt, computed from the date of receipt of funds by the recipient.

6.8. Provide that if the recipient becomes permanently disabled so as not to be able to engage in primary care practice, the recipient may, upon certification of the Commissioner, be relieved of the obligation under the contract to engage in full-time primary care practice in an underserved area, or in a designated state facility, upon repayment to the Commonwealth of the total amount of scholarship funds received plus interest on such amount computed at eight percent per annum from the date of receipt of scholarship funds. For recipients completing part of the practice obligation prior to becoming permanently disabled, the total amount of scholarship funds received, and owed, shall be reduced by the amount of the annual scholarship award multiplied by the number of years practiced. Unusual hardship may be reviewed for

variance by the board on a case-by-case basis.

6.9. Provide that if the recipient expires prior to entering primary care practice or subsequent to entering practice in a designated medically underserved area or state facility, the scholarship indebtedness shall be forgiven.

6.10. Provide that any recipient of a scholarship, who fails or refuses to fulfill the obligation to practice primary care medicine in a medically underserved area or designated state facility for a period of years equal to the number of annual scholarships received, shall reimburse the Commonwealth three times the total amount of the scholarship funds received plus interest on the tripled obligation amount at the prevailing bank rate of interest for similar amounts of unsecured debt.

6.11. Provide that for a recipient who fulfills part of the contractual obligation by practicing primary care medicine in a medically underserved area, or in a designated state facility, for one or more years, the total amount of scholarship funds received, and owed, shall be reduced by the amount of the annual scholarship multiplied by the number of years practiced in the appropriate area or facility, and the remainder tripled as provided in § 6.10. Partial years of practice may be credited beyond the one year minimum practice requirement.

## § 7. Repayment.

Unless repayment is forgiven as specified in § 6.9, or by special variance as provided in §§ 6.6, 6.7, and 6.8, all scholarships shall be repaid to the Commonwealth, either by the recipient's practice of primary care medicine in a medically underserved area, or designated state facility, or through cash payments as specified in §§ 6.10 and 6.11.

### 7.1. Repayment by practice.

It is the intent of the Virginia Medical Scholarship Program that recipients repay their scholarship obligation by practice. Each recipient electing to repay by practice shall notify the Commissioner in writing of his proposed practice location not more than 30 days after completing his approved residency program. After receiving written approval of his practice location from the Commissioner, the recipient shall begin his approved practice not more than 90 days after completing his primary care residency program. A recipient will receive 1 year of credit toward fulfillment of his scholarship obligation for each 12 months of full-time (minimum of 40 hours per week) continuous primary care practice. Absences from the practice in excess of 7 weeks per 12 month practice period for maternity leave, illness, vacation, and/or any other purpose shall not be credited toward repayment and will extend the recipient's total obligation by the number of weeks of excess absence. Any recipient who partially completes a scholarship obligation by practicing for one

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year or longer in an approved practice will be required to fulfill the remainder of the scholarship obligation by cash repayment, in accordance with § 7.2 of these regulations. Credit for partial years of service, beyond the one year minimum practice requirement, will be applied toward fulfillment of the scholarship obligation.

## 7.2. Cash repayment.

Cash repayment by recipients who terminate their contracts prior to the completion of training shall be made in accordance with §§ 6.6 and 6.7, and by recipients who become disabled before fulfilling the practice obligation, in accordance with § 6.8. Cash repayment by recipients who otherwise fail or refuse to fulfill their practice obligation shall be made in accordance with §§ 6.10 and 6.11.

## 7.3. Cash repayment amount.

The full amount to be repaid by a recipient who fails or refuses to fulfill the practice obligation shall be determined in the following manner: The annual amount of the scholarship for the year the recipient obtained the scholarship multiplied by three, plus interest (current bank rate of interest on a similar amount of unsecured debt) calculated from the date of receipt of funds by the recipient until the scholarship is fully repaid. Repeat the above calculation for each scholarship that the recipient obtained and add the sums of the calculations to determine the total amount due to be repaid to the Commonwealth.

## 7.4. Cash repayment schedule.

Any scholarship to be repaid in cash payments due to the recipient's failure to enter into an approved practice shall be repaid within two years of the completion of the recipient's graduate training. Any scholarship to be repaid in cash payments due after partial repayment by practice shall be paid within two years of the recipient's departure from his approved practice. Failure of any recipient to complete a schedule of cash repayments within the required two years or to enter the practice of primary care medicine in a medically underserved area, or designated state facility, shall be cause for the Commissioner to refer the matter to the Attorney General for disposition. The Attorney General shall take such action as the Attorney General deems proper to assure reimbursement to the Commonwealth. If court action is required to collect a delinquent scholarship account, the recipient shall be responsible for the court costs and reasonable attorney's fees incurred by the Commonwealth in such collection.

## § 8. Reporting requirements.

Reporting requirements of medical schools and scholarship recipients are as follows:

8.1. Each Virginia medical school shall maintain accurate records of the status of scholarship recipients

until the recipients graduate from medical school and during any postgraduate year that a scholarship is awarded. The medical schools shall provide a report listing the status of each recipient annually to the Commissioner.

8.2. Each scholarship recipient shall, during the post-scholarship award period as an intern or resident, report his location and status to the Commissioner and to the medical school where he received scholarship award(s) annually, during the month of July. In addition, each scholarship recipient shall, during his period of obligated practice, report his status annually to the Commissioner. The report shall include sufficient information as requested by the Commissioner to verify compliance with the practice requirements of the scholarship contract. Additionally, any scholarship recipient shall immediately inform the Commissioner of any change in his practice location or change in his practice status. For purposes of this provision, notification within ten days of any such change shall be considered immediate notification.

\* NOTE: A variance (of one additional year) to the maximum three year residency limitation will be available to medical scholarship recipients who choose to complete an obstetrics/gynecology residency program upon their request.

Concur:

/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: July 14, 1990

Approve:

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 28, 1990

Filed:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: July 2, 1990 - 8:55 a.m.

\* \* \* \* \*

**Title of Regulation: Rules and Regulations for the Identification of Medically Underserved Areas in Virginia.**

**Statutory Authority: § 32.1-122.5 of the Code of Virginia.**

**Effective Dates: July 2, 1990 through July 1, 1991.**

**Summary:**

*Nature of Emergency - These regulations implement legislation enacted by the 1990 Virginia General*

Assembly that becomes effective July 1, 1990, directing the Board to establish criteria for the identification of medically underserved areas.

Emergency promulgation is essential because these regulations are integral to the timely implementation of the Virginia Medical Scholarship Program. Immediate promulgation is imperative due to the current need to place primary care physicians who are obligated under the present State Medical Scholarship Program in practice sites in medically underserved areas.

The regulations set forth the criteria for the identification of areas within the Commonwealth that are in need of additional primary health care services and for the designation of areas so identified as medically underserved areas. Primary care physicians who have received scholarships under the Virginia Medical Scholarship Program are contractually obligated to practice primary care medicine in medically underserved areas of the Commonwealth designated by the Board.

These regulations and the Regulations for Governing the Virginia Medical Scholarship Program supersede and replace Definitions of "Practice of Family Medicine" and "Areas of Need" under the State Medical Scholarship Program which were adopted and became effective December 1, 1979.

Further, these regulations provide the designation of medically underserved areas as required for eligibility for financial assistance, state and/or federal, to establish primary care medical centers, and as practice locations for physicians having a federal physician loan repayment obligation that desire to locate in Virginia.

Purpose - To promulgate new regulations necessary for compliance with legislation enacted by the General Assembly that becomes effective July 1, 1990.

Rules and Regulations for the Identification of Medically Underserved Areas in Virginia.

## § 1. Authority for regulations.

In accordance with the provisions of § 32.1-122.5, Article 6, Chapter 4, of the Code of Virginia 1950, as amended, the State Board of Health is required to establish criteria for determining medically underserved areas within the Commonwealth. The criteria are required to be quantifiable measures, sensitive to the unique characteristics of urban and rural jurisdictions.

## § 2. Purpose of the regulation.

The purpose of identifying medically underserved areas within the Commonwealth is to establish geographic areas in need of additional primary health care services. These

areas may be selected by trained primary care physicians and other health professionals as practice sites in fulfillment of obligations that the physicians and other health professionals accepted in return for medical training and scholarship grant assistance. Each year of practice in a medically underserved area satisfies the repayment requirement of a year of scholarship support from the Virginia Medical Scholarship program. Additionally, these medically underserved areas will be eligible locations for practicing primary care physicians and other health professionals participating in the state or federal physician loan repayment programs. Further, these medically underserved areas may become eligible for assistance, state and/or federal, to establish primary care medical centers.

## § 3. Criteria for determining medically underserved areas.

The following five criteria, as available, and as indicated in § 4 of these regulations, shall be used to evaluate and identify medically underserved areas throughout the Commonwealth of Virginia:

1. Percent of population with income at or below 100% of the Federal poverty level. The source for these data shall be the most recent available publication of the Bureau of the Census of the U.S. Department of Commerce.
2. Percent of population that is sixty-five years of age or older. The source for these data shall be the Economic Services Division of the Virginia Employment Commission.
3. The primary care physician to population ratio. The source for these data shall be the Department of Family Practice of the Medical College of Virginia of Virginia Commonwealth University.
4. The four-year aggregate infant mortality rate. The source for these data will be the Center of Health Statistics of the Virginia Department of Health.
5. The most recent annual civilian unemployment rate. The source for these data will be Information Services Division of the Virginia Employment Commission.

## § 4. Application of the criteria.

A. Determining medically underserved cities and counties.

The criteria enumerated in § 3 above shall be used to construct a numerical index by which the relative degree of medical underservice shall be calculated for each city and county within the Commonwealth. Observations for each of the five criteria will be listed for each Virginia city and county. An interval scale will be used to assign a particular value to each observation. This will be done for each of the five criteria. Each interval scale will consist of four ranges or outcomes of observations. The ranges

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will be numerically equal. The four ranges will be labeled as Level 1, Level 2, Level 3, and Level 4. The numerical difference between the ranges will be established beginning with the Level 2 range.

The Level 2 range shall have the statewide average for each respective criterion, except the population to primary care physician ratio, as its upper limit. The Level 2 upper limit for the primary care physician to population ratio is established by dividing the difference between the Level 4 upper limit for this criterion and the Level 1 upper limit by 2. Each observation which is equal to or less than the Level 2 upper limit, but greater than the Level 1 upper limit, will be assigned a numerical value of two.

The Level 1 range shall have an upper limit which is the quotient of the statewide average divided by two. For the ratio of population to primary care physician criterion, the upper limit of Level 1 shall be the ratio 2000:1 as recommended by the American Academy of Family Physicians. Each observation that is equal to or less than the Level 1 upper limit will be assigned a numerical value of one.

The Level 3 range shall have an upper limit that is equal to the sum of the upper limit of the Level 1 range and the upper limit of the Level 2 range. For the ratio of population to primary care physician criterion, the upper limit of level 3 shall be established at 3500:1, the federal standard for designating health manpower shortage areas. Each observation that is equal to or less than the Level 3 upper limit will be assigned a numerical value of three.

The Level 4 range will include any observation greater than the upper limit of Level 3 range. Each observation in the Level 4 range will be assigned a numerical value of four.

The values for each of the ranges of the five criteria will be summed for each Virginia city and county. Each Virginia city and county will have an assigned value of five or greater, to a maximum of twenty. A statewide average value will be determined by summing the total city and county values and dividing by the number of cities and counties. Any city or county assigned a value that is greater than the statewide average value shall be considered medically underserved. The application of criteria for determining medically underserved cities and counties shall be performed annually and published by the Board.

**B. Determining medically underserved areas within cities and counties.**

Geographic subsections of cities or counties may be designated as medically underserved areas when the entire city or county is not eligible if the subsection has: 1) a population to primary care physician ratio equal to or greater than thirty-five hundred to one; and 2) a population whose rate of poverty is greater than the statewide average poverty rate; and 3) a minimum

population of three thousand and five hundred persons residing in a contiguous, identifiable, geographic area. The Board shall from time to time, on petition of any person, or as a result of its own decision, apply criteria for determining medically underserved subareas of cities and counties. Once determined to be medically underserved any subarea of a city or county shall appear on the next list of medically underserved areas published by the Board. Areas which qualify as medically underserved areas under § 4.A. above and that are within Standard Metropolitan Areas as defined by the U. S. Department of Commerce, must also qualify under this section (§ 4.B.) for purposes of placement of health professionals.

Submitted by:

/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: June 14, 1990

Approved by:

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 28, 1990

Filed:

/s/ Joan W. Smith  
Registrar of Regulations  
Date: July 2, 1990

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: Emergency Regulation for Coverage of Hospice Services.

VR 460-02-3.1100. Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy.

VR 460-02-3.1200. Amount, Duration and Scope of Services Provided Medically Needy Group(s): All.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

VR 460-02-3.1300. Standards Established and Methods to Assure High Quality of Care.

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

VR 460-04-8.8. Regulations for Hospice Services.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Dates: July 1, 1990 through June 30, 1991

### SUMMARY

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled Coverage of Hospice Services. This hospice services policy will enable the care of terminally ill Medicaid eligible patients at lower costs than traditional acute care.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding Coverage of Hospice Services. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Pat Watt  
for Bruce U. Kozlowski  
Director  
Date: June 18, 1990

3. **CONCURRENCES:**

Concur  
/s/ Howard M. Cullum  
Secretary of Health and Human Resources  
Date: June 27, 1990

4. **GOVERNOR'S ACTION:**

Approve  
/s/ Lawrence Douglas Wilder  
Governor

**FILED WITH:**

/s/ Joan W. Smith  
Registrar of Regulations  
Date: July 2, 1990

## DISCUSSION

6. **BACKGROUND:** The sections of the Plan affected by this action are "Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy" (Attachment 3.1-A), "Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Medically Needy" (Attachment 3.1-B), "Standards Established and Methods Used to Assure High Quality Care" (Attachment 3.1-C), and "Methods and Standards for Establishing Payment Rates—Other Types of Care" (Attachment 4.19 B).

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) § 9505 allowed state Medicaid programs to offer hospice services to the terminally ill. Hospice is a medically-directed, interdisciplinary program of palliative services for the terminally ill and their families. Hospice emphasizes pain and symptom control provided by a team of professionals, including physicians, nurses, counselors, therapists, aides and volunteers. The majority of hospice services are delivered in the home with inpatient care available as needed.

For service provided on and after July 1, 1990, the Department of Medical Assistance Services (DMAS) will offer coverage of hospice care provided by Medicare-certified hospices licensed in Virginia and enrolled as Medicaid providers. To be eligible for

hospice coverage, the Medicaid recipient must be terminally ill (defined as having a life expectancy of six months or less) and must have chosen to receive hospice services rather than active treatment for the illness.

For the first 90-day period of hospice coverage, a physician must certify that the individual is terminally ill, and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. Recertification of the patient's limited life expectancy must be made by the hospice medical director at subsequent 90- and 30-day periods, not to exceed 210 days of hospice coverage. A plan of care must be established by the hospice interdisciplinary team before services are provided. Services must be consistent with the plan of care.

Medicare began covering hospice services in 1983, mandated by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). With few exceptions, the elements of the state Medicaid hospice programs are required to mirror those for the Medicare program. As described for Medicare and applicable to Medicaid, hospice services entail the following four categories of daily care:

Routine home care is at-home care that is not continuous.

Continuous home care is predominantly nursing care provided in the home as short-term crisis care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of 8 hours of care per day must be provided to qualify as continuous home care.

Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the recipient's primary caregiver(s). Medicare's number limitation for inpatient respite days will be used (i.e., no more than 5 consecutive days will be allowed within each certification/recertification time period).

General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility. This care is usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

The hospice has the responsibility for providing or arranging all services pertaining to the terminal illness. As required under Medicare and applicable to Medicaid, the hospice must provide all or substantially all of the core services applicable for the terminal illness. These are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual). Other services applicable for the terminal

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illness that must be available are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational, physical and speech therapies.

All services must be performed by appropriately qualified personnel. The nature of the service, rather than the qualification of the person who provides it, determines the coverage category of the service. The following services are covered hospice services:

A. Nursing Care: Nursing care must be provided by or under the supervision of a registered nurse.

B. Medical Social Services: Medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

C. Physician Services: Physician services must be performed by a professional who is licensed to practice in the Commonwealth of Virginia, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director and the physician member of the interdisciplinary team must be licensed doctors of medicine or osteopathy.

D. Counseling Services: Counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and caregivers to adjust to the individual's approaching death. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

E. Short-term Inpatient Care: Short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

F. Durable Medical Equipment and Supplies: Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness are covered. Medical supplies include those that are part

of the written plan of care.

G. Drugs and Biologicals: Only drugs which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

H. Home Health Aide and Homemaker Services: Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient. Such services include changing the bed and light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment, and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

I. Rehabilitation Services: Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

The core services (nursing care, physicians' services, medical social services and counseling) must be provided routinely and directly by hospice employees. Supplemental services may be contracted for to meet unusual staffing needs that cannot be anticipated and that occur so infrequently that it would not be practical to hire additional staff to fill these needs. Hospices may also contract to obtain physician specialty services. If contracting is used for any services, the hospice must maintain professional, financial, and administrative responsibility for the services and must ensure that all staff meet the regulatory qualification requirements.

Hospice services will require an initial preauthorization and physician certification. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of DMAS the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the administrative Process Act (APA) § 9-6.14:9, for this agency's adoption of emergency regulations subject to the Governor's approval.

Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code requires this agency to initiate the public notice and comment process as contained in Article 2 of the

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APA.

Without this emergency regulation, the amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to meet the July 1, 1990, effective date established by the General Assembly.

The Code of Federal Regulations, Title 42, Part 418, implements section 1861(dd) of the Social Security Act which specifies services covered as hospice care and the conditions that a hospice program must meet in order to participate in the Medicare and subsequently Medicaid programs.

8. **FISCAL/BUDGETARY IMPACT:** In applying national trends to Virginia data on the number of Virginia Medicaid eligibles over 21, DMAS projects that of the 750 terminally ill Medicaid patients in FY 88, approximately 13% (100 patients) in FY 91 and 20% (150 patients) in FY 92 would choose hospice care if that alternative were available. The average length of stay would be 45 days. The patient cost for traditional care is estimated to be \$556,400 in FY 91 and \$834,600 in FY 92. The cost for hospice care is estimated to be \$446,900 in FY 91 and \$670,350 in FY 92.

The anticipated net cost savings to this agency (after administrative costs) to implement the hospice program is (\$33,000) (\$27,000 GF; \$6,000 NGF) for State Fiscal Year 1991 and (\$88,000) (\$54,000 GF; \$34,000 NGF) for State Fiscal Year 1992. This figure includes creation of new billing systems, provider enrollment and training, utilization review, and two additional staff positions.

9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective on July 1, 1990. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to provide coverage of hospice services.

10. Approval Sought for VR 460-02-3.1100, 460-02-3.1200, 460-03-3.1100, 460-02-3.1300, 460-02-4.1920, and 460-04-8.8.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

**VR 460-02-3.1100. Amount, Duration and Scope of Medical and Remedial Care and Services Provided to the Categorically Needy.**

VR 460-02-3.1100

Revision: HCFA-PH-86-20 (BERG)  
SEPTEMBER 1986

JUL 30  
R 90-329  
REGISTRAR OF MEDICAL PROFESSIONS  
ATTACHMENT 3.1-A  
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FORM NO.: 0938-0193

## AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES PROVIDED TO THE CATEGORICALLY NEEDY

- 15.a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with section 1902(a)(31)(A) of the Act, to be in need of such care.
- Provided:  No limitations  With limitations\*  
 Not provided.
- b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.
- Provided:  No limitations  With limitations\*  
 Not provided.
16. Inpatient psychiatric facility services for individuals under 22 years of age.
- Provided:  No limitations  With limitations\*  
 Not provided.
17. Nurse-midwife services.
- Provided:  No limitations  With limitations\*  
 Not provided.
18. Hospice care (in accordance with section 1905(o) of the Act).
- Provided:  No limitations  With limitations\*  
 Not provided.

\*Description provided on attachment.

TN No. 90-15  
Supersedes  
TN No. 87-01

Approval Date \_\_\_\_\_ Effective Date 7/1/90

HCFA ID: 0069P/0002P



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VR 460-02-3.1200. Amount, Duration and Scope of Services Provided Medically Needy Group(s): All.

VR 460-03-3.1100. Amount Duration and Scope of Services.

14c. Intermediate care facility.

A. 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 section 1902 (a)(31)(A) of the Act, to be in need of such care.

A. Provided, no limitations.

15b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

A. Provided, no limitations.

16. Inpatient psychiatric facility services for individuals under 22 years of age.

A. Not provided.

17. Nurse-midwife services.

A. 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).

A. Covered hospice services shall be defined as those services allowed under the provisions of Medicare law and regulations as they relate to hospice benefits and as specified in the Code of Federal Regulations, Title 42, Part 418.

B. Categories of Care: As described for Medicare and applicable to Medicaid, hospice services shall entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.

2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of 8 hours of care per day must be provided to qualify as continuous home care.

3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary

460-02-3.1200

Revision: HCFA-PH-86-20 (BERC)  
SEPTEMBER 1986

REGISTRAR OF REGULATIONS ATTACHMENT 3.1-B  
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State/Territory/DC Virginia

AMOUNT, DURATION AND SCOPE OF SERVICES PROVIDED  
MEDICALLY NEEDY GROUP(S): All

c. Intermediate care facility services.

Provided:  No limitations  With limitations\*

15. a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined in accordance with section 1902(a)(31)(a) of the Act, to be in need of such care.

