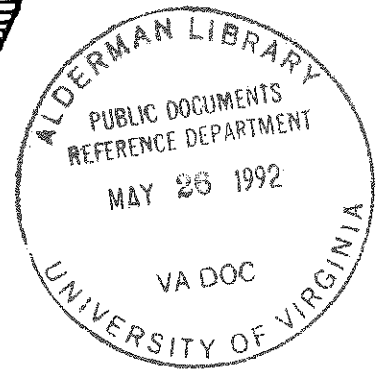
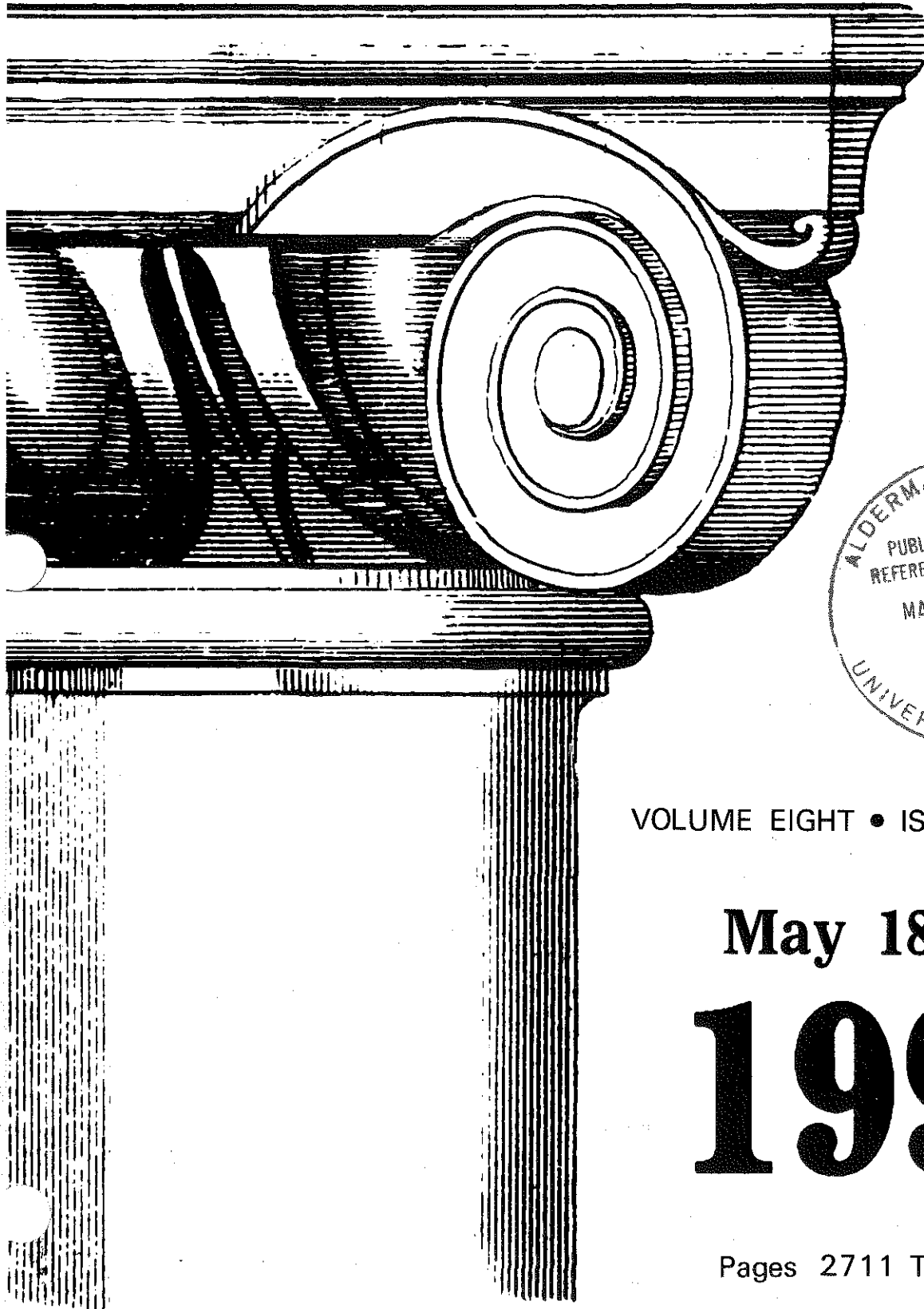