Provided:  No limitations  With limitations\*

b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided:  No limitations  With limitations\*

16. Inpatient psychiatric facility services for individuals under 22 years of age.

Provided:  No limitations  With limitations\*

17. Nurse-midwife services.

Provided:  No limitations  With limitations\*

18. Hospice care (in accordance with section 1905(o) of the Act).

Provided:  No limitations  With limitations\*

\*Description provided on attachment.

TM No. 90-15  
Supersedes \_\_\_\_\_ Approval Date \_\_\_\_\_ Effective Date 7/1/90  
TM No. 87-01  
HCFA ID: 0140P/0102A

caregiver(s) providing at-home care for the recipient. The same number limitation for inpatient respite days used by Medicare will be used (i.e., no more than 5 consecutive days will be allowed within each certification/recertification time period).

4. General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility. This care is usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting.

## C. Covered Services.

1. As required under Medicare and applicable to Medicaid, the hospice itself must provide all or substantially all of the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual).

2. Other services applicable for the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational and physical therapies and speech-language services.

3. These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

4. To be covered, a certification that the individual is terminally ill must have been completed by the physician and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a plan of care must be established before services are provided. To be covered, services must be consistent with the plan of care. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no coverage will be provided.

5. All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered hospice services:

a. **Nursing Care:** nursing care must be provided by or under the supervision of a registered nurse.

b. **Medical Social Services:** medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

c. **Physician Services:** physician services must be performed by a professional who is licensed to practice in the Commonwealth of Virginia, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.

d. **Counseling Services:** counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

e. **Short-term Inpatient Care:** short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

f. **Durable Medical Equipment and Supplies:** Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

g. **Drugs and Biologicals:** Only drugs used which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

h. **Home Health Aide and Homemaker Services:** Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

i. **Rehabilitation Services:** Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the

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*individual to maintain activities of daily living and basic functional skills.*

**D. Eligible Groups.** *To be eligible for hospice coverage under Medicare or Medicaid, the recipient must have a life expectancy of six months or less, have knowledge of the illness and life expectancy, and elect to receive hospice services rather than active treatment for the illness. Both the attending physician and the hospice medical director must certify the life expectancy. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures:*

*1. For the first 90-day period of hospice coverage, the hospice must obtain, prior to the provision of services, a written certification statement signed by the medical director of the hospice or the physician member of the hospice interdisciplinary team and the individual's attending physician. The hospice shall obtain preauthorization from the Department of Medical Assistance Services before services can be reimbursed.*

*2. For any subsequent 90-day or 30-day period, the hospice must obtain, no later than two calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the hospice's interdisciplinary team. The certification must include the statement that the individual's medical prognosis is that his or her life expectancy is six months or less and the signature(s) of the physician(s). The hospice must maintain the certification statements.*

**19. Case management services for high-risk pregnant women and children up to age 1, as defined in Supplement 2 to Attachment 3.1-A, in accordance with Section 1915(g)(1) of the Act.**

**A. Provided, with limitations. See Supplement 2 for detail.**

**VR 460-02-3.1300. Standards Established and Methods to Assure High Quality of Care.**

*5. The services shall be provided with the expectation, based on the assessment made by physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and predictable period of time, or shall be necessary to establish an improved functional state of maintenance.*

*6. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical and dental practice; this includes the requirement that the amount, frequency, and duration of the services be reasonable.*

## J. Durable Medical Equipment

*1. Durable medical equipment furnished the patient receiving approved covered rehabilitation services is covered when the equipment is necessary to carry out an approved plan of rehabilitation. A rehabilitation hospital or a rehabilitation unit of a hospital enrolled with Medicaid under a separate provider agreement for rehabilitative services may supply the durable medical equipment. The provision of the equipment is to be billed as an outpatient service. All durable medical equipment over \$1,000 must be preauthorized by the Department; however, all durable medical equipment is subject to justification of need. Durable medical equipment normally supplied by the hospital for inpatient care is not covered by this provision.*

### § 9.0 Hospice services.

**§ 9.1 Admission Criteria.** *To be eligible for hospice coverage under Medicare or Medicaid, the recipient must be "terminally ill", defined as having a life expectancy of six months or less, and elect to receive hospice services rather than active treatment for the illness. Recertification of this limited life expectancy must be made by the hospice medical director at subsequent 90- and 30-day periods, not to exceed 210 days of hospice coverage.*

**§ 9.2 Utilization review.** *Authorization for hospice services requires an initial preauthorization and physician certification as required above. Utilization review will be conducted to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patients' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.*

**§ 9.3 Hospice services are a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control. The rules pertaining to them are:**

**A. Nursing Care:** *nursing care must be provided by or under the supervision of a registered nurse.*

**B. Medical Social Services:** *medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.*

**C. Physician Services:** *physician services must be performed by a professional who is licensed to practice in the Commonwealth, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must be a licensed doctor of medicine or osteopathy.*

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*D. Counseling Services:* counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death. Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. Bereavement counseling is a required hospice service, but it is not reimbursable.

*E. Short-term Inpatient Care:* short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home.

*F. Durable Medical Equipment and Supplies:* Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness is covered. Medical supplies include those that are part of the written plan of care.

*G. Drugs and Biologicals:* Only drugs used which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

*H. Home Health Aide and Homemaker Services:* Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

*I. Rehabilitation Services:* Rehabilitation services include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

## **VR 4650-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.**

3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;

4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule or summary;
6. Home office cost report, if applicable; and
7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

The services that are cost reimbursed are:

- (1) Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals
- (2) Home health care services
- (3) Outpatient hospital services excluding laboratory
- (4) Rural health clinic services provided by rural health clinics or other Federally qualified health centers defined as eligible to receive grants under the Public Health Services Act [329, 330, and 340.
- (5) Rehabilitation agencies
- (6) Comprehensive outpatient rehabilitation facilities
- (7) Rehabilitation hospital outpatient services.

e. Fee-for-service providers. (1) Payment for the following services shall be the lowest of: State agency fee schedule, actual charge (charge to the general public), or Medicare (Title XVIII) allowances:

- ~~(1)~~ (a) Physicians' services (Supplement 1 has obstetric/pediatric fees.)
- ~~(2)~~ (b) Dentists' services
- ~~(3)~~ (c) Mental health services including: Community mental health services; Services of a licensed clinical psychologist; Mental health services provided by a physician
- ~~(4)~~ (d) Podiatry
- ~~(5)~~ (e) Nurse-midwife services
- ~~(6)~~ (f) Durable medical equipment
- ~~(7)~~ (g) Local health services
- ~~(8)~~ (h) Laboratory services (Other than inpatient hospital)

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~~(9)~~ (i) Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)

~~(10)~~ (j) X-Ray services

~~(11)~~ (k) Optometry services

~~(12)~~ (l) Medical supplies and equipment

~~(13)~~ (2) Hospice services payments must be no lower than the amounts using the same methodology used under part A of Title XVIII.

## VR 460-04-8.8. Regulations for Hospice Services.

### § 1. Scope

A. Medicaid covers hospice services as defined in Section 2.A provided by facilities or agencies certified as hospice providers through Medicare and which have a provider agreement with the Department of Medical Assistance Services.

B. Hospice services may be provided in a variety of settings including the terminally ill individual's home, a free-standing hospice, hospital, or nursing facility; however, reimbursement for hospice services will only be made to the certified hospice provider.

### § 2. Covered Hospice Services

A. "Hospice" means a medically directed, interdisciplinary program of palliative services for terminally ill people and their families, emphasizing pain and symptom control provided by a team of professionals including physicians, nurses, counselors, therapists, aides and volunteers. Hospice is primarily a concept of care, rather than a specific place, with the majority of hospice services being delivered in the home with inpatient care available as needed.

B. "Terminally ill" means an individual has a medical prognosis that his or her life expectancy is six months or less. This prognosis must be certified by written statements signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician.

C. As required under Medicare and applicable to Medicaid, the hospice itself must provide the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual). However, the hospice may use contracted staff if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice shall maintain professional, financial, and administrative responsibility for the services.

Other services applicable to the terminal illness that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupational, physical and speech therapies. These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

### § 3. Admission Criteria for Covered Services

A. To be eligible for hospice care under Medicaid, an individual must be certified as terminally ill. An individual is considered to be terminally ill if he has a medical prognosis that his life expectancy is six months or less. In addition, the individual must have knowledge of the illness and life expectancy and elect to receive hospice services rather than active treatment for the illness. Both the attending physician and the hospice medical director must certify the life expectancy.

B. The hospice must obtain the certification that an individual is terminally ill in accordance with the following procedures:

1. For the first 90-day period of hospice coverage, the hospice must obtain, prior to the provision of hospice services, a written certification statement signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the individual's attending physician.

2. For any subsequent 90-day or 30-day period, the hospice must obtain, no later than two calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the hospice's interdisciplinary group. The certification must include the statement that the individual's medical prognosis is that his or her life expectancy is six months or less and the signature(s) of the physician(s). The hospice must maintain the certification statements.

3. An election to receive hospice care shall be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual remains in the care of a hospice and does not revoke the election. An election period means one of three periods for which an individual may elect to receive coverage of hospice care. The periods consist of two 90-day periods and one 30-day period for a maximum of 210 days.

An individual or representative may designate an effective date for the election period that begins with the first day of hospice care or any subsequent day of hospice care but may not designate an effective date than is earlier than the date that the election is made.

4. The election statement must include 1)

# Emergency Regulations

identification of the hospice that will provide care to the individual; 2) the individual's or representative's acknowledgement that he has been given a full understanding of the palliative rather than curative nature of hospice care as it relates to the individual's terminal illness; 3) acknowledgement that certain Medicaid services are waived by the election; 4) the effective date of the election, and 5) the signature of the individual or representative.

## § 4. Authorization for Services

A. Hospice services shall require an initial preauthorization by DMAS and certification by the physician that the individual is terminally ill and hospice services are reasonable and necessary for the palliation or management of the terminal illness and related conditions. The hospice must request authorization from DMAS for admitting or accepting the terminally ill individual prior to providing services. This request shall include a description of the individual's diagnoses and a physician's certification that the individual meets criteria for hospice care.

B. DMAS shall make a determination as to the appropriateness of Medicaid payment for the individual's first 90 days of care. Subsequent 90- or 30-day periods of care (up to a maximum of 210 days) shall be requested in writing and approved by the Department. Periods of hospice care not authorized by DMAS shall not be approved for payment. The initial date of authorization of services shall not be made retroactive prior to the date of the request for hospice services.

## § 5. Documentation Requirements

A. Documentation of hospice services shall, at a minimum:

1. Describe the clinical signs and symptoms of the patient's terminal illness;
2. Document an accurate and complete chronological picture of the patient's clinical course and treatments;
3. Document that a multidisciplinary plan of care specifically designed for the patient has been developed;
4. Document all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and identify who provided care (include full name and title);
5. Document changes in each patient's condition; and
6. Identify the category of care as described in Section 6.A.

B. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be

provided.

## § 6. Categories of Care

A. As described for Medicare and applicable to Medicaid, hospice services entail the following four categories of daily care:

1. Routine home care is at-home care that is not continuous.
2. Continuous home care consists of at-home care that is predominantly nursing care and is provided as short-term crisis care. Home health aide or homemaker services may be provided in addition to nursing care. A minimum of 8 hours of care per day must be provided to qualify as continuous home care.
3. Inpatient respite care is short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver(s) providing at-home care for the recipient. No more than 5 consecutive days of respite care will be allowed within each certification/recertification time period.
4. General inpatient care may be provided in an approved freestanding hospice, hospital, or nursing facility. This care is usually for pain control or acute or chronic symptom management which cannot be successfully treated in another setting. -

B. For all services pertaining to terminal illness, the hospice has the responsibility for providing or arranging the services. Utilization review shall be performed to determine if services were provided by the appropriate provider and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate.

## § 7. Hospice Services

A. As required under Medicare and applicable to Medicaid, the hospice itself must provide all of the "core" services applicable for the terminal illness which are nursing care, physician services, social work, and counseling (bereavement, dietary, and spiritual).

1. The "core" services must be provided routinely and directly by hospice employees. Supplemental services may be contracted for to meet unusual staffing needs that cannot be anticipated and that occur so infrequently that it would not be practical to hire additional staff to fill these needs. Hospices may also contract to obtain physician specialty services. If contracting is used for any services, the hospice must maintain professional, financial and administrative responsibility for the services and must assure that all staff meet the regulatory qualification requirements.
2. Other services applicable for the terminal illness

# Emergency Regulations

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that must be available but are not considered "core" services are drugs and biologicals, home health aide and homemaker services, inpatient care, medical supplies, and occupation, physical and speech therapies.

3. These other services may be arranged, such as by contractual agreement, or provided directly by the hospice.

B. To be covered, a certification that the individual is terminally ill must have been completed and hospice services must be reasonable and necessary for the palliation or management of the terminal illness and related conditions. The individual must elect hospice care and a multidisciplinary plan of care must be established before services are provided. To be covered, services must be consistent with the plan of care designed by a physician after any needed consultation with other hospice team members.

C. All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered hospice services:

1. **Nursing Care:** nursing care must be provided by or under the supervision of a registered nurse who is licensed by the Board of Nursing of the Commonwealth of Virginia.

2. **Home Health Aide and Homemaker Services:** Home health aides may provide personal care services. Aides may also perform household services to maintain a safe and sanitary environment in areas of the home used by the patient, such as changing the bed or light cleaning and laundering essential to the comfort and cleanliness of the patient. Homemaker services may include assistance in personal care, maintenance of a safe and healthy environment and services to enable the individual to carry out the plan of care. Home health aide and homemaker services must be provided under the general supervision of a registered nurse.

3. **Medical Social Services:** medical social services must be provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician.

4. **Physician Services:** physician services must be performed by a professional who is licensed to practice in the Commonwealth of Virginia, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor. The hospice medical director or the physician member of the interdisciplinary team must

be a licensed doctor of medicine or osteopathy. Attending physician means a physician who is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

5. **Counseling Services:** counseling services must be provided to the terminally ill individual and the family members or other persons caring for the individual at home. Counseling, including dietary counseling, may be provided both for the purpose of training the individual's family or other caregiver to provide care, and for the purpose of helping the individual and those caring for him or her to adjust to the individual's approaching death.

Bereavement counseling consists of counseling services provided to the individual's family up to one year after the individual's death. "Family" includes family members or other persons caring for the individual at home. Bereavement counseling is a required hospice service, but it is not reimbursable.

6. **Short-term Inpatient Care:** short-term inpatient care may be provided in a participating hospice inpatient unit, or a participating hospital or nursing facility. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management which cannot be provided in other settings.

(a) Inpatient care may also be furnished to provide respite for the individual's family or other persons caring for the individual at home. Respite care means short-term inpatient care provided in an approved facility (freestanding hospice, hospital, or nursing facility) to relieve the primary caregiver(s) providing at-home care for the recipient. No more than 5 consecutive days will be allowed within each certification/recertification time period.

(b) Hospice patients are exempted from the preadmission screening requirements. However, the above criteria must be met for inpatient hospital stays.

7. **Durable Medical Equipment and Supplies:** Durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness are covered. Medical supplies include those supplies that are part of the written plan of care.

8. **Drugs and Biologicals:** Only drugs used which are used primarily for the relief of pain and symptom control related to the individual's terminal illness are covered.

9. **Rehabilitation Services:** Rehabilitation services

# Emergency Regulations

include physical and occupational therapies and speech-language pathology services that are used for purposes of symptom control or to enable the individual to maintain activities of daily living and basic functional skills.

(a) Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Board under the direct supervision of an occupational therapist as defined above;

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

(b) Physical therapy services shall be those furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a physical therapist licensed by the Board of Medicine; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

(c) Speech-language therapy services shall be those

services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech Pathology; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.

(d) Respiratory therapy services shall be those services furnished a patient which meet all of the following conditions:

(1) The services shall be directly and specifically related to an active written treatment plan designed by a physician after any needed consultation with a respiratory therapist licensed or registered by the National Board for Respiratory Therapy;

(2) The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a respiratory therapist licensed or registered by the National Board for Respiratory Therapy; and

(3) The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.



# Emergency Regulations

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES Request for Hospice Benefits

**DRAFT**

NAME: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_/\_\_\_\_/\_\_\_\_

ADDRESS: \_\_\_\_\_

MEDICARD NUMBER: \_\_\_\_\_ (12 digits) MEDICARE NUMBER: \_\_\_\_\_

OTHER INSURANCE: \_\_\_\_\_

I select to participate in the Medicaid Hospice Benefit (provider). I am aware of the prognosis and life expectancy relative to my illness (Hospice Medical Director). My family and I will help to develop and will participate in a plan of care based on our special needs. My care will be supervised by Dr. \_\_\_\_\_ (attending physician, phone number) and the Hospice Medical Director.

I may receive benefits which include home nursing visits, counseling, medical social work services, medical supplies and equipment. If needed, I may also receive home health aides/nurses, physical therapy, occupational therapy, speech/language pathology, in-patient care for acute symptoms, medical procedures ordered by my physician and available and when appropriate. I realize that my family and I have the opportunity for limited respite or relief care in a nursing facility.

In accepting these services, which are more comprehensive than regular Medicaid benefits, I waive my right to regular benefits except for payment to my attending physician or treatment for medical conditions unrelated to my terminal illness. I understand that the Hospice Benefit consists of three non-renewable benefit periods. I understand that the Hospice Benefit is not available for hospice charges if I exhaust my Medicaid Hospice Benefits or if I become ineligible for Medicaid services.

I understand that at the end of either the first ninety-day period or the second, because of an improvement in my condition, I may choose to leave the hospice care and return to regular Medicaid benefits. I understand that I also understand that should I choose to do so, I am still eligible to receive the Hospice Benefit for the remaining days of that benefit period.

I understand that if I choose to do so, once during each election period I may change the designation of the particular hospice from which hospice care will be received by filing a written request for such care as been received and with the newly designated hospice. I understand that a change of hospice provision or revocation of the remainder of that election period. I understand that Medicaid Hospice Benefits are limited to a cumulative total of 210 days.

I understand that, unless I revoke the Hospice Benefit, hospice coverage will continue for 210 consecutive days. I understand that if I am a Medicare recipient, I must elect to use the Medicare Hospice Benefit.

Check one:  
 I am a Medicare recipient and have elected to use the Medicare Hospice Benefit. My Medicare eligibility for hospice benefits begins \_\_\_\_\_ (date).  
 I am not a Medicare recipient.

Witness' signature \_\_\_\_\_ Medicaid Hospice Recipient's signature \_\_\_\_\_

Date \_\_\_\_\_ Medicaid Hospice Recipient (typed or printed) \_\_\_\_\_

Date \_\_\_\_\_

DMAS-# 7/90

## HOSPICE PROVIDER INFORMATION

**DRAFT**

SECTION I  
 HOSPICE PROVIDER: \_\_\_\_\_  
 HOSPICE ADDRESS: \_\_\_\_\_  
 MEDICAD PROVIDER NUMBER: \_\_\_\_\_  
 FACILITY CONTACT PERSON: \_\_\_\_\_ (Name) TELEPHONE: \_\_\_\_\_  
 \_\_\_\_\_ (Title)

## SECTION II

### A. Physician Certification:

I certify that the life expectancy for (recipient) is 6 months or less. Based on the medical prognosis I am requesting Medicaid Hospice Benefits for this patient beginning \_\_\_\_\_ (recipient) revokes Hospice Benefits, hospice services will terminate on that date unless \_\_\_\_\_ (recipient) continues for 210 consecutive days (effective and date is noted in Section III).

Hospice benefits for \_\_\_\_\_ (recipient) are hereby terminated effective \_\_\_\_\_, 19\_\_\_\_, for the following reason:  
 \_\_\_\_\_ Patient is deceased. Date of death is \_\_\_\_\_, 19\_\_\_\_  
 \_\_\_\_\_ Patient has used maximum lifetime hospice benefit days.  
 \_\_\_\_\_ OTHER (Please clarify) \_\_\_\_\_

Discharge Summary Attached \_\_\_\_\_

Medical Director's signature \_\_\_\_\_  
 Medical Director (typed or printed) \_\_\_\_\_  
 Date \_\_\_\_\_

## DMAS OFFICE USE ONLY:

Approved \_\_\_\_\_ effective \_\_\_\_\_ / \_\_\_\_\_ (begin date) (end date)  
 Denied \_\_\_\_\_  
 Pending \_\_\_\_\_

## COMMENTS:

signature/date \_\_\_\_\_

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Hospice Benefits  
Revocation/Change Statement

DRAFT

NAME: \_\_\_\_\_ DATE OF BIRTH: / /

ADDRESS: \_\_\_\_\_

MEDICAID NUMBER: - - - (12 digits)      MEDICARE NUMBER: \_\_\_\_\_

OTHER INSURANCE: \_\_\_\_\_

\_\_\_ I wish to change my designation of hospice from \_\_\_\_\_ (name of hospice) to \_\_\_\_\_ (name of hospice/telephone), effective \_\_\_\_\_ (date).  
I understand that the change of Hospice providers is NOT a revocation of the remainder of this election period.

\_\_\_ I wish to revoke my election of Medicaid hospice services effective \_\_\_\_\_ (date).  
I understand that any remaining days of this election period will not be available to me.  
I understand that I may elect hospice care at a later time if this revocation has occurred during either of the two initial 90-day benefit periods.  
I understand that as of the date of this revocation, if I am still eligible, my regular Medicaid benefits will be restored.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness' signature

\_\_\_\_\_  
Name typed or printed

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# Emergency Regulations

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## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**Title of Regulation:** VR 615-45-3. Child Protective Services Sharing of Information with Family Advocacy Representatives of the United States Armed Forces.

**Statutory Authority:** §§ 2.1-386 and 63.1-248.6 of the Code of Virginia.

**Effective Dates:** July 3, 1990, through July 2, 1991.

### Summary:

- 1. REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled "Child Protective Services Release of Information to Family Advocacy Program Representatives of the United States Armed Forces" pursuant to Sections 2.1-286 and 63.1-248.6 of the Code of Virginia.
- 2. PURPOSE OF THE REQUEST:** Sections 2.1-386 and 63.1-248.6 as amended by the 1989 session of the General Assembly became effective July 1, 1989. Local departments of social services are responsible for sharing child protective services information pursuant to this section of the Code.  
  
The purpose of this request to take emergency adoption action is to continue the existing policy and guidelines necessary for local departments of social services to meet the intent of the cited Code revisions while the policy is submitted through the regular Administrative Process Act.
- 3. PERSONS AFFECTED BY THIS REGULATION:** All local departments of social services in the Commonwealth are affected in that they are responsible for determining when information is to be shared and the extent of the information that is shared. The regulation also affects active duty military personnel and members of their households when they are either the alleged abuser/neglector or when a child member of the household is the victim of abuse/neglect.
- 4. BACKGROUND:** The 1989 General Assembly enacted legislation which required that the State Board of Social Services promulgate regulations to govern information sharing between local departments of social services and family advocacy representatives of the United States Armed Forces. Regulations were developed and submitted as emergency regulations in July, 1989. The intent at that time was to continue to work with the Military Advisory Committee to make certain the regulations were meeting the needs of all parties. The regulations have been monitored and input has been solicited from social services and the family advocacy representatives. The department intends to resubmit the regulation on an emergency basis in order to insure that regulations are in place until such time as they are finalized.

- 5. AUTHORITY TO ACT:** This child protective services regulation has been developed pursuant to the enactment of legislation by the 1989 General Assembly. That legislation, Senate Bill 567, which in part amended § 63.1-248.6, stipulates that the Board of Social Services promulgate regulations to implement the legislation.
- 6. FISCAL IMPACT:** None.
- 7. FUTURE DEPARTMENT ACTION:** The Department of Social Services has developed this emergency regulation with the assistance of Colonel Frederick Moss who represented the Military Affairs Committee, the Attorney General's Office and representatives of the local departments of social services.

Immediately after this emergency regulation is approved and published in the Virginia Register, the Department of Social Services will initiate the procedure for the development of the regulation using the regular (non-emergency) procedure. Public comment will be solicited through a sixty-day public comment period.

Copies of the proposed regulation will be sent to persons/organizations who are identified as interested persons.

### Preface:

Sections 2.1-380 and 63.1-248.6 of the Code were amended to allow local departments of social services to transmit information regarding child protective services reports, complaints or investigations of active duty military personnel or household members to the family advocacy representatives of the United States Armed Forces. Section 63.1-248.6 of the Code requires that the State Board of Social Services promulgate regulations which address the release of information.

It is necessary for the proposed procedures to be published as emergency regulations in order for the department to continue the existing policy and guidelines necessary for local departments of social services to meet the intent of §§ 2.1-380 and 63.1-248.6 of the Code of Virginia, as amended, while the procedures are submitted through the Administrative Process Act.

VR 615-45-3. Child Protective Services Sharing of Information with Family Advocacy Representatives of the United States Armed Forces.

### 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:

*"Alleged abuser/neglector" means any person who is the subject of a complaint and is suspected of or is found to have committed the abuse or neglect of a child pursuant to § 63.1-248 et seq. of the Code of Virginia.*

/s/ Joan W. Smith  
Registrar of Regulations  
Date: July 3, 1990 - 5:21 p.m.

*"Child protective services" means the identification, receipt and immediate investigation of complaints and reports of child abuse and neglect for children under 18 years of age. It also includes documenting, arranging for, and providing social casework and other services for the child, his family, and the alleged abuser/neglector.*

*"Complaint" means a valid report of suspected child abuse/neglect which must be investigated by the local department of social services.*

*"Family Advocacy Program representative" means the professional employed by the United States Armed Forces who has responsibility for the program which is designed to address prevention, identification, evaluation, treatment, rehabilitation, follow-up and reporting of family violence.*

*"Investigation" means the formal fact-finding process utilized by the local department of social services in determining whether or not abuse/neglect has occurred. This process is employed for each valid complaint received by the local department.*

*"Reports" means any information transmitted to the local department of social services relating the suspicion of possible abuse/neglect of a child pursuant to § 63.1-248 et seq. of the Code of Virginia.*

## PART II. POLICY.

### § 2.1. Release of information to Family Advocacy Program representatives of the United States Armed Forces.

*Information regarding child protective services reports, complaints, investigations and related services and follow-up may be shared with the appropriate Family Advocacy Program representative of the United States Armed Forces when the local agency determines such release to be in the best interest of the child. Provision of information as addressed in this regulation shall apply to instances where the alleged abuser/neglector is a member (or the spouse of a member) of the United States Armed Forces. In these situations coordination between child protective services and the Family Advocacy Program is intended to facilitate identification, treatment and service provision to the military family.*

/s/ Larry D. Jackson  
Commissioner  
Date: June 7, 1990

/s/ Lawrence Douglas Wilder  
Governor  
Date: June 30, 1990

# STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 27, 1990

AT RICHMOND, APRIL 25, 1990

ADMINISTRATIVE ORDER

ADMINISTRATIVE ORDER

RELATING TO ANNUAL FEES TO BE ASSESSED  
MORTGAGE LENDERS AND BROKERS

Pursuant to Virginia Code § 6.1-420, the following schedule sets the annual fees to be paid by mortgage lenders required to be licensed under Chapter 16 of Title 6.1 of the Code. Such fees are designed to defray the costs of examination, supervision and regulation of such lenders by the Bureau of Financial Institutions, and they are required to be reasonably related to those costs, to the assets (i.e., loans) of the lenders, and to other factors relating to supervision and regulation.

### SCHEDULE

Minimum fee - \$500, plus \$9.80 per loan

The annual fee for each mortgage lender will be computed on the basis of the number of mortgage loans secured by Virginia real estate made or originated during the calendar year preceding the year of assessment, as shown in the lender's annual report. Each mortgage broker will be assessed for 1990 the annual fee established currently by § 6.1-420, i.e., \$75.

Fees will be assessed on or before April 25 for the calendar year and by law must be paid on or before May 25. In the event a lender's annual report has not been filed by April 25, an annual fee of \$5000 will be assessed, due immediately.\* This provisional \$5000 fee will be subject to adjustment when the report is filed. A mortgage lender licensed January 1 to April 25 will be assessed the minimum fee of \$500 for that year.

A mortgage lender that is affiliated with a licensee under Chapter 6 of Title 6.1 discharges its obligation to pay a fee pursuant to Chapter 16 by payment of the fee set pursuant to Code § 6.1-299.1. Fees prescribed and assessed by this schedule are apart from, and do not include, the reimbursement for expenses permitted by paragraph B of § 6.1-420.

The foregoing schedule amends and supercedes the schedule set by administrative order dated April 24, 1989 in Case No. BF1890171. This order is effective immediately and remains in effect until amended or revoked.

A copy of this order shall be sent to every mortgage lender and mortgage broker to which it applies.

\*The statutory deadline for filing annual reports is March 25. (Va. Code § 6.1-418.)

\* \* \*

RELATING TO ANNUAL FEES ASSESSED AGAINST  
STATE-CHARTERED BANKS AND STATE-CHARTERED  
SAVINGS INSTITUTIONS

Pursuant to the provisions of Sections 6.1-94 and 6.1-194.85 of the Code of Virginia, the State Corporation Commission hereby promulgates the following schedule prescribing the annual fee to be paid by every State-chartered bank and State-chartered savings institution for its supervision and regulation, as follows:

### SCHEDULE

Asset Interval		Fee		
Assets Exceeding	But not Exceeding	This Amount	Plus	Assets Exceeding
\$0	\$5 million	\$4,500	0	
\$5 million	\$25 million	\$4,500	.000250 X	\$5 million
\$25 million	\$100 million	\$9,500	.000200 X	\$25 million
\$100 million	\$200 million	\$24,500	.000150 X	\$100 million
\$200 million	\$1000 million	\$39,500	.000110 X	\$200 million
\$1000 million	\$5000 million	\$127,500	.000090 X	\$1000 million
\$5000 million		\$487,500	.000070 X	\$5000 million

The assessment fee resulting from the above schedule shall be rounded down to the nearest whole dollar amount. The assessment shall be computed on the basis of the bank's or savings institution's total assets as shown by its Report of Condition made as of the close of business for the preceding calendar year as filed with the Bureau of Financial Institutions.

Any bank or savings institution which opens for business between January 1 and June 30, inclusive, shall be assessed a fee of \$4,500.

Any bank or savings institution which receives authorization to commence business but does not exercise that authority prior to July 1 shall be assessed a fee of \$3,000, which shall be in lieu of the assessment prescribed by the foregoing schedule.

A copy of this order shall be sent to every State-chartered bank and State-chartered savings institution.

\* \* \*

AT RICHMOND, JUNE 27, 1990

ADMINISTRATIVE ORDER

RELATING TO ANNUAL FEES ASSESSED AGAINST  
INDUSTRIAL LOAN ASSOCIATIONS

Pursuant to the provisions of Section 6.1-237 of the Code of Virginia, the State Corporation Commission hereby promulgates the following schedule prescribing the annual fee to be paid by every industrial loan association for its

# State Corporation Commission

supervision and regulation, as follows:

Asset Interval		SCHEDULE		
Assets Exceeding	But not Exceeding	This Amount	Fee Plus	Assets Exceeding
\$0	\$2 million	\$1,200	0	
\$2 million	\$5 million	\$1,200	.000900 X	\$2 million
\$5 million	\$25 million	\$3,900	.000120 X	\$5 million
\$25 million		\$6,300	.000060 X	\$25 million

The assessment calculation shall be rounded down to the nearest whole dollar amount. The assessment shall be computed on the basis of the association's total assets as shown by its last Consolidated Report of Condition made as of the close of business for the preceding calendar year as filed with the Bureau of Financial Institutions.

A copy of this order shall be sent to every industrial loan association authorized to do business in this State.

\*\*\*\*\*

AT RICHMOND, JUNE 28, 1990

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION CASE NO. INS900256

Ex Parte, In re: Determination of competition as an effective regulator of rates pursuant to Virginia Code § 38.2-1905.1.E.

### ORDER SCHEDULING HEARING

WHEREAS, pursuant to Virginia Code § 38.2-1905.1.B., the Commission, in December, 1989, submitted its third annual report to the General Assembly and therein (i) established May 1, 1990 as the filing deadline for the 1990 supplemental reports and (ii) designated certain lines and subclassifications of insurance for which the Commission has reasonable cause to believe that competition may not be an effective regulator of the rates charged, which lines and subclassifications are set forth in Attachment A hereto, which is hereby made a part of this order;

WHEREAS, pursuant to an order entered in Case No. INS890517 on January 19, 1990, after notice by order entered therein December 21, 1989, the Commission adopted an amended reporting form for the 1990 supplemental reports to be filed with the Commission's Bureau of Insurance by licensed insurers not later than the date established by the Commission in its aforesaid report to the General Assembly; and

WHEREAS, Virginia Code § 38.2-1905.1.E. provides, inter alia, that the lines and subclassifications designated by the Commission in its annual report to the General Assembly shall be reviewed by the Commission for the purpose of determining whether competition is an effective regulator of rates for each line or subclassification so designated and that the Commission shall hold a hearing or hearings for such purpose not later than the September 30th next following the due date of the supplemental reports required under Virginia Code § 38.2-1905.2.

IT IS ORDERED, pursuant to Virginia Code § 38.2-1905.1.E., that a hearing shall be conducted by the Commission at 10:00 a.m. on September 4, 1990 in its Courtroom, Jefferson Building, 13th Floor, Bank and Governor Streets, Richmond, Virginia, at which time and place all interested parties may appear and be heard in this matter.

IT IS FURTHER ORDERED, upon consideration of the motion heretofore filed with the Clerk of the Commission by counsel for the Division of Consumer Counsel of the Office of Attorney General, that the Division of Consumer Counsel of the Office of Attorney General, the Commission's staff and all other persons who expect to participate in this matter by presenting witnesses at the hearing scheduled herein, shall cause to be filed with the Clerk of the Commission, for the use of the Commission, no later than August 24, 1990, fifteen (15) copies of the testimony and exhibits of each of their witnesses. Copies of such testimony and exhibits shall be available to interested parties through the Clerk of the Commission, Document Control Center upon payment of the appropriate copying charges.

IT IS FURTHER ORDERED that any motion or any part thereof not specifically granted herein be, and it is hereby, denied.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Honorable Mary Sue Terry, Attorney General of Virginia, in care of Gail S. Marshall, Deputy Attorney General and Edward L. Petrini, Senior Assistant Attorney General, Office of the Attorney General, 101 North Eighth Street, Richmond, Virginia 23219; James C. Roberts, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-1122; C. William Waechter, Jr., Esquire, Press, Culler, Jones, Waechter & Stoneburner, P.C., 1700 Bayberry Court, Suite 300, Richmond, Virginia 23226; and the Bureau of Insurance in care of Robert A. Miller, Deputy Commissioner, who shall forthwith cause a copy of this order and the attachment hereto to be sent to all insurers licensed to transact the lines and subclassifications set forth in said Attachment A and all rate service organizations licensed pursuant to Chapter 19 of Title 38.2 of the Code of Virginia.

LINES AND SUBCLASSIFICATIONS OF INSURANCE  
DESIGNATED IN THE SCC 1989 ANNUAL  
REPORT TO THE VIRGINIA GENERAL  
ASSEMBLY PURSUANT TO VIRGINIA CODE

# State Corporation Commission

§ 38.2-1905.1.B.

Architects and Engineers Professional Liability  
Commercial Contractors Liability  
Directors and Officers Liability  
Environmental Impairment Liability  
Insurance Agents Professional Liability  
Law Enforcement Agencies Liability  
Lawyers Professional Liability  
Medical Professional Liability  
Municipal Liability  
Pest Control Liability  
Products and Completed Operations Liability  
Public Housing Liability  
Real Estate Agents Professional Liability  
Asbestos Abatement Contractors Liability  
Dams (existence hazard) Liability  
Detective or Investigative Agencies Liability (private)  
Gas Companies Liability  
Landfill Liability  
Public Officials Errors and Omissions Liability  
School Board Errors and Omissions Liability  
Security Guards Liability  
Sewage Treatment Plants Liability  
Underground Tanks Liability  
Volunteer Fire Departments and Rescue Squads  
Liability  
Water Treatment Plants Liability  
Homes for Adults Liability

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NOTICE: See Notice to Public in General Notices Section.

July 9, 1990

RE: ROAD TAX ON MOTOR CARRIERS

Summary:

The proposed regulations establish the following guidelines and procedures for motor carriers which are subject to the motor fuel road tax: (i) filing motor fuel road tax reports, (ii) computing motor fuel road tax liability, and (iii) maintaining records relating to fuel consumption and mileage accumulation. These regulations also define the scope of the Commission's authority relating to: (1) auditing methods and procedures, and (2) inspecting the books and records of motor carriers.

VR 225-03-1001. Road Tax On Motor Carriers.

§ 1. Definitions.

The following terms shall have the following meanings, unless the context clearly indicates otherwise:

"Audit trail" means the documentation of all vehicular movement and fuel consumption of an operating carrier's qualified vehicles. The documentation must adequately

identify the individual vehicles, their dates of movements and the fuel purchased and consumed. It shall also clearly indicate the identity of any person, as defined herein, who is operating under the authority or direction of an operating motor carrier.

"Commission" means the State Corporation Commission.

"IVMR" means Individual Vehicle Movement Record and shall contain the following information:

1. the operating carrier's name and address;
2. the vehicle identification number;
3. the names of all drivers;
4. all leasing information, if applicable;
5. points of origin or trips;
6. odometer or hubometer readings at the beginning and ending of all trips and at the point of entry to and exit from Virginia, or in the alternative, all routes of actual travel by the vehicle in the order of use;
7. on all multiple deliveries within a metropolitan area, actual odometer or hubometer readings will be required from the first delivery point to the last delivery point, unless, prior approval of an alternative method has been granted by the Commission; and
8. a record of fuel purchased with notations of the time, date and location (vendor). "Operating motor carrier" means the person actually performing the operation under their authority, regardless of the legal ownership of the vehicle or the type of motor fuel used.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity including but not limited to fictitious names.

"Qualified vehicles" means all road tractors, three-axle trucks, and tractor trucks which had any travel over the highways of the Commonwealth during a calendar quarter and which are not exempted under § 58.1-2702 of the Code of Virginia.

"Total interstate miles" means the total miles traveled by qualified vehicles under the operations of the reporting motor carrier, which vehicles at any time during the quarter traveled within this Commonwealth. Total interstate miles reported shall include mileage traveled by vehicles which the reporting motor carrier operated in Virginia under lease from another owner or from any other source.

VR 225-03-1002. Motor Carrier Regulations.

## § 2. Exemptions and Exceptions.

A motor carrier that operates both taxable and nontaxable vehicles as defined by § 58.1-2702 of the Code of Virginia shall keep separate records for each type of vehicle.

VR 225-03-1003. Motor Carrier Regulations.

## § 3. Payment of Tax.

A. Motor carriers using an accounting period which ends the quarter not earlier than the 25th day of March, June, September and December of each year shall maintain records accurately defining this cutoff date for their operations.

B. Any motor carrier using a different accounting period shall obtain prior written approval from the Commission's Motor Carrier Division, Audits.

VR 225-03-1004. Motor Carrier Regulations.

## § 4. Motor Fuel Road Tax Report.

A. Operating motor carriers or vehicle lessors shall be required to file a quarterly Motor Fuel Road Tax Report establishing the motor carrier's motor fuel road tax liability to the Commonwealth. The net amount of tax due to the Commonwealth shall be determined from vehicles operating in Virginia during the respective quarter and based upon quarterly total figures for interstate miles, Virginia miles, percent of miles in Virginia, gallons of motor fuel consumed and gallons of motor fuel used in Virginia. These quarterly total figures shall be reported in the following manner and listed in the following prioritized order on the motor fuel road tax report.

1. Total interstate miles. Total interstate miles should be reported either on the basis of figures obtained from mechanical or electronic means (odometer, hubometer or on-board computers) or on the basis of a method which calculates mileage independently of mechanical or electronic means directly mounted in or on individual vehicles. In the event that an independent method is used, the reported figures must be verifiable with secondary records which form a valid audit trail. This may be computed from IVMRs or any other documentation which reasonably establishes the actual miles traveled by individual vehicles.

2. Total miles traveled in Virginia. Total miles traveled in Virginia shall be reported either on the basis of figures obtained from mechanical or electronic means (odometer, hubometer or on-board computers) or on the basis of a method which calculates mileage independently of mechanical or electronic means directly mounted in or on individual vehicles. In the event that an independent method is used, the reported figures must be verifiable with

secondary records which form a valid audit trail. This may be computed from IVMRs or any other documentation which reasonably establishes the actual miles traveled by individual vehicles.

3. Percent of miles in Virginia. The percentage that Virginia miles bear to interstate miles shall be calculated by an equation using as its numerator the figures of reported Virginia miles, as determined in subdivision 4 A 2 of these rules divided by a denominator of total miles as determined in subdivision 4 A 1 (Virginia miles ÷ Total miles = %). The resulting percentage shall be computed using five decimal places, however, the percentage submitted on the report shall be rounded to four decimal places.

4. Total gallons of fuel consumed. Total gallons of motor fuel consumed means total motor fuel consumed by vehicles having any quarterly operations in Virginia. Motor fuel consumption shall be determined from the motor carrier's records, receipts, audit trail, IVMR or other documentation. Total gallons reported shall include gallons consumed by the reporting carrier in vehicles which were leased from another owner.

5. Taxable motor fuel used in Virginia. The motor fuel consumed in Virginia shall be determined by a calculation using the figure for total motor fuel consumed as determined in § 4 A 4 multiplied by a figure determined in compliance with § 4 A(3). The resulting product shall be the fuel consumed in Virginia (Total fuel consumed x % = Virginia fuel consumed).

6. Amount of tax. The amount of Virginia fuel consumed shall be multiplied by the tax per gallon amount imposed by § 58.1-2701 of the Code of Virginia in effect at the time the quarterly report is made. The resulting product shall determine the amount of motor fuel road tax due for the reporting quarter.

B. The net amount of tax due on taxable motor fuel used in the Commonwealth may be reduced by determining the tax due on the taxable motor fuel reported in subdivision A 5 of this section, and subtracting the tax paid on any motor fuel purchased in Virginia. Additionally, the net amount of tax due may be reduced by excess credits subject to the terms and conditions of VR 225-02-1006.

C. All figures reported in the quarterly Motor Fuel Road Tax Report, and used to calculate the net amount of tax due to the Commonwealth shall be evidenced and documented by a valid audit trail and an individual vehicle movement record.

1. The IVMR's shall be summarized quarterly listing information in the following prioritized order:

a. Vehicle identifying number;



# State Corporation Commission

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- b. Total interstate miles of all vehicular operations;
- c. Total interstate fuel consumption;
- d. Total miles operated in Virginia;
- e. Total fuel purchased by state;

D. Leasing companies which do not file consolidated Motor Fuel Road Tax Reports shall file a quarterly Motor Fuel Road Tax Report as required by this section, which identifies all daily rental vehicles which had operations in the Commonwealth during the respective quarter. Leasing companies shall document all figures reported on the Motor Fuel Road Tax Report in the same manner as motor carriers.