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THE VIRGINIA REGISTER

OF REGULATIONS

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May 18, 1992

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VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

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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NOTICES OF INTENDED REGULATORY ACTION

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STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed action is to amend the Public Participation Guidelines (Appendix E) to: (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of public participation guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, certain analyses would be required to be performed to form the basis for the regulatory action, and the notice of public comment would state that the analyses had been performed and are available for viewing by the public upon request.

A public meeting will be held by the department in House Room 1, State Capitol Building, Richmond, Virginia, at 10 a.m. on May 27, 1992, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Location of documents: The legal and technical basis for the intended regulatory action and any supporting documents may be examined by the public on the Eighth Floor, Ninth Street Office Building, 200-202 North Ninth Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day until the day of the meeting.

Need and issues involved: The provisions of § 120-02-02 and Appendix E which prescribe the procedures for public participation in the regulatory adoption process are in need of revision to provide better information to the public and regulated community in order to facilitate more meaningful participation by interested parties. They are

also in need of update to conform to recent changes in the process under the Administrative Process Act. The issue is whether the regulation should be amended to meet the needs identified above or remain as is.

Regulatory alternatives: The alternatives are to either (i) amend the regulation to meet the needs identified above and improve the procedure to gain more meaningful input into the regulatory adoption process or (ii) not amend the regulation and leave the provisions cited outdated and ineffective with regard to meaningful public input.

Basis and statutory authority: Section 10.1-1308 of the Code of Virginia authorized the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution. Section 9-6.14:7.1 requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.

Estimated impacts: No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the agency. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Applicable statutory provisions: The legal basis for the regulation are as follows:

1. § 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).
2. § 9-6.14:7.1 of the Administrative Process Act (Title 9, Chapter 1.1:1 of the Code of Virginia).
3. § 120-02-02 and Appendix E of the Regulations for the Control and Abatement of Air Pollution (VR 120-01)

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1308 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 27, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

Contact: Robert A. Mann, Director, Division of Program Development, Department of Air Pollution Control, P.O.

Notices of Intended Regulatory Action

Box 10089, Richmond, VA 23240, telephone (804) 786-5789.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the regulation is to limit or prohibit open burning in some instances and to establish requirements to allow the agency to monitor and issue permits for open burning in order to restrict particulate (smoke) emissions from open burning to the levels necessary for the protection of public health and welfare.

A public meeting will be held by the department in House Room 1, State Capitol Building, Richmond, Virginia, at 9 a.m. on June 24, 1992, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad hoc advisory group: The department will form an ad hoc advisory group to assist in the development of the regulation. Persons desiring to be in the group should notify the agency contact in writing by close of business on May 21, 1992, providing the name, address, phone number, and the organization to be represented (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants by June 4, 1992. Person selected to be on the group are encouraged to attend the public meeting mentioned above and any subsequent meetings that may be needed to develop the draft regulation.

Location of documents: The legal and technical basis for the intended regulatory action and any supporting documents may be examined by the public on the Eighth Floor, Ninth Street Office Building, 200-202 North Ninth Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day until the day of the meeting.

Need and issues involved: The basic elements of Rule 4-40 are as follows. Section 120-04-4003 generally prohibits the burning of refuse (except as allowed by § 120-04-4004). Section 120-04-4003 also specifies conditions under which open burning is never allowed, such as the burning of rubber, asphaltic or oily materials, or toxic materials. Section 120-04-4004 contains the list of circumstances under which burning is allowed. In two of these circumstances, the burning of land clearing refuse and burning at local landfills, a permit is required in order to burn. Section 120-04-4005 covers the permitting of special open pit incinerators often used as an alternative to open burning. Essentially, Rule 4-40 does not prevent open burning but does impose restrictions designed to minimize the adverse effects of this activity.