E. If a reporting motor carrier's quarterly operations include vehicles which were leased out to another motor carrier, and operated under another motor carrier's authority for any period of time during the quarter, the reporting motor carrier's Virginia road tax liability shall be limited to the miles accumulated and fuel consumed in Virginia at the time the reporting motor carrier operated the vehicles under its authority in the Commonwealth. The reporting motor carrier shall exclude from its quarterly report mileage accumulated or fuel consumed by any vehicles leased out to another motor carrier. The reporting motor carrier shall employ a ratio to calculate total fuel consumed and reported under subdivision 4 A 4 of this section. The numerator shall be the total interstate miles accumulated by qualifying vehicles, including miles accumulated by vehicles leased from another motor carrier and the denominator shall be the miles per gallon fuel consumption factor. The miles per gallon fuel consumption factor in the denominator shall be calculated by dividing the figure for total interstate miles traveled as shown on the IVMR, by the total interstate fuel figure from the IVMR. The quotient resulting from dividing the total interstate miles as determined by § 4 A 1 accumulated by the miles per gallon fuel consumption factor shall be the reportable total fuel consumed under subdivision 4 A 4 of this section.

F. The quarterly totals submitted in the Motor Fuel Road Tax Report shall be verifiable upon audit by the Commission. Verifiable means that the accounting records and documentation of the motor carrier's operations for the audit period, accurately establish and support the motor carrier's road tax liability reported in the motor fuel road tax report. If upon inspection of the motor carrier's records the Commission determines that the motor fuel tax report is unverifiable then the provisions of VR 225-03-1005 shall apply to determine a reasonable estimate of the motor carrier's road tax liability to the Commonwealth.

VR 225-03-1005. Motor Carrier Regulations.

§ 5. Audit procedures.

A. The Commission shall periodically audit a motor carrier's records to verify that the quarterly Motor Fuel Road Tax Report for all vehicles having operations in the Commonwealth during the audit period, accurately reflects the total interstate miles, total interstate fuel consumed, total Virginia miles and total Virginia fuel actually accumulated during the motor carrier's operations.

B. The figures reported in the Motor Fuel Road Tax Report shall be verifiable if the following conditions are satisfied:

1. The reported tax liability is accurately supported by the monthly summaries, individual vehicular movement record, receipts, and any other documentation submitted by the motor carrier;

2. The monthly summaries, motor fuel receipts, individual vehicular movement records and mileage data are accurate, complete, and based upon a reliable method for determining mileage and fuel consumption on a continuous basis. A method shall be reliable and verifiable if the mileage is based upon odometers, hubometers, on-board computers or any other method or mechanical device where the mileage is determined from within the operating vehicle.

C. Methods used which determine mileage from a mechanical or electronic device whose intelligence emanates from sources other than the operating vehicle, such as the "shortest route" method or the "most practical route" method, shall be presumptively unverifiable and unreliable, unless, the motor carrier submits, upon request from the Commission, documentation which verifies the routes of travel and the actual mileage traveled thereon. The Commission may exercise any of its powers pursuant to VR 225-03-1008 to verify any figures reported by the motor carrier.

D. If upon examination and inspection of a motor carrier's records, the Commission determines that the motor carrier's records cannot be verified because the motor carrier's records do not adequately support the figures reported, or the records do not exist, the Commission may employ any of the following methods or procedures to establish a reasonable estimate of the motor carrier's road tax liability for the audit period, in lieu of the figures submitted on the quarterly Motor Fuel Road Tax Report:

1. Total fuel or total miles. In the event that any of the calculations or figures set forth in subdivisions 1 through 5 of subsection 4 A cannot be reasonably determined because of lack of verifiable records, the motor fuel tax due shall be determined in the following manner:

a. Virginia miles will be determined as accurately as possible from the operating motor carrier's records;

b. A miles-per-gallon figure for total fuel consumed shall be assigned as 4.5 miles per gallon;

c. The Virginia miles figure shall be divided by the miles-per-gallon figure and the resulting quotient shall be the amount of fuel consumed in Virginia;

d. The final calculation to determine the amount of motor fuel road tax due shall be performed in accordance with subdivision 4 A 6;

e. For good cause shown, a miles-per-gallon figure exceeding 4.5 may be used upon agreement with the operating carrier and the Commission.

2. Virginia miles. The auditor may determine total Virginia mileage by assigning Virginia miles on a round trip basis according to a frequency interval, which is determined to be reasonable, based upon the motor carrier's records of operations in Virginia. If the Virginia mileage records for a quarterly period are not continuous or successive, the Commission may assign total Virginia mileage based upon fleet average mileage or the best evidence available.

E. If the auditor cannot verify the reported figures from the motor carrier's records, an auditor may calculate an error rate between the reported figures and the audited figures. The percentage difference between the audited figures and the reported figures for a sample period for which there is verifiable figures, may be applied to quarterly totals in the audit period, to adjust the reported figures either upward or downward as appropriate to reflect actual miles or fuel consumed.

F. Motor carriers shall maintain all vehicle records relating to Motor Fuel Road Tax Reports for a minimum of four calendar years for purposes of determining road tax liability to the Commonwealth for an audit period.

G. A motor carrier shall produce records, data, receipts or any other documentation which the Commission determines to be necessary to reach a reasonable assessment of a motor carrier's actual motor fuel road tax liability within 30 days following receipt of the Commission's data request. If a motor carrier establishes based upon good cause that the data requested cannot be submitted within the 30 day period, the Commission may allow an additional 30 days to submit the information requested. Good cause means that the information requested does not exist in the motor carrier's records or the records are under the custody and control of a third party.

H. If a motor carrier does not submit the data requested within the time limitation established in subsection 5 G, the Commission may issue A Rule To Show Cause why the operating carrier: (i) should not be subjected to a \$1,000 penalty; (ii) should not have its authority to operate over the highways of Virginia suspended or revoked unless it produces the data

requested; (iii) should not have entered against it a judgment for an assessment based upon the best available evidence and calculated in accordance with the procedures set forth in subdivisions 5 D 1 and 2 or subsection 5 E.

I. If the Commission has issued A Rule To Show Cause, any postponements, continuances or extensions of time shall only be granted if requested at least fourteen days prior to the established hearing date, except in cases of extreme emergency.

VR 225-02-1006. Motor Carrier Regulations.

§ 6. Credit for payment of motor fuel tax.

A. A motor carrier or any person or firm having a power-of-attorney for any motor carrier on file with the Commission may file an application for a tax refund if the amount of tax credit to which the motor carrier is entitled in any quarter exceeds the motor carrier's tax liability for the same quarter. Such refund applications shall be subject to the following terms and conditions:

1. Applications shall be filed on original or photostatic copies of forms supplied by the Commission, and shall be correctly executed in conformance with the instructions on the form. Applications which are incorrectly executed shall be returned to the applicant for correction; however, the applicant shall not receive an extension of time to make such correction in order to comply with the timely filing requirement set forth in subdivision 2 of this subsection.

2. Applications shall be timely filed if received by the Commission on or before the 180th day following the end of the quarter for which the refund is being sought. Applications which have been timely filed may be amended or corrected subsequent to receipt of the original application by the Commission.

3. Applications for refunds shall be limited to the calendar quarter in which the credit was earned and designated on the form.

4. Applications filed by persons or firms having powers-of-attorney shall be accepted by the Commission if the powers-of-attorney contain the following information:

a. The execution date;

b. The motor carrier's correct legal name and address;

c. The person or firm's correct legal name and address;

d. A statement that the person or firm is authorized to calculate and execute the refund application of excess credits to the Commission; and

# State Corporation Commission

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e. A termination date for the authority.

5. Any outstanding excess credits may be wholly or partially applied as a tax credit against any of the four succeeding quarters for which the motor carrier incurs Virginia motor fuel road tax liability if either: (i) an application for refund has been timely filed and the audit has not occurred, or (ii) if no application for refund has been filed.

6. Refund awards shall not be granted until after the Commission has conducted an annual audit of the motor carrier's records and the motor carrier's records verify the motor carrier is entitled to the credit. Annual audit means that the audit must be performed within the calendar quarter following the fourth quarter after the quarter in which the most dated application for refund was correctly filed. Annual audits shall not be required before granting refund requests for \$100 or less, unless the Commission Staff determines that the tax report or refund application are clearly erroneous.

B. A motor carrier shall qualify for a tax credit against road tax liability for payment of the special fuels tax to a retail vendor within the Commonwealth if a receipt containing the following information is retained, and upon audit, submitted to the Commission:

1. The name and address of the vendor;
2. The date of purchase;
3. The identifying number of the vehicle receiving the fuel;
4. The name of the lessor;
5. The name of the motor carrier (lessee);
6. The trip or control number to identify the corresponding IVMR;
7. The type and number of gallons of fuel purchased;
8. The price per gallon and the total amount paid or due;
9. The signature of both the seller's agent and the driver.

A motor carrier shall not be entitled to a tax credit for fuel purchased for use in exempt vehicles as defined by § 58.1-2702 of the Code of Virginia.

C. A motor carrier that purchases fuel from a retail vendor within the Commonwealth who does not issue a receipt to evidence payment, such as electronic transfer, by card or key system, shall qualify for a tax credit by submitting the following information on the billing statement:

1. The name and address of the vendor;
2. The name and address of the purchaser;
3. The identifying number of the vehicle receiving the fuel;
4. The date and time of the fuel transfer;
5. The type and number of gallons of fuel transferred;
6. The price per gallon and the total amount due for each sale.
7. The IVMR trip or control number by line item.

D. A motor carrier that purchases fuel from bulk tanks which it owns within the Commonwealth shall qualify for the credit by submitting the following information:

1. The name of the motor carrier and the location of the tank;
2. The date of fuel transfer;
3. The identifying number of the vehicle receiving the fuel;
4. The number of gallons and the type of fuel transferred;
5. The trip or control number of the corresponding IVMR;
6. A monthly reconciliation of the fuel purchased and the fuel retained in tanks;
7. Proof of payment of the special fuels tax.

E. A motor carrier that is also a bulk seller and purchaser of fuel within the Commonwealth shall qualify for the credit by submitting records of the information contained in subdivision C above, in addition to evidence showing the amount of fuel purchased by other motor carriers from the reporting bulk seller.

F. Leasing companies shall qualify for a tax credit, provided fuel was consumed in qualifying vehicles for which the leasing company has motor fuel road tax liability subject to the terms and conditions of this section, regardless of whether the fuel was purchased by the lessor or lessee.

VR 225-03-1007. Motor Carrier Regulations.

§ 7. Refunds to motor carriers who give bond.

A. A surety company named by the Commission's Order Accepting Bond shall be liable for all assessed omitted taxes, penalties and interest due to the extent of the bond given by a motor carrier. If the Commission or its Staff

determines that repayment of an assessment by a motor carrier is in jeopardy, the surety company shall be assessed for all omitted taxes, penalties and interest. If the assessment is not paid within thirty days from its mailing date, interest shall accrue from the assessment date until payment in full, at a rate established in § 58.1-15 of the Code of Virginia.

The surety company's liability for assessed, omitted taxes, penalties and interest shall terminate if the company produces the Commission's Order canceling bond, or a cancellation notice signed by the Commission Staff.

B. Motor carrier's who give bond shall be entitled to tax refunds before completion of an audit, unless the Commission or its Staff determines that an audit is necessary before ordering a refund to avoid prejudice to the Commonwealth's interests.

VR 225-03-1008. Motor Carrier Regulations.

§ 8. Inspection of books and records.

A. The Commission Staff shall have the following authority to inspect books and records of motor carriers, receivers of carriers, operating trustees, brokers or any persons affiliated with any motor carrier or having direct or indirect control of any motor carrier:

1. Require the delivery of any records necessary to satisfactorily prove its operations for the period under review, at a location it so designates;
2. Prescribe the numerical, alphabetical and date order in which records, accounts and memoranda are to be provided;
3. Inspect and examine any and all accounts, records, and memoranda, including all documents, papers, and correspondence kept, or required to be kept, by motor carriers;
4. Require specific tests of a motor carrier's operations subject to the provisions of §§ 58.1-2700 through 58.1-2711 of the Code of Virginia, and to prescribe the manner, form and duration of such tests;
5. Require specific answers to questions deemed necessary. Such answers shall be under oath whenever deemed necessary;
6. Require any motor carrier to file with the Commission a true copy of each or any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to any traffic affected by the provisions of this chapter.

B. A motor carrier that fails to provide the records which the Commission Staff requested within 30 days from the date of the request, shall be subject to the provisions of § 58.1-2709 of the Code of Virginia.

# STATE LOTTERY DEPARTMENT

**NOTICE:** Director's Order No. 13 was published in 6:18 V.A.R. 2953-2954 June 4, 1990, for public comment. No comments were received; therefore, it has been signed and is in effect.

## DIRECTOR'S ORDER NUMBER THIRTEEN (90)

### GENERAL STANDARDS FOR LICENSING; ADDITIONAL FACTORS

In accordance with the authority granted by §§ 58.1-4001 and 58.1-4006 A of the Code of Virginia, I hereby publish additional criteria for licensing of lottery instant game and on-line game retailers, as provided by § 1.4 B of State Lottery Department Instant Game Regulations, VR 447-02-1, and § 2.3 B of State Lottery Department On-Line Game Regulations, VR 447-02-2. The following criteria constitute aspects of a business which weigh against the issuance of a lottery license:

1. the applicant's place of business caters to or is frequented predominantly by persons under 18 years of age;
2. the nature of the applicant's business constitutes a threat to the health or safety of prospective lottery patrons;
3. the nature of the applicant's business is not consonant with the probity of the Commonwealth; or
4. the applicant has committed any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery.

This order amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant and on-line game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23230.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson, Director  
Date: June 27, 1990

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## DIRECTOR'S ORDER NUMBER EIGHTEEN (90)

### SUMMER AMBASSADOR PROGRAM PROMOTIONAL GAMES

In accordance with the authority granted by Section 58.1-4006 A of the Code of Virginia, I hereby promulgate the following promotional contest and drawing rules for the summer Ambassador program events which will be conducted at various locations throughout the Commonwealth during the summer, 1990:

- Instant Ticket Promotional Game "Spin and Win"
- Pick 3 Promotional Game "Spin and Win"
- Lotto Promotional Game "Spin and Win"
- "Lottery Scratch-a-Thon"

These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's order.

/s/ Kenneth W. Thorson, Director  
Date: July 3, 1990

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## DIRECTOR'S ORDER NUMBER NINETEEN (90)

### "CATCH OF THE DAY;" PROMOTIONAL GAME AND DRAWING RULES

In accordance with the authority granted by Section 58.1-4006 A of the Code of Virginia, I hereby promulgate the "Catch of the Day" promotional contest and drawing rules for the Game 13 kickoff events which will be conducted at various lottery retailer locations throughout the Commonwealth on August 2, 1990. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until August 6, 1990, unless otherwise extended by the Director.

# State Lottery Department

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/s/ Kenneth W. Thorson, Director  
Date: July 3, 1990

# FORMS

## DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: VR 480-03-19. Coal Surface Mining Regulation.

### NOTICE:

The department has issued a new form, number DMLR-TS-239, "Quarterly Acid-Base Monitoring Report, used by the Department of Mines, Minerals and Energy, Division of Mines Land Reclamation.



COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF MINES, MINERALS, AND ENERGY  
DIVISION OF MINED LAND RECLAMATION  
DRAWER U, BIG STONE GAP, VA 24219  
TELEPHONE: 703-523-8100  
Quarterly Acid-Base Monitoring Report



Company Name	_____
Mine Name	_____
Permit Number	_____
Sample Identification Number (optional)	_____
Sample Description, if multiple samples	_____
Reporting Quarter, and Date Sample Collected	_____(1, 2, 3, or 4) _____ month, day, and year
pH	_____
Sulfur	_____ form analyzed (percent) (total or pyritic)
Maximum Potential Acidity	_____ (tons/1,000 tons CaCO <sub>3</sub> equivalent)
Neutralization Potential	_____ (tons/1,000 tons CaCO <sub>3</sub> equivalent)
Excess Neutralization Potential	_____ (+ or -) (tons/1,000 tons CaCO <sub>3</sub> equivalent)
Name and Address of Laboratory performing analysis	_____ _____

#### GENERAL REPORTING INSTRUCTIONS:

1. Submit at the end of every calendar quarter to DMLR, Drawer U, Big Stone Gap, VA 24219, Attn: Technical Services
2. All samples analyzed must be reported.
3. Appropriate signatures are required on this form.
4. You are advised to retain a copy for your records.

DMLR-TS-239  
May, 1990

\_\_\_\_\_  
Name of Principal or Authorized Agent  
(type or print)

I certify that I am familiar with the information contained in this report, and to the best of my knowledge and belief, such information is true, complete and accurate.

\_\_\_\_\_  
Signature of Principal or Authorized Agent

\_\_\_\_\_  
Date

# GOVERNOR

## EXECUTIVE ORDER NUMBER THIRTEEN (90)

### DESIGNATION OF EXECUTIVE BRANCH OFFICERS AND EMPLOYEES REQUIRED TO FILE FINANCIAL DISCLOSURE STATEMENTS UNDER THE STATE AND LOCAL GOVERNMENT CONFLICT OF INTERESTS ACT

The General Assembly's passage of the State and Local Government Conflict of Interests Act demonstrates the Commonwealth's continuing commitment to assure the people of Virginia that the judgment of public officers and employees will not be comprised or affected by inappropriate conflicts between the personal economic interests and the official duties of Virginia's public servants.

In furtherance of the purposes of the State and Local Government Conflict of Interests Act (hereinafter, "the Act"), and by virtue of the authority vested in me as Governor by Article V, Sections 7 and 8 of the Constitution of Virginia and by Sections 2.1-41.1, 2.1-42, and 2.1-639.13 of the Code of Virginia, I hereby establish the following policies and procedures to implement the Act in Executive Branch agencies, institutions, boards and commissions:

1. In order that all appropriate executive branch officers and employees may be designated to file the annual statement of personal interests set out in the Act, each of the Governor's Secretaries shall submit to me by October 1, 1990, a report identifying:

(a) Each position within the Secretary's jurisdiction, whether classified or non-classified, which involves substantive responsibility for inspection, investigation, licensure, or other regulation of the activities of private firms, organizations, or professions; and

(b) Each position within the Secretary's jurisdiction, whether classified or non-classified, which involves substantive responsibility for procurement, audit, investment, or other activities that could be subject to abuse or improper influence as a result of the personal economic interests of the officeholder or employee.

2. In order that members of appropriate boards and commissions within the Executive Branch may be designated to file the annual statement of personal interests required by the Act, the Secretary of the Commonwealth shall submit to me by October 1, 1990, a report identifying those boards and commissions bearing substantial responsibility for inspection, investigation, licensure, or other regulation of the activities of private firms, organizations, and professions. The report also shall identify those boards and commissions bearing substantial responsibility for procurement, audit, investigation, or other activities that could be subject to abuse or improper influence as a result of the personal economic interest of members.

3. Subject to my approval, the Secretary of the Commonwealth shall prepare from the reports submitted pursuant to paragraphs 1 and 2, above, a comprehensive list of officers, employees and members of boards and commissions within the Executive Branch who shall be required to file the statement of personal interests set out in the Act. The Secretary of the Commonwealth, with the assistance and cooperation of the Governor's Secretaries, shall maintain this list, shall review and revise it annually to reflect the creation and abolition of offices and positions, and shall annually inform each officer, employee, or board or commission member listed of his or her obligation to file the statement of personal interests in accordance with Section 2.1-639.13 of the Code of Virginia.

4. The head of each agency, institution, board and commission within the Executive Branch shall assist the Governor's Secretaries and the Secretary of the Commonwealth in compiling the information required by this Executive Order, in ensuring that appropriate additions to and deletions from the list of those designated to file the statement of personal interests are recommended in a timely fashion, and in ensuring that designated officers and employees file their statements of personal interests in accordance with Section 2.1-639.13 of the Code of Virginia.

5. The head of each agency, institution, board and commission within the Executive Branch shall communicate to the officers, employees, and members within his or her jurisdiction the importance and necessity of maintaining the highest standards of conduct, and of avoiding even the appearance of impropriety arising out of personal economic interests and the conduct of the business of the Commonwealth.

This Executive Order shall become effective July 1, 1990, and shall remain in full force and effect until June 30, 1994, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 25th day of June, 1990.

/s/ Lawrence Douglas Wilder  
Governor

### GOVERNOR'S COMMENTS ON FINAL REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

#### BOARD OF MEDICINE

Title of Regulation: VR 465-09-01. Certification of Optometrists.

Governor's Comment:



# Governor

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I approve of the regulations in their proposed form. However, because of the restrictive nature of these regulations, I am requesting that they be reviewed by the Board of Medicine within one year so that any legislative or regulatory adjustment be identified by the end of calendar 1991 for consideration during the 1992 legislative session if needed.

/s/ Lawrence Douglas Wilder

Governor

Date: July 3, 1990

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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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## DEPARTMENT OF COMMERCE

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **VR 190-05-1. Virginia Asbestos Licensing Regulations.** The purpose of the proposed action is to amend the current regulations to include requirements created by legislative action.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Written comments may be submitted until October 15, 1990.

**Contact:** Peggy J. Wood, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or toll-free 1-800-552-3106

## DEPARTMENT OF CONSERVATION AND RECREATION

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 215-03-00. Virginia Outdoors Fund Regulations.** The purpose of the proposed regulation is to provide uniform application procedures and uniform criteria and requirements for the administration and management of public recreational areas and facilities acquired or developed from the Commonwealth's general funds awarded through the Virginia Outdoors Fund.

Statutory Authority: §§ 10.1-104 and 10.1-200 of the Code of Virginia.

Written comments may be submitted until August 30, 1990, to Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219, FAX No. 804/786-6141.

**Contact:** John R. Poland, Recreation Resources Bureau Manager, Department of Conservation and Recreation Resources, Division of Planning and Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 371-7898.

## BOARD OF CORRECTIONS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider promulgating regulations entitled: **Regulations for State Reimbursement of Local Correctional Facility Construction Costs.** The purpose of the proposed regulation is to set forth the requirements for localities requesting reimbursement of local correctional facility construction costs.

Statutory Authority: § 53.1-80 of the Code of Virginia.

Written comments may be submitted until August 15, 1990.

**Contact:** A. T. Robinson, Local Facilities Administrator, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3251.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider promulgating regulations entitled: **Virginia Probation and Parole Standards.** The purpose of the proposed regulation is to provide procedural standards for Adult Probation and Parole Officers.

Statutory Authority: §§ 53.1-5, 53.1-140 and 53.1-141 of the Code of Virginia.

Written comments may be submitted until August 31, 1990.

**Contact:** Andrew Molloy, Jr., Administrative Assistant, Adult Community Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3221.

## BOARD FOR COSMETOLOGY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider amending regulations entitled: **Virginia Board for Cosmetology Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations governing the practice of cosmetology and to solicit comment on the establishment of nail artistry regulations.

# General Notices/Errata

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Statutory Authority: § 54.1-201(5) and Chapter 12 (§ 54.1-1200 et seq.) of the Code of Virginia.

Written comments may be submitted until August 17, 1990.

**Contact:** Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590.

## BOARD OF DENTISTRY

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Dentistry intends to consider promulgating, amending and repealing regulations entitled: **Board of Dentistry Regulations**. The board proposes the following:

1. To establish entry requirements and fees for dentists and dental hygienists seeking licensure by endorsement.
2. To require successful completion of law exam by applicants for full-time faculty licenses and temporary permits.
3. To assess a fee of \$50 per month to any licensee who has practiced on an expired license.
4. Other minor clarifications and nonsubstantive changes.

Statutory Authority: §§ 54.1-2700 through 54.1-2728 of the Code of Virginia.

Written comments may be submitted until August 15, 1990.

**Contact:** Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **Regulations on Preneed Funeral Planning**. The purpose of the proposed action is to promulgate regulations for the practice of preneed funeral sales and arrangements by licensees of the Board of Funeral Directors and Embalmers. Committee meetings on the development of the regulations are as follows: 5/23/90 at 4 p.m.; 6/4/90 at 9 a.m.; 6/17/90 in Charlottesville, VA. (tentative); 10/3/90 at 9 a.m.

Statutory Authority: § 54.1-2803 10 of the Code of Virginia.

Written comments may be submitted until September 28, 1990.

**Contact:** Meredyth P. Partridge, Executive Director of the Board, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9941

## DEPARTMENT OF HEALTH (STATE BOARD OF)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-34-02. Regulations Governing Sewage Handling and Disposal**. The purpose of the proposed action is to delete portions of Article 11 related to Nonpublic Drinking Water Supply Systems Utilized in conjunction with onsite sewage disposal systems, now included in private well regulations (VR 355-34-01).

Statutory Authority: § 32.1-176.4 of the Code of Virginia.

Written comments may be submitted until September 30, 1990.

**Contact:** Donald Alexander, Director, Bureau of Sewage and Water, Virginia Department of Health, 109 Governor St., Suite 500, Richmond, VA 23219, telephone (804) 786-3559.

## BOARD OF MEDICINE

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture**. The purpose of the proposed action is to amend sections pertaining to Licensure by Examination and Licensure by Endorsement.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until August 10, 1990.

**Contact:** Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., Richmond, VA 23229-5005, telephone (804) 662-9925.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of

Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.** The purpose of the proposed action is to incorporate changes that have been made in the federal surface mining regulations, and to clarify the meaning or correct inconsistencies in the rules. Federal law requires state regulations to be consistent with the federal regulations.

The subjects addressed in the amendments that will be considered are: (i) fish and wildlife protection; (ii) civil penalties; (iii) repeal of the two-acre exemption, subsidence control, map certifications, and previously mined land; (iv) petitions to declare land unsuitable for mining; (v) bond-release notifications; (vi) revegetation; (vii) impoundments; (viii) ownership and control of mining operations; (ix) roads; (x) prime farmland; (xi) support facilities; (xii) permits for exploration; (xiii) permits for reclamation only; (xiv) termination of jurisdiction over operations; and (xv) incidental extraction of coal.

Statutory Authority: §§ 45.1-3(4) and 45.1-230 of the Code of Virginia.

Written comments may be submitted until August 28, 1990.

**Contact:** Conrad Spangler, Chief Engineer, Division of Mined Land Reclamation, P.O. Drawer U, Big Stone Gap, VA 24219, telephone (804) 523-8178.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider repealing regulations entitled: **VR 480-05-22. Rules and Regulations Governing Conservation of Oil and Gas Resources and Well Spacing.** The purpose of the proposed action is to repeal the regulation. VR 480-05-22.1. Gas and Oil Regulation will be promulgated concurrently with the repeal of this regulation.

Statutory Authority: §§ 45.1-3(4) and 45.1-361.27 of the Code of Virginia.

Written comments may be submitted until August 28, 1990.

**Contact:** B. Thomas Fulmer, Virginia Gas and Oil Inspector, P.O. Box 1416, 230 Charwood Dr., Abingdon, VA 24210, telephone (703) 628-8115 or toll-free 1-800-552-3831/TDD ☎

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider promulgating regulations entitled: **VR 480-05-22.1. Gas and Oil Regulation.** The purpose of the proposed action is to govern gas and oil exploration, development, and production operations in Virginia. VR 480-05-22. Rules and

Regulations Governing Conservation of Oil and Gas and Well Spacing, will be repealed concurrently with the promulgation of this regulation.

This notice extends the comment period published 6:18 V.A.R. 2963 June 4, 1990.

Statutory Authority: §§ 45.1-3(4) and 45.1-361.27 of the Code of Virginia.

Written comments may be submitted until August 28, 1990.

**Contact:** B. Thomas Fulmer, Virginia Gas and Oil Inspector, P.O. Box 1416, 230 Charwood Dr., Abingdon, VA 24210, telephone (703) 628-8115 or toll-free 1-800-552-3831/TDD ☎

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-05-96. Rules and Regulations Governing Vertical Mine Ventilation Holes.** The purpose of the proposed action is to ensure the safety of underground coal miners by providing standards for the drilling and casing of vertical ventilation holes, and to protect groundwater resources.

The agency is considering the addition of a section to ensure the safety of underground coal miners while mining is conducted near or through gas or oil wells.

Statutory Authority: §§ 45.1-3(4) and 45.1-92.1 of the Code of Virginia.

Written comments may be submitted until August 28, 1990.

**Contact:** Harry Childress, Chief, Division of Mines, 219 Wood Ave., Big Stone Gap, VA 24219, telephone (703) 523-8200 or toll-free 1-800-552-3831/TDD ☎

## DEPARTMENT OF TAXATION

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-3-323.1. Corporation Income Tax: Excess Cost Recovery.** The purpose of the proposed action is to implement 1990 Acts, Chapter 794 (SB 199), which extends the ACRS recovery period from five to seven years.

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

Written comments may be submitted until August 17, 1990.

**Contact:** Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Richmond, VA 23282, telephone (804)

## General Notices/Errata

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367-8010.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-10-73.1. Nonprescription Drugs and Proprietary Medicines.** The purpose of the proposed regulation is to set forth the application of the retail sales and use tax to nonprescription drugs and proprietary medicines.

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

Written comments may be submitted until August 13, 1990.

**Contact:** Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010.

### VIRGINIA RACING COMMISSION

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Part VIII Racehorses.** The purpose of the proposed regulation is to establish conditions under which racehorses will be identified, determined to be eligible for racing and under which horses may be barred.

Statutory Authority: § 59.1-369 of the Code of Virginia

Written comments may be submitted until September 1, 1990, to Don Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

**Contact:** William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Claiming Races.** The purpose of the proposed regulation is to establish conditions under which claiming races may be run and eligibility to claim horses is established.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until October 17, 1990.

**Contact:** William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Entries.** The purpose of the proposed regulation is to establish conditions under which horses may be entered for racing and their eligibility determined.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until October 17, 1990.

**Contact:** William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

### 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 of Waste Management Board intends to consider promulgating regulations entitled: **VR 672-20-11. Solid Waste Management Permit Application Fees.** The purpose of the proposed regulation is to establish a fee schedule for Solid Waste Management Facility permit applications.

Statutory Authority: § 10.1-1402(16) of the Code of Virginia.

Written comments may be submitted until August 31, 1990.

**Contact:** Stuart T. Ashton IV, Environmental Program Analyst, Department of Waste Management, Division of Technical Services, 101 N. 14th Street, 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2867.

### DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

#### Notice of Intended Regulatory Action

Notice is hereby given that the Board of Youth and Family Services intends to consider promulgating regulations entitled: **VR 690-01-001. Public Participation Guidelines.** The purpose of the proposed regulation is to provide consistent, written procedures that will ensure input from interested parties during the development, review, and final stages of the regulatory process.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until September 14, 1990.

**Contact:** Linda Nablo, Lead Analyst for Youth Services, Virginia Department of Youth and Family Services, P.O. Box 26963, Richmond, VA 23231, telephone (804) 674-3262

## GENERAL NOTICES

### STATE CORPORATION COMMISSION

#### † Notice to the Public

The State Corporation Commission of Virginia is promulgating regulations relating to the Road Tax on Motor Carriers. The purpose of the proposed regulations is to establish consistent procedures for motor carriers to follow for: (i) filing motor fuel road tax reports, (ii) computing motor fuel road tax liability, and (iii) maintaining records relating to fuel consumption and mileage accumulation. The proposed regulations also define the scope of the Commission's authority relating to: (i) auditing methods and procedures, and (ii) inspecting the books and records of motor carriers.

Copies of the proposed regulations are available from the Motor Carrier Division, P.O. Box 1419, Richmond, Virginia 23211, (804) 786-2488. Written comments are invited. Any interested parties who file objections to the proposed regulations shall, if requested, have an opportunity to present evidence at a hearing. Comments and requests must be received by August 31, 1990. All comments should be sent to the State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, and should make reference to Case No. MCA900050. Interested persons who file objections and request a hearing will be notified of the date, time and place of the hearing.

### DEPARTMENT OF HEALTH

Notice of Intent to Solicit Comments on the Proposed WIC Program State Plan of Program Operations and Administration for Federal Fiscal Year 1991.

#### Virginia WIC Program

Notice is hereby given that the Special Supplemental Food Program for Women, Infants and Children (WIC) is soliciting comments from the general public regarding its proposed WIC State Plan for Federal FY 1991.

The WIC State Plan includes state goals and objectives for FY 1991, names and addresses of local agencies, a map

identifying the areas being served, an affirmative action plan, a description of agency monitoring procedures, an outreach program description, a plan for the provision of nutrition education, a description of the methods used to certify participants, the specific nutritional risk criteria used to determine a person's eligibility, a description of the food delivery system and other sections required by Federal regulations.

The State WIC Office has provided one copy of the Proposed State Plan for public review at the headquarters office in each of the State's 36 health districts. The location of the office in your area may be obtained by calling your local health department or the State WIC Office at (804) 786-5420. Additional copies of the proposed State Plan are available on a limited basis upon request.

Written comments will be accepted until 5 p.m. on August 14, 1990, and should be sent to:

WIC Program Director  
State Department of Health  
109 Governor Street - 6th Floor  
Richmond, Virginia 23219

### DEPARTMENT OF LABOR AND INDUSTRY

Occupational Safety and Health Administration  
(Docket No. H-022G)  
Hazard Communication.

**ACTION:** Request for comments and information

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor and Industry.

**SUMMARY:** OSHA is requesting comments and information from the public regarding suggestions for improving the presentation and quality of chemical hazard information transmitted under its Hazard Communication Standards (HCS).

The HCS provides workers exposed to hazardous chemicals with the right to know about their identities, hazards, and ways to prevent exposure. It requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and to develop labels and material safety data sheets regarding those hazards and associated protective measures. These written sources of information are to be provided to employers using the products.

All employers using hazardous chemicals are required to have a hazard communication program for their workers. The program must include employee access to labels and material safety data sheets, as well as a training program to ensure employees understand the information available to them. Effective implementation of the HCS reduces risks to workers handling hazardous chemicals by providing them with information they have both a right

## General Notices/Errata

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and a need to know.

This notice asks a series of questions to elicit information from both preparers and users of labels and material safety data sheets regarding their experiences in implementing the rule, and suggestions for improving the quality of the information provided. Possible development of a standardized format or order of information is raised as an issue. In addition, comments are requested regarding other communication factors, such as the language skills needed to understand the information presented; suggestions for compliance assistance activities, particularly for small businesses; and issues related to the practice of providing information regarding chemicals that are not covered under the rule.

The notice also requests comments on how the standard should deal with chemicals that pose little or no risk to workers either because of lack of inherent hazards or negligible exposure. Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 administered by the Environmental Protection Agency (EPA), has requirements for emergency planning and response, and community right-to-know, that rely on material safety data sheet information. EPA is also interested in improving the effectiveness of chemical information transmittal, and worked with OSHA in preparing this notice. The information submitted to OSHA will be shared with EPA for their use in implementation of the SARA requirements.

**DATES:** Comments and information should be submitted in quadruplicate, and must be received by August 15, 1990.

**ADDRESSES:** Comments and information should be submitted to the Docket Office, Docket H-022G, OSHA, Room N2625, 200 Constitution Avenue, N.W., Washington, DC, 20210; (202) 523-8904/

**FOR FURTHER INFORMATION CONTACT:** James F. Foster, Office of Information and Consumer Affairs, OSHA, room N3647, 200 Constitution Avenue, Washington, DC, 20210; (202) 523-7894.

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† Memorandum Requesting Comments Regarding Boiler and Pressure Vessel Rules and Regulation.

**TO:** Boiler and Pressure Vessel Owner/Users, Operators, Manufacturers and Repair Organizations.

**FROM:** Jim Hicks, Director/Chief Inspector.

**SUBJECT:** Proposed Changes in Boiler and Pressure Vessel Rules and Regulations.

**DATE:** July 11, 1990.

The Department of Labor and Industry is again working on a Regulatory Review, and considering an amendment to the Boiler and Pressure Vessel Rules and Regulations to

include a requirement for the National Board "R" Stamp for organizations performing repairs and alterations to boilers and pressure vessels.

We are also considering the requirement for the "VR" certification for organizations who set or repair safety valves or relief valves; and the "NR" certification for organizations repairing nuclear components.

I would appreciate your written comment concerning this matter prior to August 20, 1990, as to whether you support or reject this proposal.

You may address your comment to:

Jim Hicks, Director/Chief Inspector  
Department of Labor and Industry  
Boiler Safety Enforcement Division  
P.O. Box 12064  
Richmond, VA 23241

If you have any questions concerning this matter, you may contact me at (804) 786-3160.

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† Notice of Meeting Regarding the Proposed Amendment to VR 425-02-71. General Industry Standard for the Control of Hazardous Energy Sources (Lockout/Tagout) and VR 425-02-72. Construction Industry Standard for Sanitation.

**August 1, 1990 - 7 p.m. – Open Meeting**  
Fairfax City Council Chambers, 10455 Armstrong Street, Fairfax, Virginia.

**August 8, 1990 - 7 p.m. – Open Meeting**  
Roanoke County Administration Building, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

**August 15, 1990 - 7 p.m. – Open Meeting**  
Department of Motor Vehicles, Military Circle Branch Office, 5754 Poplar Hall Drive, Norfolk, Virginia.

**August 22, 1990 - 7 p.m. – Open Meeting**  
General Assembly Building, 910 Capitol Street, House Room C, Richmond, Virginia.

In accordance with this agency's Public Participation Guidelines, comments on the proposed changes to the proposed Amendment to the General Industry Standard for the Control of Hazardous Energy Sources (Lockout/Tagout) and the proposed Amendment to the Construction Industry Standard for Sanitation will be accepted at the Open Meetings listed. The full text of these proposed amendments was printed in the May 7, 1990 issue of the Virginia Register. Oral comments to be presented must be accompanied by a written copy. Written copies will be accepted at the meetings or by mail prior to the meeting date. Send to John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241.

## SUMMARY OF PROPOSED AMENDMENT TO THE CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT)

The proposed amendment eliminates references which permit a general industry employer to tagout rather than lockout the energy control devices that would disable a piece of machinery or equipment during maintenance or servicing only if the machinery or equipment is "capable of being locked out."

Elimination of such reference means that employers will be required to use a lockout procedure only whenever the machinery or equipment is capable of being locked out. If machinery is not capable of being locked out, the employer will still be able to use a tagout system under the amendment.

## SUMMARY OF THE PROPOSED AMENDMENT TO CONSTRUCTION SANITATION

The proposed standard amends the current Sanitation Standard for the Construction Industry § 1926.51. The standard applies to all employers engaged in construction activities. Such employers covered by this amendment are required to furnish, without cost to the employee the following: potable drinking water, toilet facilities and handwashing facilities.

Potable drinking water containers as well as the toilet and handwashing facilities are required to be maintained in a clean and sanitary condition (in accordance with appropriate public health sanitation practices). Furthermore, employees shall be allowed opportunities during the workday to use the sanitation facilities.

The potable drinking water which must be furnished under the standard must be suitably cool and in sufficient amounts so that it is not completely consumed during the work day. Drinking water must be dispensed in single use drinking cups. The use of common drinking cups and dippers is prohibited.

The amendment requires that toilet and handwashing facilities shall be provided at a 20:1 (workers:facility) ratio (the present standard requires a ratio of one toilet and one urinal for every 40 employees, or a 40:1 ratio). Toilet facilities shall be adequately ventilated, appropriately screened, have self-closing doors that can be closed and latched from the inside and shall be constructed to insure privacy. The toilet facilities shall be operational and maintained in clean and sanitary condition.

## NOTICE TO SUBSCRIBERS OF THE VIRGINIA REGISTER OF REGULATIONS

The Virginia Code Commission at its meeting on June 12, 1990, agreed to increase the annual subscription rate for the Virginia Register of Regulations to \$100 per year. This increase is the first since the Register began in October

1984. The increase will become effective on October 1, 1990.

## 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

### DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1990.

Publication: 6:19 VA.R. 3041-3048 June 18, 1990.

Correction to Proposed Regulation: Page 3042, § 100.6, Paragraph 2 should read:

*Exception: Buildings or service equipment associated with the exempt equipment...*



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# CALENDAR OF EVENTS

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<b>Symbols Key</b>	
†	Indicates entries since last publication of the Virginia Register
Ⓜ	Location accessible to handicapped
☎	Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

## EXECUTIVE

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

**August 22, 1990 - 1 p.m. – Public Hearing**  
Virginia Department of Agriculture and Consumer Services Board Room, Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia. Ⓜ

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-01. Rules and Regulations Pertaining to Reporting Requirements for Contagious and Infectious Diseases of Livestock and Poultry in Virginia.**

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

Written comments may be submitted until 9 a.m., August 18, 1990.

**Contact:** Dr. William D. Miller, State Veterinarian, Washington Building, Suite 600, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-2481.

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**August 22, 1990 - 1 p.m. – Public Hearing**  
Virginia Department of Agriculture and Consumer Services Board Room, Washington Building, Room 204, 1100 Bank

Street, Richmond, Virginia. Ⓜ

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-17. Rules and Regulations Establishing a Monitoring Program for Avian Influenza and Other Poultry Diseases.**

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

Written comments may be submitted until 9 a.m., August 18, 1990.

**Contact:** Dr. William D. Miller, State Veterinarian, Washington Building, Suite 600, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-2481.

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**August 22, 1990 - 1 p.m. – Public Hearing**  
Virginia Department of Agriculture and Consumer Services Board Room, Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia. Ⓜ

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-18. Rules and Regulations Pertaining to the Disposal of Entire Flocks of Dead Poultry.**

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

Written comments may be submitted until 9 a.m., August 18, 1990.

**Contact:** Dr. William D. Miller, State Veterinarian, Washington Building, Suite 600, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-2481.

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**August 22, 1990 - 1 p.m. – Public Hearing**  
Virginia Department of Agriculture and Consumer Services Board Room, Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia. Ⓜ

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-19. Rules and Regulations**

## **Pertaining to the Testing Requirements for Poultry Affected by Salmonella Enteritidis.**

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

Written comments may be submitted until 9 a.m., August 18, 1990.

**Contact:** Dr. William D. Miller, State Veterinarian, Washington Building, Suite 600, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-2481.

\* \* \* \* \*

**September 26, 1990 - 10 a.m. – Public Hearing**  
Virginia Department of Agriculture and Consumer Services Board Room, Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-04-09. Rules and Regulations for the Enforcement of the Virginia Seed Law.** The purpose of this amendment is to add Serrated tussock, Nassella trichotoma, to the list of prohibited noxious weed seeds.

Statutory Authority: § 3.1-271 of the Code of Virginia.

Written comments may be submitted until September 19, 1990.

**Contact:** D. E. Brown, Supervisor, Seed Section, Virginia Department of Agriculture and Consumer Services, PAIR Division, 1100 Bank St., Room 505, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-3797

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**September 26, 1990 - 10:30 a.m. – Public Hearing**  
Virginia Department of Agriculture and Consumer Services Board Room, Washington Building, Room 204, 1100 Bank Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-04-12. Rules and Regulations for the Enforcement of the Gasoline and Motor Fuels Law.** The regulation amendments (i) change the volatility limit for gasoline from 11.5 pounds per square inch (psi) to 9.0 psi Reid vapor pressure (RVP) for the months of May, June, July, August, and September of each year, to be implemented May, 1991, contingent upon obtaining approval from the U.S. Environmental Protection Agency (EPA); (ii) change the distillation specifications to accommodate a new volatility limit; (iii) require the use of EPA-approved test methods for gasoline volatility measurement when the 9.0 psi RVP

standard is in effect; and (iv) provide for a 1.0 psi RVP allowance for gasoline-ethanol blends.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Written comments may be submitted until 5 p.m., September 18, 1990.