Open burning produces a form of air pollution that is

readily visible to the public and is therefore a very sensitive issue. Also, open burning presents an immediate and real health hazard to the public, especially to those with asthma, bronchitis, or other respiratory diseases. Moreover, control of open burning can sometimes involve a conflict between two public policy issues: the enjoyment of life and property and the promotion of economic development. For instance, a large open burn in a heavily populated area may cause a nuisance and hinder the enjoyment of private property, but at the same time it may reduce the expense of disposal.

On the other hand, emissions from open burning represent less than 1.0% of the total emissions statewide, but the time spent in dealing with the problem may range as high as 25% for some of the department's enforcement staff. This allocation of resources seems disproportionate in light of the department's responsibility to control other types of emissions which contribute far more to the degradation of air quality, like those from industry and motor vehicles. Therefore, the regulation of open burning on a statewide basis may not be cost effective.

Alternatives: The department is requesting comments on the costs and benefits of the following alternatives as well as on any others which address the need. The department's assessment of the following alternatives is presented below.

1. Take no action. This alternative would be inappropriate from the point of view of both public and department. Scarce resources prevent the department from devoting the necessary time and staff to the enforcement of the current rule. Local governments and the public, however, assume the existence of adequate enforcement efforts on the part of the state because of the language of the current rule.
2. Remove all state air quality restrictions on open burning except for those governing the burning of hazardous materials. This alternative would probably be unacceptable to the public. Since open burning is one of the most visible forms of air pollution, citizens file complaints about this activity with great readiness. Furthermore, the department's abolition of the open burning restrictions might be perceived by the public as irrational and inconsistent in light of the fact that the department has worked to obtain several convictions for violation of the current open burning rule over the past years.
3. Prohibit all open burning. This alternative would be impossible to enforce. Department staff have already significantly reduced the amount of time spent investigating open burning complaints and issuing open burning permits because more important legal mandates demand that they spend their time enforcing rules that have a greater environmental and health impact than does the open burning rule. Open burning has no measurable effect on ambient air quality;

Notices of Intended Regulatory Action

therefore, statewide regulation contributes very little to Virginia's legal health and welfare goals. A more stringent rule (like one involving a prohibition of all open burning) would further widen the discrepancy between law and practice since sufficient resources could not possibly be allocated to enforce it.

4. Prohibit all open burning except where there is a valid local ordinance meeting criteria specified by the state. Since local waste collection and disposal policies significantly affect the practice of open burning, it is appropriate for the local governing bodies responsible for those policies to assume the authority for dealing with open burning within their jurisdictions. Such assumption of authority is realistic since little technical expertise is needed to enforce a local open burning ordinance. Furthermore, a local government could more consistently and efficiently enforce an open burning ordinance through its fire and police departments than the state could through nonlocal staff. The major caveat with this alternative is that local governments vary considerably in their capability and willingness to assume responsibility for open burning. Any attempt to force local control could result in strained relations with both the localities and the public.

Regulatory constraints: Section 10.1-1308 of the Virginia Air Pollution Control Law prohibits the board from regulating "the burning of leaves from trees by persons on property where they reside if the local governing body of the county, city or town has enacted an otherwise valid ordinance regulating such burning."

Applicable statutory provisions: The legal basis for the regulation is § 10.1-1308 of the Virginia Air Pollution Control Law (Chapter 13 of Title 10.1 of the Code of Virginia).

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until 4 p.m., June 24, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

Contact: Kathleen Sands, Policy Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider repealing regulations entitled: **VR 173-01-00. Public Participation Procedures for the Formation and Promulgation of**

Regulations. The purpose of the proposed action is to repeal the agency's existing Public Participation Procedures. Concurrently with this action, the agency is proposing to adopt new Public Participation Guidelines (VR 173-01-01).

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-2102 authorizes the Chesapeake Bay Local Assistance Board (board) to adopt rules and procedures for the conduct of its business.