**Contact:** W. Penn Zentmeyer, Supervisor, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-3511.

## **STATE AIR POLLUTION CONTROL BOARD**

**August 22, 1990 - 10 a.m. – Public Hearing**  
Department of Air Pollution Control, Southwest Regional Office, 121 Russell Road, Abingdon, Virginia.

**August 22, 1990 - 10 a.m. – Public Hearing**  
Department of Air Pollution Control, Valley of Virginia Regional Office, Executive Office Park, Suite D, 5338 Peters Creek Road, Roanoke, Virginia.

**August 22, 1990 - 10 a.m. – Public Hearing**  
Department of Air Pollution Control, Central Virginia Regional Office, 7701-03 Timberlake Road, Lynchburg, Virginia.

**August 22, 1990 - 10 a.m. – Public Hearing**  
Department of Air Pollution Control, Northeastern Virginia Regional Office, 300 Central Road, Suite B, Fredericksburg, Virginia.

**August 22, 1990 - 10 a.m. – Public Hearing**  
Department of Air Pollution Control, State Capitol Regional Office, 8205 Hermitage Road, Richmond, Virginia.

**August 22, 1990 - 10 a.m. – Public Hearing**  
Department of Air Pollution Control, Hampton Roads Regional Office, Old Greenbrier Village, Suite A, 2010 Old Greenbrier Road, Chesapeake, Virginia.

**August 22, 1990 - 10 a.m. – Public Hearing**  
Department of Air Pollution Control, Northern Virginia Regional Office, Springfield Corporate Center, Suite 310, 6225 Brandon Avenue, Springfield, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulation for the Control and Abatement of Air Pollution.** The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate newly promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS), which are found in Rules 5-5 and 6-1 respectively. The proposed amendments will update the reference to the

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American Conference of Governmental Industrial Hygienists' Handbook which forms the basis for the noncriteria pollutant rules. The proposed amendments also will update the consolidated list of documents incorporated by reference found in Appendix M of the agency's regulations.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until September 5, 1990, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

Contact: Nancy Saylor, Policy Analyst, Department of Air Pollution Control, Division of Program Development, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

## DEPARTMENT OF AIR POLLUTION CONTROL

† July 31, 1990 - 7 p.m. - Public Hearing  
Louisa Courthouse, Circuit Courtroom, Main Street, Louisa, Virginia.

A public hearing to consider an application from Commonwealth Gas Pipeline Corporation to construct and operate a natural gas compressor station in Louisa County on the north side of State Route 22, 0.8 miles west of Boswells Tavern.

Contact: Mr. Greg Clayton, Director, Northeastern Virginia Regional Office, Department of Air Pollution Control, 300 Central Rd., Suite B, Fredericksburg, VA 22401, telephone (703) 899-4600.

## ALCOHOLIC BEVERAGE CONTROL BOARD

August 22, 1990 - 10 a.m. - Public Hearing  
First Floor Hearing Room, 2901 Hermitage Road, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Alcoholic Beverage Control Board intends to amend regulations entitled: **VR 125-01-6. Manufacturers and Wholesalers Operations.** The purpose of this proposed action is to improve the control and regulation of wine and beer being imported or shipped into Virginia pursuant to §§ 4-25 A 10 and 4-25 A 7 of the Code of Virginia and other applicable law; to promote lawful business relationships under the Virginia Wine Franchise Act and the Virginia Beer Franchise Act between licensed wine or beer wholesalers and the winery or brewery who supplies the product, whether directly or through a third party; to enable the board to properly identify all brands of wine or beer to be imported under an importer's license and to clarify the business, agency and commercial relationships between manufacturers, importers and wholesalers of wine or beer; to retain

and enhance existing "primary source" regulatory provisions requiring authorization from the brand owner to import or ship wine or beer into Virginia; to improve compliance with those provisions of the Virginia Wine Franchise Act and Virginia Beer Franchise Act requiring proper territory designation, and generally, to promote compliance with said acts by importers, suppliers and brand owners of wine or beer and to simplify the process of renewing wine and beer importer's licenses.

Statutory Authority: §§ 4-7(b) and (1), 4-11, 4-25 A 7 and 10, 4-103(b), Chapter 2.1 (§ 4-118.3 et seq.), and Chapter 2.3 (§ 4-118.42 et seq.) of Title 4 of the Code of Virginia.

Written comments may be submitted until 10 a.m., August 22, 1990.

Contact: Robert N. Swinson, Secretary to the Board, P.O. Box 27491, 2901 Hermitage Rd., Richmond, VA 23261, telephone (804) 367-0616.

## ALCOHOL SAFETY ACTION PROGRAM - MOUNT ROGERS

August 1, 1990 - 1 p.m. - Open Meeting  
Oby's Restaurant, Marion, Virginia. ☒ (Interpreter for deaf provided upon request)

A regular meeting.

Contact: J. L. Reedy, Jr., Director, Mount Rogers Alcohol Safety Action Program, 1102 N. Main St., Marion, VA 23454, telephone (703) 783-7771.

## BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

### Board for Architects

† August 23, 1990 - 9:30 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from April 19, 1990, meeting; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

### Board for Land Surveyors

August 17, 1990 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from March 9, 1990; (ii) review applications; (iii) review and discuss correspondence; and (iv) review enforcement files.

## Board for Professional Engineers

† August 9, 1990 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

A meeting to (i) approve minutes from April 26, 1990;  
(ii) review applications; (iii) review 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 or toll-free 1-800-552-3016.

## AUCTIONEERS BOARD

† August 16, 1990 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

An open meeting to (i) review complaints; (ii) discuss  
regulatory review; (iii) discuss revenue and  
expenditures; and (iv) consider other matters which  
require board action.

Contact: Mr. Geralde W. Morgan, Administrator,  
Department of Commerce, 3600 W. Broad St., Richmond,  
VA 23230-4917, telephone (804) 367-8534 or toll-free  
1-800-552-3016.

## BOARD FOR BARBERS

† August 13, 1990 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

A meeting to (i) review correspondence; (ii) review  
applications; (iii) review enforcement cases; and (iv)  
to consider 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).

## CHILD DAY-CARE COUNCIL

† August 9, 1990 - 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 upon  
request)

A meeting to discuss issues, concerns, and programs  
that impact licensed child care centers.

Contact: Peggy Friedenberg, Legislative Analyst, Office of  
Governmental Affairs, Department of Social Services, 8007  
Discovery Dr., Richmond, VA 23229-8699, telephone (804)

662-9217.

## DEPARTMENT FOR CHILDREN

### Consortium on Child Mental Health

August 1, 1990 - 9 a.m. - Open Meeting  
September 5, 1990 - 9 a.m. - Open Meeting  
October 3, 1990 - 9 a.m. - Open Meeting  
Eighth Street Office Building, 11th Floor Conference Room,  
805 East Broad Street, Richmond, Virginia. ☒

A regular business meeting open to the public,  
followed by an executive session, for purposes of  
confidentiality, to review applications for funding of  
services to individuals.

Contact: Wenda Singer, Chair, Department for Children,  
805 E. Broad St., Richmond, VA 23219, telephone (804)  
786-2208.

### State-Level Runaway Youth Services Network

August 23, 1990 - 10:30 a.m. - Open Meeting  
Department of Corrections, 6900 Atmore Drive, Room 3056,  
Richmond, Virginia. ☒

A regular meeting open to the public.

### Teen Pregnancy Prevention Task Force

† August 1, 1990 - 2 p.m. - Open Meeting  
805 East Broad Street, Basement Conference Room,  
Richmond, Virginia. ☒

A regular meeting.

Contact: Martha Frickert, Community Services Coordinator,  
Department for Children, 805 E. Broad St., 11th Floor,  
Richmond, VA 23219, telephone (804) 786-5994.

## CITIZENS' ADVISORY COUNCIL FOR INTERPRETING AND FURNISHING THE EXECUTIVE MANSION

August 2, 1990 - 10 a.m. - Open Meeting  
The Executive Mansion, Capitol Square, Richmond,  
Virginia.

A meeting to discuss the interior restoration.

Contact: Mrs. Cathy Walker Green, Executive Mansion  
Director, The Executive Mansion, Capitol Square,  
Richmond, VA 23219, telephone (804) 786-2220.

## DEPARTMENT OF CONSERVATION AND RECREATION

† August 21, 1990 - 10 a.m. - Public Hearing  
General Assembly Building, Senate Room B, Capitol

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Suqare, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Conservation and Recreation intends to adopt regulations entitled: **VR 215-02-00. Stormwater Management Regulations**. The purpose of the proposed regulations is to implement the Stormwater Management Act, Chapters 467 and 499 of the 1989 Virginia Acts of Assembly. The proposed regulations specify minimum technical criteria and administrative procedures for stormwater management programs which local governments are authorized to adopt. State agencies with land development projects are also governed by the proposed regulations.

## STATEMENT

**Basis:** The proposed regulations are based on the provisions of the powers and duties of the department under Article 1 (§ 10.1-104) of Chapter 1 of Title 10.1 of the Code of Virginia and specifically under Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

**Purpose:** The purpose of the proposed regulations is to establish minimum technical and administrative standards for stormwater management programs that local governments may adopt for the management of runoff and localized flooding from land development projects, and for stormwater management plans and standards that state agencies must follow when engaging in land development projects. The objective of the proposed regulations is to inhibit the deterioration of the quality and quantity of waters and waterways in the Commonwealth.

**Substance:** Part I of the proposed regulations contains the definitions, purpose, authority and applicability of the regulations. Part II sets forth the minimum technical criteria to be followed by local stormwater management programs and state agencies. The technical criteria include requirements for controlling runoff leaving a land development project and improving water quality. Part III establishes the administrative procedures and requirements of local stormwater management programs. These include requirements for local programs and ordinances, plan approval or disapproval, conditions for approval, changes to approved plans, exceptions, maintenance and inspections, and compliance. Part IV identifies the procedures to be followed by state agencies for submitting stormwater management plans or standards and specifications to the department. Part V defines the requirements for reporting on the effectiveness of local stormwater management programs and state agency compliance with the regulations.

**Issues:** The issues involved in the development of the proposed regulations are:

1. The degree of detail and specificity that should be reflected in the technical criteria;

2. The time period within which approval of local stormwater management plans must be granted;

3. The number and nature of conditions that should be attached to plan approval;

4. The procedures for communicating disapproval of a plan;

5. Inspection requirements;

6. Whether state agencies must meet the local standards when local standards are more stringent than the minimum state standards; and

7. Allowing state agency projects currently in progress to continue by retrofitting all possible stormwater management practices with the exception being where substantial redesign or additional land would be required.

The department has approached these issues with the view that local governments should be encouraged to adopt stormwater management programs. Consequently, the proposed regulations avoid lengthy, burdensome, and highly specific standards and procedures which could discourage local participation and innovation. At the same time, however, the proposed regulations seek to achieve a certain level of statewide uniformity in stormwater management programs, consistent with the intent of the basic legislation.

**Impact:** The proposed regulations affect all local governments that intend to operate stormwater management programs. Since the implementation of a stormwater management program is not mandatory, neither the number of localities nor the number of land development projects that will ultimately be affected can be accurately predicted.

The proposed regulations also affect land disturbing projects conducted by state agencies. Due to the length of the Commonwealth's Capital Outlay Program and related programs, the status of many projects based upon State Lottery proceeds, the status of other projects based upon the sale of bonds, and other related matters it is impossible to determine the exact number of such projects.

**Statutory Authority:** §§ 10.1-104 and 10.1-603.4 of the Code of Virginia.

Written comments may be submitted until September 28, 1990, to Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219.

**Contact:** Donald R. Vaughn, Supervisor, Urban Programs Section, Department of Conservation and Recreation, DS&WC, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-7483.

## COMMUNITY CORRECTIONS RESOURCES BOARD - MIDDLE VIRGINIA

August 2, 1990 - 7 p.m. - Open Meeting  
September 6, 1990 - 7 p.m. - Open Meeting  
502 South Main Street, No. 4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

Contact: Lisa Ann Peacock, Program Director, 502 S. Main St., No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

## COMMUNITY CORRECTIONS RESOURCES BOARD - WINCHESTER

July 31, 1990 - 2 p.m. - Open Meeting  
Board of Supervisors' Meeting Room, 9 Court Square,  
Winchester, Virginia. ☐

A meeting to discuss clients and review new referrals.

Contact: Kim Wilson, Administrative Assistant, 112 S. Cameron St., Winchester, VA 22601, telephone (804) 665-5633.

## BOARD OF CORRECTIONS

August 8, 1990 - 10 a.m. - Open Meeting  
September 12, 1990 - 10 a.m. - Open Meeting  
Board of Corrections Board Room, 6900 Atmore Drive,  
Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

Contact: Ms. Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

## BOARD FOR COSMETOLOGY

July 30, 1990 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, 5th  
Floor, Richmond, Virginia. ☐

A meeting to (i) review applications; (ii) review correspondence; (iii) review enforcement cases; and (iv) conduct routine board business.

July 31, 1990 - 9 a.m. - Open Meeting  
Department of Commerce, 3600 West Broad Street, 5th  
Floor, Richmond, Virginia. ☐

Rules and regulations committee meeting.

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

† August 8, 1990 - 9:30 a.m. - Open Meeting  
General Assembly Building, House Room C, Capitol Square,  
Richmond, Virginia. ☐

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

## DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

August 1, 1990 - 10:30 a.m. - Public Hearing  
Charlottesville City Council Chambers, 2nd Floor, 605 East  
Main Street, Charlottesville, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Criminal Justice Services intends to adopt regulations entitled: VR 240-02-02. Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchase. The proposed regulations will ensure the identity, confidentiality and security of all records and data provided by the Department of State Police regarding criminal record checks for firearm purchase.

Statutory Authority: §§ 9-170 21 and 18.2-308.2:2 H of the Code of Virginia.

Written comments may be submitted until July 7, 1990, to Charlotte McClamroch, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219.

Contact: Ms. Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

## GOVERNOR'S COMMISSION ON EDUCATIONAL OPPORTUNITY FOR ALL VIRGINIANS

August 22, 1990 - 9:30 a.m. - Open Meeting  
September 26, 1990 - 9:30 a.m. - Open Meeting  
General Assembly Building, House Room D, 910 Capitol  
Street, Richmond, Virginia. ☐

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A full commission meeting.

**Contact:** Kris Ragan, Staff, P.O. Box 1422, Ninth Street Office Bldg., Room 329, Richmond, VA 23211, telephone (804) 786-1688.

## LOCAL EMERGENCY PLANNING COMMITTEE - ALEXANDRIA

† **September 12, 1990 - 6 p.m.** - Open Meeting  
Chesapeake and Potomac Telephone Company, 4242 Duke Street, Alexandria, Virginia.

A regular meeting. A tour of the facility will be conducted after the meeting.

**Contact:** Chap Coleman, Emergency Preparedness Coordinator, Fire Department, 900 Second St., Alexandria, VA 22314-1395, Telephone (703) 838-3825.

## FAMILY AND CHILDREN'S TRUST FUND OF VIRGINIA

### Board of Trustees

† **August 10, 1990 - 10 a.m.** - Open Meeting  
† **September 7, 1990 - 10 a.m.** - Open Meeting  
† **October 12, 1990 - 10 a.m.** - Open Meeting  
Koger Executive Center, West End, Blair Building, Conference Room C, 8007 Discovery Drive, Richmond, Virginia. ☒

The board will plan and evaluate its fund raising campaign. It will carry out all the activities necessary for implementation of this project.

**Contact:** Molly Moncure Jennings, Executive Director, Family and Children's Trust Fund, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

## VIRGINIA FARMERS' MARKET BOARD

**August 23, 1990 - 1 p.m.** - Open Meeting  
State Capitol, House Room 1, Capitol Square, Richmond, Virginia. ☒

A general meeting.

**Contact:** Nancy L. Isreal, Farmers' Market Network Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 1300, Richmond, VA 23219, telephone (804) 371-6157.

## VIRGINIA FIRE SERVICES BOARD

† **August 16, 1990 - 7:30 p.m.** - Public Hearing  
Holiday Inn, Interstate 81 and U.S. Route 50, Winchester, Virginia. ☒

A public session to discuss fire training and fire policies. This public session is for comments and questions relating to the fire services in the Commonwealth and the area in which the session is held.

† **August 17, 1990 - 9 a.m.** - Open Meeting  
Holiday Inn, Interstate 81 and U.S. Route 50, Winchester, Virginia. ☒

A regular business meeting. This meeting is open to the public for their input and comments.

## Fire/EMS Training Committee

† **August 16, 1990 - 1 p.m.** - Open Meeting  
Holiday Inn, Interstate 81 and U.S. Route 50, Winchester, Virginia. ☒

A committee meeting to discuss fire training and fire policies. The committee meeting is open to the public for their input.

## Fire Prevention and Control Committee

† **August 16, 1990 - 9 a.m.** - Open Meeting  
Holiday Inn, Interstate 81 and U.S. Route 50, Winchester, Virginia. ☒

A committee meeting to discuss fire training and fire policies. The committee meeting is open to the public for their input.

## Legislative Committee

† **August 16, 1990 - 1 p.m.** - Open Meeting  
Holiday Inn, Interstate 81 and U.S. Route 50, Winchester, Virginia. ☒

A committee meeting to discuss fire training and fire policies. The committee meeting is open to the public for their input.

**Contact:** Anne J. Bales, Executive Secretary Senior, James Monroe Bldg., 17th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2681.

## DEPARTMENT OF HEALTH (STATE BOARD OF)

**August 20, 1990 - 10 a.m.** - Public Hearing  
Council Chambers, Roanoke, Virginia.

**August 21, 1990 - 10 a.m.** - Public Hearing  
Monroe Building, 101 North 14th Street, 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 consider amending regulations entitled: **VR 355-18-01. Waterworks Regulation.** This regulation is

being updated from 1982 to include federal requirements of the Safe Drinking Water Act and to add technical design information.

Statutory Authority: § 32.1-170 of the Code of Virginia.

Written comments may be submitted until September 16, 1990.

**Contact:** Allen R. Hammer, Director, 109 Governor St., Room 927, Richmond, VA 23219, telephone (804) 786-5566.

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **August 28, 1990 - 8:30 a.m.** – Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

The Policy and Public Information Task Force of the council will meet to review the draft of the Annual Charge Survey.

† **August 28, 1990 - 9:30 a.m.** – Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

**Contact:** G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

## BOARD OF HISTORIC RESOURCES

† **July 30, 1990 - 10:30 a.m.** – Open Meeting  
Homestead Farm, Somerset, Orange County, Virginia.

A general business meeting.

**Contact:** Margaret T. Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

## DEPARTMENT OF HISTORIC RESOURCES

### State Review Board

† **August 21, 1990 - 10 a.m.** – Open Meeting  
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒

A meeting to consider nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

1. Covington Historic District

2. Aurora, Patrick County
3. Bragassa Toy Store, Lynchburg
4. Bryn Arvon/Gqyn Arvon, Buckingham County
5. District of Columbia Boundary Markers, Arlington and Fairfax County
6. Jefferson Street First Baptist Church, Roanoke
7. Little Mountain Pictographs, Nottoway County
8. Locust Level, Bedford County
9. McClung Farm, Highland County
10. Mt. Fair, Albermarle County
11. Office Hall, King George County
12. Phoenix Bank of Nansemond, Suffolk
13. Snake Creek Farm, Carroll County
14. White Oak Primitive Baptist Church, Stafford County
15. Courthouse Historic District, Petersburg
16. Urbanna Historic District, Middlesex County

**Contact:** Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD #FT1121 1/2

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**August 7, 1990 - 9 a.m.** – Open Meeting  
**September 4, 1990 - 9 a.m.** – Open Meeting  
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

Local Emergency Preparedness Community meeting on emergency preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Service Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

**August 20, 1990 - 10 a.m.** – Public Hearing  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-02. Virginia Certification Standards for Building Inspection Personnel, Amusement Device Inspectors, Blasters, Plumbers, Electricians and Building Related Mechanical Workers/1990.** The 1990 edition of the Virginia Certification Standards for Building Inspection Personnel, Amusement Device Operators, Blasters, Plumbers, Electricians and Building Related Mechanical Workers is a statewide, uniform regulation that must be used by every local governing body that chooses to require certification of plumbers, electricians and building related mechanical workers



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as to ability, proficiency and qualifications. The regulation also provides for certification by the Department of Housing and Community Development of building inspection personnel, amusement device inspectors and blasters.

Statutory Authority: §§ 27-97, 36-98.3, 36-137 and 36-139 of the Code of Virginia.

Written comments may be submitted until August 27, 1990.

**Contact:** Jack Proctor, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 786-4752.

\* \* \* \* \*

**August 20, 1990 - 10 a.m. - Public Hearing**  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-04. Virginia Amusement Device Regulations/1990.** The 1990 edition of the Virginia Amusement Device Regulations provides for the administration and enforcement of uniform, statewide standards for the construction, maintenance, operation and inspection of amusement devices, whether mobile or affixed to a site. These regulations supplement the provisions of the Uniform Statewide Building Code for the purpose of protecting the health, safety, and welfare of amusement device users. The technical requirements of the Amusement Device Regulations are based on standards developed by the American Society for Testing and Materials (ASTM). Provisions are included in the regulations for the inspection of amusement devices, reports and investigation of accidents, certification and conduct of operators, and an administrative appeals system for the resolution of disagreements between building officials and amusement device owners and operators.

Statutory Authority: §§ 36-98, 36-98.3 and 36.1-137 of the Code of Virginia.

Written comments may be submitted until August 27, 1990.

**Contact:** Gregory H. Revels, Program Manager, Code Development Office, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 371-7772.

\* \* \* \* \*

**August 20, 1990 - 10 a.m. - Public Hearing**  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and

Community Development intends to amend regulations entitled: **VR 394-01-06. Virginia Statewide Fire Prevention Code.** The 1990 edition of the Virginia Statewide Fire Prevention 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 incorporated by 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.

Statutory Authority: §§ 27-95 and 27-97 of the Code of Virginia.

Written comments may be submitted until August 27, 1990.

**Contact:** Gregory H. Revels, Program Manager, Code Development Office, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 371-7772.

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**August 20, 1990 - 10 a.m. - Public Hearing**  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1990.** Volume I - New Construction of the 1990 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, enlarged, repaired, or converted to another use group. Its purpose is to protect the health, safety, and welfare of building users, and to provide for energy conservation, water conservation, and accessibility for the physically handicapped and aged. Technical requirements of the New Construction Code are based on the BOCA model building code. The New Construction Code specifies the enforcement

procedures to be used by local governments. Enforcement by local government 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.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until August 27, 1990.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 371-7772.

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August 20, 1990 - 10 a.m. - Public Hearing  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1990.** Volume II - Building Maintenance Code of the 1990 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 the health and safety hazards that might arise from improper maintenance or use. Technical requirements of the Building Maintenance Code are based on the BOCA National Property Maintenance 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.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Written comments may be submitted until August 27, 1990.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 371-7772.

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August 20, 1990 - 10 a.m. - Public Hearing  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to adopt regulations entitled: **VR 394-01-23. Standards Governing Operation of Individual and Regional Code Academies/1990.** The 1990 edition of the Standards Governing Operation of Individual and Regional Code Academies is a uniform, statewide set of regulations that must be used by localities establishing code academies. These regulations establish requirements for localities to meet in order to receive accreditation from the Department of Housing and Community Development for local or regional training programs to provide for certification of persons enforcing the building regulations promulgated by the Board of Housing and Community Development. Accreditation is based on information submitted to the Department of Housing and Community Development relating to financial resources, educational and teaching qualifications, instruction courses provided, and anticipated enrollment. The department will issue accreditation certificates on an annual basis and monitor the operation of approved academies.

Statutory Authority: §§ 36-137 and 36-139 of the Code of Virginia.

Written comments may be submitted until August 27, 1990.

Contact: Jack Proctor, Deputy Director, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 786-4752.

\*\*\*\*\*

August 20, 1990 - 10 a.m. - Public Hearing  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1990.** The Virginia Industrialized Building and Manufactured Home Safety Regulations provide for the administration and enforcement of uniform, statewide, health and safety standards for industrialized buildings and manufactured homes, wherever produced. A major purpose of the regulations is to make good quality housing more affordable for residents of Virginia. It does so by providing precertification of manufactured buildings that contain concealed parts which can not be readily inspected at the point of use. Such units must be accepted by the local building official without disassembly. The enforcement system includes: (i) state accreditation, use, and monitoring of independent third-party compliance assurance agencies to review the design of manufactured buildings and to inspect their production for code compliance; (ii) assignment of responsibility for safe installation to local building department, and (iii) state action to secure correction

# Calendar of Events

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of defects discovered after installation.

Statutory Authority: §§ 36-73 and 36-85.7 of the Code of Virginia.

Written comments may be submitted until August 27, 1990.

**Contact:** Gregory H. Revels, Program Manager, Code Development Office, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 371-7772.

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**August 20, 1990 - 10 a.m. – Public Hearing**  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-42. Virginia Liquefied Petroleum Gas Regulations/1990.** The Virginia Liquefied Petroleum Gas Regulations, 1990 edition, is a mandatory, statewide uniform regulation that must be complied with in the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck or tank trailer, and utilizing L-P gases for fuel purposes, and for the odorization of L-P gases in order to protect individuals and property from fire and explosion hazards. All law-enforcement officers are empowered to enforce the regulations.

Statutory Authority: § 27-87 of the Code of Virginia.

Written comments may be submitted until August 27, 1990.

**Contact:** Gregory H. Revels, Program Manager, Code Development Office, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 371-7772.

## Amusement Device Technical Advisory Committee

**August 2, 1990 - 9:30 a.m. – Open Meeting**  
Kings Dominion, Doswell, Virginia. ☐ (Interpreter for deaf provided upon request)

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

**Contact:** Jack A. Proctor, Deputy Director, Building Regulatory Services, Department of Housing and Community Development, 205 N. Fourth St., Richmond, VA 23219-1747, telephone (804) 786-4752 or (804) 786-5405/TDD ☎

## COUNCIL ON INDIANS

**August 8, 1990 - 6 p.m. – Open Meeting**  
Chickahominy Tribal Center, Route 609, Charles City County, Virginia.

A meeting to conduct general business and to receive reports from the council standing committees.

**Contact:** Mary Zoller, Information Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9285 or toll-free 1-800-552-7096/TDD ☎

## DEPARTMENT OF LABOR AND INDUSTRY

### Safety and Health Codes Board

**September 18, 1990 - 10 a.m. – Open Meeting**  
General Assembly Building, House Room C, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia or the requirements of federal law that the Department of Labor and Industry intends to amend regulations entitled: **VR 425-02-71. The Control of Hazardous Energy (Lockout/Tagout).** The proposed amendment eliminates reference which permit an employee to tagout rather than lockout energy isolating devices in order to disable machinery or equipment during maintenance or servicing.

Statutory Authority: § 40.1-22(5), of the Code of Virginia.

Written comments may be submitted until July 8, 1990

**Contact:** John J. Crisanti, Senior Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2384

\* \* \* \* \*

**September 18, 1990 - 10 a.m. – Public Hearing**  
General Assembly Building, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to amend regulations entitled: **VR 425-02-72. Virginia Occupational Safety and Health Standards for the Construction Industry, Sanitation.** This action will amend the current Sanitation Standard for Construction Industry, § 1926.51 to include additional sanitary requirements for potable water and toilet and handwashing facilities.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Written comments may be submitted until July 8, 1990.

**Contact:** John J. Crisanti, Senior Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2384

## STATE LAND EVALUATION ADVISORY COUNCIL

August 24, 1990 - 10 a.m. - Open Meeting  
September 10, 1990 - 10 a.m. - Open Meeting  
Department of Taxation, 2220 West Broad Street,  
Richmond, Virginia. ☒

To adopt ranges of values to be recommended to localities for application to agricultural, horticultural, forest, and open-space land participating in use-value assessment programs.

Contact: David E. Jordan, Assistant Director, Property Tax Division, Department of Taxation, P.O. Box 1-K, Richmond, VA 23201, telephone (804) 367-8020.

## COMMISSION ON LOCAL GOVERNMENT

August 13, 1990 - 11 a.m. - Open Meeting  
Broadway High School Auditorium, 226 West Lee Street,  
Broadway, Virginia

Oral presentations regarding the Town of Broadway and Rockingham County Agreement Refining Annexation Rights. Persons desiring to participate in the Commission's oral presentations and require special accommodations or interpreter services should contact the Commission's office by August 6, 1990.

August 13, 1990 - 7 p.m. - Public Hearing  
Broadway High School Auditorium, 226 West Lee Street,  
Broadway, Virginia

A public hearing regarding the Town of Broadway and Rockingham County Agreement Refining Annexation Rights. Persons desiring to participate in the Commission's oral presentations and require special accommodations or interpreter services should contact the Commission's office by August 6, 1990.

Contact: Barbara Bingham, Administrative Assistant, Eighth Street Office Building, Room 702, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

## STATE LOTTERY BOARD

August 22, 1990 - 10 a.m. - Open Meeting  
September 26, 1990 - 10 a.m. - Open Meeting  
State Lottery Department, 2201 West Broad Street,  
Conference Room, Richmond, Virginia. ☒

A regular monthly meeting to conduct business according to items listed on agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA

23220, telephone (804) 367-9433.

## MARINE RESOURCES COMMISSION

August 28, 1990 - 9:30 a.m. - Public Hearing  
VMRC Headquarters, 2600 Washington Avenue, Newport News, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Marine Resources Commission intends to consider adopting new regulations entitled: VR 450-01-0058. **Barrier Island Policy (A part of the Commission's Coastal Primary Sand Dune/Reaches Guidelines)**. The regulation will (i) assist the agency in implementing the policy set forth in § 62.1-13.21 of the Code of Virginia; (ii) assist localities in regulating activities that impact coastal primary sand dunes, beaches or barrier islands; and (iii) enable the public to self-evaluate the acceptability and consequences of such proposed uses.

Statutory Authority: §§ 62.1-13.4 and 62.1-13.24 of the Code of Virginia.

Written comments may be submitted until August 3, 1990.

Contact: Robert W. Grabb, Chief, Habitat Management Division, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252.

## BOARD OF MEDICINE

### Informal Conference Committee

August 1, 1990 - 10 a.m. - Open Meeting  
Sheraton Hotel, 29 Expressway and Odd Fellows Road,  
Lynchburg, Virginia. ☒

August 9, 1990 - 9 a.m. - Open Meeting  
Sheraton-Fredericksburg Resort and Conference Center,  
I-95 and Route 3, Fredericksburg, Virginia. ☒

† August 16, 1990 - 9 a.m. - Open Meeting  
Sheraton-Fredericksburg Resort and Conference Center,  
I-95 and Route 3, Fredericksburg, Virginia. ☒

† August 17, 1990 - 9:30 a.m. - Open Meeting  
Williamsburg Hilton, 50 Kings Mill Road, Williamsburg,  
Virginia. ☒

The committee will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia.

Contact: Karen D. Waldron, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9908 or 662-9943/TDD ☎

# Calendar of Events

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## DEPARTMENT OF MINES, MINERALS AND ENERGY

**August 21, 1990 - 10 a.m.** – Public Hearing  
Powell Valley High School Auditorium, Big Stone Gap,  
Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-05-9.2. Rules and Regulations Governing the Use of Diesel Powered Equipment in Underground Coal Mines.** The purpose of the proposed amendments is to adopt a standard for the sulfur content of diesel fuel and to update air-quality standards for sulfur dioxide and formaldehyde.

Statutory Authority: §§ 45.1-1.3 and 45.1-90 of the Code of Virginia.

Written comments may be submitted until August 21, 1990.

**Contact:** Bill Edwards, Policy Analyst, Department of Mines, Minerals and Energy, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-0330.

## DEPARTMENT OF MINORITY BUSINESS ENTERPRISE

† **September 28, 1990** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Minority Business Enterprise intends to adopt regulations entitled: **VR 486-01-01. Public Participation Guidelines.** These proposed regulations will outline the procedure in which the Department of Minority Business Enterprise will involve interested persons in developing or amending agency regulations.

### STATEMENT

**Basis:** §§ 9-6.14:7.1 and 2.1-64.35:8 of the Code of Virginia.

**Purpose:** The purpose of these proposed regulations is to establish public participation guidelines for the development or revision of regulations by the Department of Minority Business Enterprise.

If adopted, these regulations will outline the procedure for interested parties to participate in the agency's regulatory review process in accordance with the Administrative Process Act.

**Substance:** These regulations will assure that the public and all affected parties are involved in any regulations developed or amended by the Department of Minority Business Enterprise. The regulations provide specifics as to the responsibilities of the director and agency staff in the development of such regulations.

**Issues:** There are no known issues contained in the proposed regulations.

**Impact:** The proposed regulations are not expected to have any impact on any other entities nor is it expected to be controversial. A Notice of Intended Regulatory Action has been published in the Virginia Register requesting input from interested parties in the development of these guidelines.

Statutory Authority: § 2.1-64.35:8 of the Code of Virginia.

Written comments may be submitted until September 28, 1990.

**Contact:** Garland W. Curtis, Deputy Director, Department of Minority Business Enterprise, Ninth Street Office Bldg., Suite 200-202, Richmond, VA 23219, telephone (804) 786-5560 or toll-free 1-800-223-0671.

## DEPARTMENT OF MOTOR VEHICLES

### Medical Advisory Board

† **August 8, 1990 - 1 p.m.** – Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street,  
Berkley Room, Richmond, Virginia.

A regular business meeting.

**Contact:** Karen Ruby, Division Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-0406.

## OLD DOMINION UNIVERSITY

### Executive Committee

**August 28, 1990 - 3 p.m.** – Open Meeting  
Old Dominion University, New Administration Building,  
Board Room 226, Norfolk, Virginia. ☐

A meeting of the committee to conduct university business on behalf of the full board. Agendas should be available at least five working days prior to the meeting.

**Contact:** Donna W. Meeks, Secretary to the Board, Old Dominion University, Norfolk, VA 23529-0029, telephone (804) 683-3072.

## BOARD OF PROFESSIONAL COUNSELORS

† **August 2, 1990 - 9 a.m.** – Open Meeting  
† **August 3, 1990 - 9 a.m.** – Open Meeting  
Airlie Conference Center, Airlie, Virginia.

A meeting to (i) conduct general board business; (ii)

review committee reports; and (iii) conduct regulatory review.

**Contact:** Eveiyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9912.

## REAL ESTATE BOARD

**August 2, 1990 - 9 a.m. - Open Meeting**  
Real Estate Board, 3600 West Broad Street, Fifth Floor, Richmond, Virginia.

A regular business meeting to consider (i) investigative cases (files); and (ii) matters relating to Fair Housing, Property Registration, and Licensing issues (e.g., reinstatement, eligibility requests).

**Contact:** Joan L. White, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8552 or toll-free 1-800-552-3016.

**† August 14, 1990 - 10:30 a.m. - Open Meeting**  
Fredericksburg Juvenile Courtroom, Third Floor, 601 Caroline Street, Fredericksburg, Virginia.

The board will meet to conduct a formal hearing: Real Estate Board v. Frank M. Frece file number 90-01216.

**Contact:** Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524.

## DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

**September 16, 1990 - 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 615-01-32. Aid to Dependent Children (ADC) Program - Deprivation Due to Continued Absence.** The purpose of this amendment is to clarify policy regarding the determination of deprivation when the continued absence of a parent is due to separation.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until September 16, 1990, to I. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

**Contact:** Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

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**August 3, 1990 - Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-01-33. Allowance of Telephone Costs in the Food Stamp Program.** This regulation requires all food stamp households entitled to claim a telephone expense in the computation of their eligibility and benefit level to use the state calculated telephone standard.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until August 3, 1990, to Guy Lusk, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699.

**Contact:** Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

**September 20, 1990 - 9 a.m. - Open Meeting**  
Colonial Farm Credit Office, Mechanicsville, Virginia.

A regular bi-monthly meeting.

**Contact:** Donald L. Wells, Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064.

## DEPARTMENT OF TAXATION

**September 18, 1990 - 10 a.m. - Open Meeting**  
General Assembly Building, House Room D, 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 630-6-4006. Virginia Income Tax Withholding: Lottery Winnings.** This regulation will establish the application of withholding requirements on lottery prizes of the Virginia State Lottery Department.

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

Written comments may be submitted until September 18, 1990.

**Contact:** Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Department of Taxation, Richmond, VA 23282, telephone (804) 367-8010.

# Calendar of Events

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**September 18, 1990 - 10 a.m. – Open Meeting**  
General Assembly Building, House Room D, 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 amend regulations entitled: **VR 630-10-31. Retail Sales and Use Tax: Dealer's Returns and Payment of the Tax.** This regulation sets forth the sliding scale dealer's discount that ranges from 2.0% to 4.0% based upon dealers' monthly sales volume.

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

Written comments may be submitted until September 18, 1990.

**Contact:** Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Department of Taxation, Richmond, VA 23282, telephone (804) 367-8010.

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

**August 20, 1990 - 7 p.m. – Public Hearing**  
Salem District Transportation Office, Salem, Virginia.

**August 22, 1990 - 7 p.m. – Public Hearing**  
Northern Virginia's Stonewall Jackson Senior High School, Manassas, Virginia.

**August 27, 1990 - 7 p.m. – Public Hearing**  
Suffolk District Transportation Office, Suffolk, Virginia.

**August 29, 1990 - 7 p.m. – Public Hearing**  
Richmond Central Transportation Office, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to adopt regulations entitled: **VR 385-01-22. Vegetation Control Regulations.** The proposed regulation defines a set of rules to be followed by businesses and owners of outdoor advertising signs and other advertising structures within state rights-of-way with respect to tree trimming. The regulation intends to balance the Commonwealth's interest in attractive roadsides with those of firms using outdoor advertising.

Statutory Authority: §§ 33.1-12 and 33.1-351 of the Code of Virginia.

Written comments may be submitted until August 29, 1990.

**Contact:** Mr. J.R. Barrett, Environmental Program Planner, Virginia Department of Transportation, 1401 E. Broad St.,

Richmond, VA 23219, telephone (804) 371-6826.

## TRANSPORTATION SAFETY BOARD

**September 21, 1990 - 8:30 a.m. – Open Meeting**  
Virginia Port Authority, 600 World Trade Center, Board Conference Room, Norfolk, Virginia. ☒

A meeting to discuss the distribution of the USDOT Highway Safety Funds.

**Contact:** William H. Leighty, Deputy Commissioner for Transportation Safety, 2300 W. Broad St., Richmond, VA 23269-0001, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

## COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

† **August 31, 1990 - 10 a.m. – Public Hearing**  
Chrysler Museum, Norfolk, Virginia.  
† **September 6, 1990 - 10 a.m. – Public Hearing**  
Manassas Park, City Hall, Manassas Park, Virginia.  
† **September 12, 1990 - 10 a.m. – Public Hearing**  
100 Arbor Street, Suite 6, Christiansburg, Virginia.  
† **October 15, 1990 - 10 a.m. – Public Hearing**  
† **October 16, 1990 - 10 a.m. – Public Hearing**  
Richmond, Virginia (Site to be determined).

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to amend regulations entitled: **VR 647-01-02. Commission on VASAP Policy and Procedure Manual.** These regulations describe policies and direction for operation of local ASAPs and procedures to be utilized when conforming to policy directives.

## STATEMENT

The basis and purpose of the Commission on VASAP revision and promulgation is to provide structured guidelines for program operation. Standards are provided for program operation, accounting, auditing, administrative procedure, case management procedures, education and treatment as well as a process for program certification. The manual provides a method for the commission to ensure program quality and oversee performance.

No fiscal impact is anticipated; however, the changes as proposed will provide for a more consistent, uniform and equitable operation of the 26 local alcohol safety action programs.

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until September 28, 1990, to William T. McCollum, Commission on VASAP, 1001

E. Broad St., Suite 245, Box 28, Old City Hall Bldg., Richmond, VA 23219.

Contact: Kimberly A. Morris, Executive Assistant, Commission on VASAP, 1001 E. Broad St., Suite 245, Old City Hall Bldg., Box 28, Richmond, VA 23219, telephone (804) 786-5895.

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- † August 31, 1990 - 10 a.m. - Public Hearing Chrysler Museum, Norfolk, Virginia.
- † September 6, 1990 - 10 a.m. - Public Hearing Manassas Park, City Hall, Manassas Park, Virginia.
- † September 12, 1990 - 10 a.m. - Public Hearing 100 Arbor Street, Suite 6, Christiansburg, Virginia.
- † October 15, 1990 - 10 a.m. - Public Hearing
- † October 16, 1990 - 10 a.m. - Public Hearing Richmond, Virginia (Site to be determined).

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to amend regulations entitled: VR 647-01-03. VASAP Case Management Policy and Procedure Manual. These regulations provide policy and guidance to local ASAP programs and the process for handling offenders referred for education and treatment of convictions for driving under the influence (DUI).

STATEMENT

The basis and purpose of revisions to the Commission on VASAP Case Management Policy and Procedure Manual is to improve and provide structured standards for program operations. These standards include guidelines for enrollment, intake, classification, referral, probation, and monitoring of offenders in the VASAP system. The manual provides a method for the commission to oversee this segment of program performance.

No fiscal impact is anticipated; however, the changes as proposed will provide for a more consistent, uniform and equitable operation of the 26 local alcohol safety action programs.

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until September 28, 1990, to William T. McCollum, Commission on VASAP, 1001 E. Broad St., Suite 245, Box 28, Old City Hall Bldg., Richmond, VA 23219.

Contact: Kimberly A. Morris, Executive Assistant, Commission on VASAP, 1001 E. Broad St., Suite 245, Old City Hall Bldg., Box 28, Richmond, VA 23219, telephone (804) 786-5895.

\* \* \* \* \*

- † August 31, 1990 - 10 a.m. - Public Hearing Chrysler Museum, Norfolk, Virginia.
- † September 6, 1990 - 10 a.m. - Public Hearing Manassas Park, City Hall, Manassas Park, Virginia.
- † September 12, 1990 - 10 a.m. - Public Hearing 100 Arbor Street, Suite 6, Christiansburg, Virginia.
- † October 15, 1990 - 10 a.m. - Public Hearing
- † October 16, 1990 - 10 a.m. - Public Hearing Richmond, Virginia (Site to be determined).

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to amend regulations entitled: VR 647-01-04. Certification Requirements Manual. All programs are established under § 18.2-271.1 of the Code of Virginia and are required to be certified by the Commission on VASAP. These regulations provide guidance for meeting the certification requirements.

STATEMENT

The basis and purpose for the revisions to the Commission on VASAP's Certification Requirements Manual are to provide a consistent, equitable, easily understood and functional manual for certifying ASAP programs as required in § 18.2-271.1 of the Code of Virginia. The manual as proposed provides standards for reviewing program operations in the areas of:

1. Organization and administration
2. Case Management
3. Public Information
4. Fiscal Operation
5. Security and Confidentiality
6. Probation and Judicial Liaison

No fiscal impact is anticipated; however, the changes as proposed will provide for a more consistent, uniform and equitable operation of quality local program operations.

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until September 28, 1990, to William T. McCollum, Commission on VASAP, 1001 E. Broad St., Suite 245, Box 28, Old City Hall Bldg., Richmond, VA 23219.

Contact: Kimberly A. Morris, Executive Assistant, Commission on VASAP, 1001 E. Broad St., Suite 245, Old City Hall Bldg., Box 28, Richmond, VA 23219, telephone (804) 786-5895.