Concurrently with this action, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines impose requirements only on the board. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the newly adopted guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 8 a.m., Wednesday, May 6, 1992, in the conference room of the Anchor Motel, Route 13, Nassawadox, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Chesapeake Bay Preservation Act (§§ 10.1-2100-10.1-2115), and the board's current Public Participation Procedures (VR 173-01-00).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2102 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

Contact: C. Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 E. Broad Street, Suite 701, Richmond, VA 23219, telephone

Notices of Intended Regulatory Action

(804) 225-3440 or 1-800-243-7229/TDD ☎

Notice of Intended Regulatory Action

NOTE: Correction to VR number

Notice is hereby given in accordance with this agency's public participation guidelines that the Chesapeake Bay Local Assistance Board intends to consider promulgating regulations entitled: **VR 173-01-00:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the agency which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-2102 authorizes the Chesapeake Bay Local Assistance Board (board) to adopt rules and procedures for the conduct of its business. Section 10.1-2107 requires the board to consider economic and social costs and benefits that can be expected to result from its regulatory actions.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines impose requirements only on the board. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the newly adopted guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 8 a.m., Wednesday, May 6, 1992, in the conference room of the Anchor Motel, Route 13, Nassawadox, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia),

the Chesapeake Bay Preservation Act (§§ 10.1-2100-10.1-2115), and the board's current Public Participation Procedures (VR 173-01-00).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2102 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

Contact: C. Scott Crafton, Regulatory Coordinator, Chesapeake Bay Local Assistance Department, 805 E. Broad Street, Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or 1-800-243-7229/TDD ☎

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 repealing regulations entitled: **VR 190-01-1. Rules and Regulations Governing Employment Agencies.** The purpose of the proposed action is to repeal current regulations which are not consistent with the new requirements of House Bill 911 which was passed by the 1992 General Assembly. The department will hold an informational meeting at the Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230 on May 1, 1992, at 10 a.m. in Room 395 to allow the public to ask questions and make suggestions relevant to the regulation of employment agencies.

Statutory Authority: § 54.1-1302.1 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: David E. Dick, Regulatory Programs Management Analyst, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8588.

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 promulgating new regulations entitled: **VR 190-01-1:1. Rules and Regulations Governing Employment Agencies.** The purpose of the proposed action is to promulgate regulations governing employment agencies to implement House Bill No. 911, passed by the 1992 Session of the General Assembly, and seeks public comment concerning all aspects of employment agency regulations. Specific comment is sought concerning requirements for the:

- Initial and renewal licensure, registration and approval as a controlling person;

- Minimum elements of initial contracts, position

Notices of Intended Regulatory Action

acceptance agreements and written job descriptions;

- Manner in which fees are to be earned and paid;
- Standards of practice;
- Grounds for disciplinary actions;
- Records to be kept and maintained by employment agencies; and
- Amount of bond.

The department will hold an informational meeting at the Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230 on May 1, 1992, at 10 a.m. in Room 395 to allow the public to ask questions and make suggestions relevant to the regulation of employment agencies.

Statutory Authority: § 54.1-1302.1 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: David E. Dick, Regulatory Programs Management Analyst, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8588.

DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 215-00-00. Regulatory Public Participation Guidelines**. The purpose of the proposed action is to adopt Regulatory Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Regulatory Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the Department of Conservation and Recreation and submitted to the board. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-107 of the Code of Virginia authorizes the Board of Conservation and Recreation to promulgate regulations necessary for the execution of the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations only impose requirements on the Board and the Department of Conservation and Recreation. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the board in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public process will increase and be required by regulation.

The board and department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday, May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); § 10.1-107 and the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia; and all other Acts of Assembly and Code of Virginia references conferring powers, duties, and responsibilities on the board.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-107 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

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 repealing regulations entitled: **VR 215-01-00. Public Participation Guidelines**. The purpose of the proposed action is to repeal the agency's existing public participation guidelines. Concurrently with this action, the agency is proposing to adopt Regulatory Public Participation Guidelines for the

Notices of Intended Regulatory Action

department which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-104 of the Code of Virginia authorizes the Department of Conservation and Recreation (department) to prescribe rules and regulations necessary and incidental to the performance of duties or execution of powers conferred by law, and to promulgate regulations pursuant to the Administrative Process Act to carry out the provisions of Subtitle I of Title 10.1 of the Code of Virginia.