VIRGINIA RACING COMMISSION

- † September 19, 1990 - 9:30 a.m. - Public Hearing VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1



# Calendar of Events

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of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-03-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Racing Officials.** This regulation sets forth the qualifications, duties and responsibilities of racing officials who will serve at race meetings licensed by the commission.

## STATEMENT

**Purpose:** This regulation, VR 662-03-01. Racing Officials, sets forth the qualifications, duties and responsibilities of racing officials who will be acting in official capacities at race meetings licensed by the Virginia Racing Commission. It is essential that high standards be established for racing officials both in their qualifications and conduct so that horse racing, with pari-mutuel wagering, will be conducted in the Commonwealth of Virginia free from a corrupt, unprincipled or incompetent practice.

**Estimated Impact:** 1. Entities Affected. The licensees owning or operating race meetings, with pari-mutuel wagering, will be directly affected. They will have to retain racing officials holding permits from the Virginia Racing Commission. Further, they will have to retain racing officials in the various categories as set forth in this regulation and in sufficient numbers to provide proper administration of the racing. However, it should be noted that the commission has closely followed in the uniform regulations of Racing Commissioners International (RCI) and those of neighboring jurisdictions in developing this regulation.

In the March 12, 1990, issue of The Virginia Register, the commission caused to be published a Notice of Intended Regulatory Action requesting input from interested parties in the development of regulations pertaining to racing officials. The commission set aside time during its regular monthly meetings for the drafting of regulations pertaining to racing officials. Copies of the drafts were made available to all requesting them and copies were distributed to the commission's advisory group, which includes both the Virginia Thoroughbred Association and the Virginia Steeplechase Association. Also, Mr. Richard Hanson, a steward for The Jockey Club and participant in RCI's uniform rules project, reviewed the regulation and commented upon it.

The proposed regulation represents a consensus of the commissioners and the parties who participated in the drafting process. The regulation specifies the racing officials who must be retained by the licensee operating a horse race meeting with pari-mutuel wagering privileges. The regulation sets forth the process by which racing officials must apply for permits, including fingerprinting and background investigations. Further, the regulation sets forth the duties and responsibilities of each racing official and the manner in which the racing officials will interact with each other and the commission. The regulation is accompanied by a proposed fee schedule and application form.

## 2. Fiscal Impact:

a. Costs to affected entities: The licensees will have to pay the salaries and benefits of the racing officials who will be retained to officiate at the race meetings. This could vary widely depending upon the experience and ability of the persons retained in each of the various capacities. There would be the factor on the number of racing days that the racing officials would be serving. For instance, it would not be unreasonable for an experienced general manager to be paid a salary in excess of \$100,000 or a racing secretary to receive \$75,000 per race meeting. However, entry clerks, outriders and others serving in minor capacities would be paid by the racing day and would receive a good deal less in salary. However, to conduct a race meeting that would be in keeping with the mandate spelled out in the statute, the licensee would certainly want to retain the best racing officials possible.

b. Costs to the commission. There will be little or no cost to the commission in administering this regulation. The applicants for permits as racing officials will pay the appropriate fee which will cover the cost of background investigations and they will have to pay a separate fee to cover the cost of fingerprinting. The primary cost to the commission will be in the employing and training of clerical personnel to process the applications, the printing of the application forms, and related office supply and furniture costs. In previous regulations, it was specified that the licensee would provide office space for the commission at the horse racing facility and this is an accepted industry standard.

c. Source of commission funds. The cost of initially administering this regulation will be drawn from a loan on a treasury note. It is anticipated that the commission's cost in administering this regulation will be covered by the Commonwealth's share of the retainage from pari-mutuel wagering.

**Legal authority:** Section 59.1-369 of the Code of Virginia authorizes the commission to promulgate regulations and establish conditions under which horse racing and pari-mutuel wagering shall be conducted.

**Need:** The proposed regulation is essential for screening of applicants for permits as racing officials who want to serve at race meetings licensed by the commission. Further, it is essential that once receiving permits to function as racing officials that these persons fully understand their duties and responsibilities and how they interact with other officials and the commission. These racing officials will be the first-line of defense in protecting the integrity of horse racing in Virginia and keeping it free from any corrupt, unprincipled or incompetent practice.

**Small business impact:** There will be relatively little

impact upon small business due to this regulation. There will be some printing costs in the producing of the application form. Perhaps the largest impact felt from this regulation will be for the motel, apartment and other entities offering housing to the racing officials.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until September 30, 1990, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

**Contact:** William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

## BOARD FOR THE VISUALLY HANDICAPPED

**July 30, 1990 - 1:30 p.m. – Open Meeting**  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A quarterly meeting to review policy and procedures of the Virginia Department for the Visually Handicapped. The board also reviews and approves the department's budget.

**Contact:** Diane E. Allen, Administrative Assistant, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, toll-free 1-800-622-2155, or 371-3140/TDD ☎

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Advisory Committee on Services

**August 4, 1990 - 11 a.m. – Open Meeting**  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒

The committee meets quarterly to advise the Virginia Board for the Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

**Contact:** Barbara G. Tyson, Executive Secretary, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3350, toll-free 1-800-622-2155, or 371-3140/TDD ☎

### Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

**August 28, 1990 - 2 p.m. – Open Meeting**  
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

A regular monthly meeting.

**Contact:** Glen R. Slonneger, Jr., Program and Policy Specialist/Program for Infants, Children and Youth, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140.

## VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

**August 1, 1990 - 10 a.m. – Open Meeting**

**August 2, 1990 - 8:30 a.m. – Open Meeting**

Jefferson Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia.

August 1, 1990 - 10 a.m.: Committee Sessions.

Noon: Luncheon program with speaker (by invitation).

Recognition of contributions to vocational-technical education by Hauni Richmond, Inc.

2:30 p.m.: General Session - Overview of reauthorized Carl D. Perkins Vocational Education Act.

August 2, 1990 - 8:30 a.m. Business Session - Reports will be received from council committees, Virginia Department of Education, Governor's Job Training Coordinating Council, Virginia Community College System, and Department of Correctional Education.

**Contact:** George S. Orr, Jr., Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

## STATE WATER CONTROL BOARD

**July 30, 1990 - 2 p.m. – Public Hearing**

Lynchburg Circuit Court A, 900 Court Street, Lynchburg, Virginia.

**August 1, 1990 - 7 p.m. – Public Hearing**

James City County Board of Supervisors Room, Building C, 101-C Mounts Bay Road, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-14-01. Permit Regulations.** The proposed amendments are to conform the regulation more closely with federal regulations, to incorporate the intent and scope of the Toxics Management Regulation, to make changes required by 1990 legislative action, and to add language to clarify the intent of the regulation.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until August 7, 1990, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, VA 23230.

**Contact:** Mr. Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143,

# Calendar of Events

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Richmond, VA 23230, telephone (804) 367-6302.

\* \* \* \* \*

**July 30, 1990 - 7 p.m. - Public Hearing**  
Lynchburg Circuit Court A, 900 Court Street, Lynchburg, Virginia.

**August 1, 1990 - 2 p.m. - Public Hearing**  
James City County Board of Supervisors Room, Building C, 101-C Mounts Bay Road, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-00. Water Quality Standards.** The proposed amendments are to satisfy requirements of Triennial Review and to adopt standards for toxics for protection of aquatic life and human health, to incorporate other changes to facilitate implementation, and to provide for variances to these standards.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until August 7, 1990, to Ms. Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, VA. 23230

**Contact:** Ms. Eleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418.

\* \* \* \* \*

**August 20, 1990 - 7 p.m. - Public Hearing**  
Northampton County Circuit Court Room, Business Route 13, Eastville, Virginia.

**August 23, 199 - 7 p.m. - Public Hearing**  
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia.

**August 28, 1990 - 7 p.m. - Public Hearing**  
Franklin General District Courtroom, City Hall, 2nd Floor, 207 West 2nd Avenue, Franklin, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-15-01. Water Withdrawal Reporting.** The purpose of the proposed amendment is to extend the reporting requirement to specified crop irrigators and to withdrawers of saline surface waters. A further purpose is to conform with the style and formal requirements of the Virginia Registrar of Regulations.

Statutory Authority: § 62.1-44.38 C of the Code of Virginia.

Written comments may be submitted until 4 p.m., August 31, 1990, to Ms. Doneva Dalton, Office of Water Resources

Planning, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

**Contact:** Julian Alexander, Office of Water Resources Planning, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6424.

\* \* \* \* \*

**August 22, 1990 - 2 p.m. - Public Hearing**  
Prince William County McCourt Building, Board Room 1, County Complex, 4850 Davis Ford Road, Prince William, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **VR 680-11-05. Occoquan Policy.** The policy provides for the protection of the Occoquan Watershed from point source pollution. The proposed amendments serve to reflect current permitting practices and to be consistent with the Commonwealth's water quality management program.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 4, 1990, to Ms. Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, VA 23230.

**Contact:** Mr. James C. Adams, Regional Director, Northern Regional Office, 1519 Davis Ford Rd., Suite 14, Woodbridge, VA 22192, telephone (703) 490-8922.

\* \* \* \* \*

**September 11, 1990 - 2 p.m. - Public Hearing**  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **VR 680-14-03. Toxics Management Regulation.** The purpose of this proposed regulatory action is to repeal the Toxics Management Regulation. The intent and scope of the regulation will be concurrently incorporated into the Permit Regulation through a separate rulemaking.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 17, 1990, to Ms. Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, VA 23230.

**Contact:** Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6302.

\* \* \* \* \*

**August 23, 1990 - 2 p.m. - Public Hearing**  
Samuels Public Library, 538 Villa Avenue, Front Royal,  
Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-08.4. River Basin Section Tables, Potomac River Basin - Potomac Subbasin, Water Quality Standards.** The proposal is to amend the section description for the Opequon Creek, Put and Take Trout Waters, § 11, Potomac River Subbasin. The result of the proposed action is that a portion of § 11 would be reclassified as mountainous zone waters.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 17, 1990, to Ms. Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, VA 23230.

**Contact:** Elleanore Daub, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**August 9, 1990 - 8:30 a.m. - Open Meeting**  
**August 10, 1990 - 8:30 a.m. - Open Meeting**  
Department of Commerce, 3600 West Broad Street,  
Richmond, Virginia. ☒

An open meeting to conduct regulatory review and routine board business.

**Contact:** Mr. Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

## COUNCIL ON THE STATUS OF WOMEN

† **August 14, 1990 - 10 a.m. - Open Meeting**  
Virginia Department of Health Professions, 1st Floor,  
Conference Room 1, 1601 Rolling Hills Drive, Richmond,  
Virginia.

A regular meeting of the council to conduct general business and to receive reports from the council standing committees.

**Contact:** B.J. Northington, Executive Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9200 or toll-free 1-800-552-7096/TDD ☒

## STATE BOARD OF YOUTH AND FAMILY SERVICES

**September 14, 1990 -** 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 State Board of Youth and Family Services intends to adopt regulations entitled: **VR 690-01-001. Public Participation Guidelines.** These guidelines establish the procedures for public participation in the development of regulations.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until September 14, 1990.

**Contact:** Linda Nablo, Lead Analyst, Virginia Department of Youth and Family Services, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3262.

## LEGISLATIVE

### VIRGINIA COAL AND ENERGY COMMISSION

**August 28, 1990 - 9:30 a.m. - Open Meeting**  
Martha Washington Inn, Ballroom, Abingdon, Virginia.

A business meeting in the morning on acid rain legislation pending in Congress followed by an afternoon public hearing on the topic of how best to prepare for that point in time when Virginia's coal reserves have been depleted. Persons wishing to address the Commission during the public hearing may preregister with Mr. Heard at (804) 786-3591.

**Contact:** John T. Heard, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

### CITIZEN SUBCOMMITTEE STUDYING DANGEROUS DOMESTIC ANIMALS

† **August 2, 1990 - 10:30 a.m. - Open Meeting**  
General Assembly Building, Third Floor West, 910 Capitol Square, Richmond, Virginia. ☒

A study to examine the necessity of legislation regarding dangerous domestic animals conducted by the Virginia Federation of Humane Societies and the Virginia Animal Control Association Assisted by the Virginia Federation of Dog Clubs and Breeders.

# Calendar of Events

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Issues to be addressed include: (i) what constitutes a vicious, dangerous, or potentially dangerous animal; and (ii) why we need strong laws to control animals and especially negligent owners. (SJR 136)

Contact: Mrs. Liz Sills, 219 86th St., Virginia Beach, VA 23451, telephone (804) 428-6682.

## EDUCATION SUBCOMMITTEE

**August 17, 1990 - 1 p.m. - Open Meeting**  
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

The purpose of the meeting is to review various proposals for addressing the issues before the subcommittee. (HB 445)

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING GAME PROTECTION FUND

† **August 8, 1990 - 10 a.m. - Open Meeting**  
State Capitol, House Room 2, Capitol Square, Richmond, Virginia. ☒

The members of the joint subcommittee will meet to assess the long-range financial status of the game protection fund.

Contact: John Heard, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING HAMPTON ROADS TRANSPORTATION NEEDS

† **August 1, 1990 - 7 p.m. - Open Meeting**  
Old Dominion University, Hampton-Newport News Room, Webb Center, Norfolk, Virginia.

An open meeting to consider SJR 94.

Contact: Dr. Alan Wambold, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, 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.

## HOUSE APPROPRIATIONS COMMITTEE

### Subcommittee on Transportation

**September 17, 1990 - 1:30 p.m. - Open Meeting**  
General Assembly Building, 9th Floor, Appropriations Committee Room, 910 Capitol Street, Richmond, Virginia. ☒

To hear from experts in freight and passenger rail service and those interested in Senate Bill 421.

Contact: Linda Ladd, General Assembly Building, 9th Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-1837.

## HOUSE CORPORATIONS, INSURANCE AND BANKING SUBCOMMITTEE

† **August 15, 1990 - 10 a.m. - Open Meeting**  
State Capitol, House Room 4, Capitol Square, Richmond, Virginia. ☒

A special subcommittee will meet to study HB 899, "Rebating of Premiums on Insurance."

Contact: Arlen K. Bolstad, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## JOINT SUBCOMMITTEE STUDYING MOTOR VEHICLE INSURANCE AND UNISEX RATINGS

† **July 31, 1990 - 10 a.m. - Open Meeting**  
Old Dominion University, Mills Godwin Building, Room 101, Norfolk, Virginia.

† **August 23, 1990 - 10 a.m. - Open Meeting**  
Roanoke City Council Chambers, 215 Church Street, S.W., Roanoke, Virginia.

An open meeting to consider SJR 61.

Contact: C. William Cramme, III, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, 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.

## JOINT SUBCOMMITTEE STUDYING REGIONAL JAIL CONSTRUCTION FUNDING

**July 30, 1990 - 10 a.m. - Open Meeting**  
General Assembly Building, 10th Floor Committee Room, 910 Capitol Street, Richmond, Virginia. ☒

Organizational meeting.

Contact: Linda Ladd, General Assembly Bldg., 9th Floor, Richmond, VA 23219, telephone (804) 786-1837.

## JOINT SUBCOMMITTEE STUDYING THE RETAIL FRANCHISING ACT

**August 2, 1990 - 10 a.m. - Open Meeting**  
General Assembly Building, Senate Room A, 910 Capitol  
Street, Richmond, Virginia. ☒

An open meeting (SJR 52).

**Contact:** Amy Wachter, Committee Clerk, Senate of  
Virginia, P.O. Box 396, Richmond, VA 23203, telephone  
(804) 786-3838. Those persons wishing to speak should  
contact C.M. Conner, Jr., Staff Attorney, Division of  
Legislative Services, General Assembly Building, 910  
Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## STATE WATER COMMISSION

† **August 16, 1990 - 10 a.m. - Open Meeting**  
State Capitol, House Room 4, Capitol Square, Richmond,  
Virginia. ☒

The agenda will include the recommendations of the  
Advisory Committee regarding the financing of  
drinking water initiatives (HB 1115 carry-over of the  
1990 Session) and a presentation on above-ground  
storage tanks (pursuant to SJR 114, 1990).

**Contact:** Martin G. Farber, Research Associate, Division of  
Legislative Services, General Assembly Bldg., 910 Capitol  
Street, 2nd Floor, Richmond, VA 23219, telephone (804)  
786-3591.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

**July 30**

Cosmetology, Board for  
† Historic Resources, Board of  
Regional Jail Construction Funding, Joint  
Subcommittee Studying  
Visually Handicapped, Board for the

**July 31**

Community Corrections Resources Board - Winchester  
Cosmetology, Board for  
† Motor Vehicle Insurance and Unisex Ratings, Joint  
Subcommittee Studying

**August 1**

Alcohol Safety Action Program - Mount Rogers  
Children, Department for  
- Consortium on Child Mental Health  
† - Teen Pregnancy Prevention Task Force  
† Hampton Roads Transportation Needs, Joint  
Subcommittee Studying

Medicine, Board of  
- Informal Conference Committee  
Vocational Education, Virginia Council on

**August 2**

Citizens' Advisory Council for Interpreting and  
Furnishing the Executive Mansion  
Community Corrections Resources Board - Middle  
Virginia  
- Board of Directors  
† Dangerous Domestic Animals, Citizen Subcommittee  
Studying  
† Housing and Community Development, Board of  
† - Amusement Device Technical Advisory  
Committee  
† Professional Counselor, Board of  
Real Estate Board  
Retail Franchising Act, Joint Legislative Subcommittee  
Studying the  
Vocational Education, Virginia Council on

**August 3**

† Professional Counselor, Board of

**August 4**

Visually Handicapped, Department for the  
- Advisory Committee on Services

**August 7**

Hopewell Industrial Safety Council

**August 8**

Corrections, Board of  
† Criminal Justice Services Board  
Indians, Council on  
† Game Protection Fund, Joint Subcommittee Studying  
† Motor Vehicles, Department of  
† - Medical Advisory Board

**August 9**

† Architects, Land Surveyors, Professional Engineers  
and Landscape Architects, Board for  
† - Board for Professional Engineers  
† Child Day-Care Council  
Medicine, Board of  
- Informal Conference Committee  
Waterworks and Wastewater Works Operators, Board  
for

**August 10**

† Family and Children's Trust Fund of Virginia  
† - Board of Trustees  
Waterworks and Wastewater Works Operators, Board  
for

**August 13**

† Barbers, Board for  
Local Government, Commission on

**August 14**

# Calendar of Events

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- † Real Estate Board
- † Women, Council on the Status of

## August 15

- † Insurance and Banking Subcommittee, House Corporations

## August 16

- † Auctioneers Board
- † Fire Services Board, Virginia
  - † - Fire/EMS Training Committee
  - † - Fire Prevention and Control Committee
- † Legislative Committee
- † Medicine, Board of
- † Water Commission, State

## August 17

- Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
  - Board for Land Surveyors Education Subcommittee
- † Fire Services Board, Virginia
- † Medicine, Board of

## August 21

- † Historic Resources, Department of ★BIII★ † - State Review Board

## August 22

- Educational Opportunity for All Virginians, Governor's Commission on Lottery Board, State

## August 23

- † Architects, Land Surveyors, Professional Engineers and Landscape Architects, Board for
  - † - Board for Architects
- Children, Department for
  - State-Level Runaway Youth Services Network
- Farmers' Market Board, Virginia
- † Motor Vehicle Insurance and Unisex Ratings, Joint Subcommittee Studying

## August 26

- Lottery Board, State

## August 28

- Coal and Energy Commission, Virginia
- † Health Services Cost Review Council, Virginia
- Old Dominion University
  - Executive Committee
- Visually Handicapped, Department for the
  - Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

## September 4

- Hopewell Industrial Safety Council

## September 5

- Children, Department for
  - Consortium on Child Mental Health

## September 6

- Community Corrections Resources Board - Middle Virginia

## September 7

- † Family and Children's Trust Fund of Virginia
  - † - Board of Trustees

## September 10

- Land Evaluation Advisory Council, State

## September 12

- Corrections, Board of
  - † Emergency Planning Committee, Local - Alexandria

## September 17

- Appropriations Committee, House
  - Subcommittee on Transportation

## September 20

- Soil and Water Conservation Board, Virginia

## September 21

- Transportation Safety Board

## September 26

- Educational Opportunity for All Virginians, Governor's Commission on Lottery Board, State

## October 3

- Children, Department for
  - Consortium on Child Mental Health

## October 12

- † Family and Children's Trust Fund of Virginia
  - † - Board of Trustees

## PUBLIC HEARINGS

## July 30

- Water Control Board, State

## July 31

- † Air Pollution Control, Department of

## August 1

- Criminal Justice Services, Department of Water Control Board, State

## August 13

- Local Government, Commission on

## August 16

- † Fire Services Board, Virginia

## August 20

- Health, Department of

Housing and Community Development, Department of  
Transportation, Department of  
Water Control Board, State

**August 21**

† Conservation and Recreation, Department of  
Health, Department of  
Mines, Minerals and Energy, Department of

**August 22**

Agriculture and Consumer Services, Department of  
Air Pollution Control Board, State  
Alcoholic Beverage Control Board  
Transportation, Department of  
Water Control Board, State

**August 23**

Water Control Board, State

**August 27**

Transportation, Department of

**August 28**

Marine Resources Commission  
Water Control Board, State

**August 29**

Transportation, Department of

**August 31**

† Virginia Alcohol Safety Action Program, Commission  
on the

**September 6**

† Virginia Alcohol Safety Action Program, Commission  
on the

**September 11**

Water Control Board, State

**September 12**

† Virginia Alcohol Safety Action Program, Commission  
on the

**September 18**

Labor and Industry, Department of  
Taxation, Department of

**September 19**

† Racing Commission, Virginia

**September 26**

Agriculture and Consumer Services, Department of

**October 15**

† Virginia Alcohol Safety Action Program, Commission  
on the

**October 16**

† Virginia Alcohol Safety Action Program, Commission  
on the



# Calendar of Events

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