Concurrently with this action to repeal the existing VR 215-01-00, Public Participation Guidelines, the department is considering adoption of VR 217-00-00, Regulatory Public Participation Guidelines, which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the department and submitted to the DCR Director. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations impose requirements on the department. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), Subtitle I of Title 10.1 of the Code of Virginia; all other

Acts of Assembly and Code of Virginia references conferring powers, duties and responsibilities on the department, and the department's existing Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Written comments may be submitted until 5 p.m., May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

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 217-00-00. Regulatory Public Participation Guidelines.** The purpose of the proposed action is to adopt Regulatory Public Participation Guidelines for the department which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the department is considering adoption of Regulatory Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the department and submitted to the DCR Director. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-104 of the Code of Virginia authorizes the Department of Conservation and Recreation (department) to prescribe rules and regulations necessary and incidental to the performance of duties or execution of powers conferred by law, and to promulgate regulations pursuant to the Administrative Process Act to carry out the provisions of Subtitle I of Title 10.1 of the Code of Virginia.

Concurrently with this action to promulgate VR 217-00-00, Regulatory Public Participation Guidelines, the department

Notices of Intended Regulatory Action

is considering the repeal of the existing VR 215-01-00, Public Participation Guidelines. The existing regulations were written prior to the current adoption of the Virginia Code Commission's Virginia Register Form, Style and Procedures Manual.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations impose requirements on the department. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the department in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), Subtitle I of Title 10.1 of the Code of Virginia; all other Acts of Assembly and Code of Virginia references conferring powers, duties and responsibilities on the department, and the department's existing Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-104 of the Code of Virginia.

Written comments may be submitted until 5 p.m., May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

STATE BOARD OF CORRECTIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Corrections intends to consider amending regulations entitled: **VR 230-01-003. Rules and Regulations Governing the Certification Process.** The purpose of the proposed action is to update the rules and regulations used in the evaluation and certification of state and local correctional facilities.

Statutory Authority: §§ 53.1-5, 53.1-69, 53.1-144 and 53.1-178 of the Code of Virginia.

Written comments may be submitted until June 15, 1992.

Contact: James S. Jones, Jr., Manager, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3262.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider repealing regulations entitled: **VR 270-01-0052. Standards for Approval of Teacher Preparation Programs in Virginia (1979).** The purpose of the proposed action is to repeal the outdated regulations which were incorporated into the Certification Regulations for Teachers in 1982 and revised in 1986. New regulations governing teacher preparation programs will be promulgated by the Board of Education.

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: Dr. Thomas A. Elliott, Division Chief, Compliance Coordination, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 371-2522 or toll-free 1-800-292-3820.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider promulgating regulations entitled: **VR 270-01-0052:1. Regulations Governing Approved Programs for Virginia Institutions of Higher Education.** The purpose of the proposed action is to upgrade the standards for approval of teacher education programs offered at Virginia colleges and universities.

Statutory Authority: §§ 22.1-298 and 22.1-299 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: Dr. Thomas A. Elliott, Division Chief, Compliance Coordination, Virginia Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 371-2522 or toll-free 1-800-292-3820.

COUNCIL ON THE ENVIRONMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

Notices of Intended Regulatory Action

public participation guidelines that the Council on the Environment intends to consider repealing regulations entitled: **VR 305-01-001. Public Participation Guidelines.** The purpose of the proposed action is to repeal the council's existing Public Participation Guidelines. Concurrently with this action, the council is proposing to adopt new Public Participation Guidelines (VR 305-01-001:1).

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-1206 authorizes the Council on the Environment to adopt rules governing the procedures of the council.

Concurrently with this action, the council is considering adoption of public participation guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted by the council. In addition, the council would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the council. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The council does not propose to hold a public meeting on the proposal.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Virginia Environmental Quality Act (§ 10.1-1200 et seq. of the Code of Virginia), and the council's Public Participation Guidelines (VR 305-01-001.)

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1206 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 22, 1992, to Keith J. Buttleman, 202 N. Ninth Street, Suite 900, Richmond, Virginia.

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth Street, Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Council on the Environment intends to consider promulgating regulations entitled: **VR 305-01-001:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the council which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat.

Specifically, the council is considering adoption of public participation guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the council. In addition, the council would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-1206 of the Code of Virginia authorizes the Council on the Environment to adopt rules governing the procedures of the council.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the council. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised guidelines in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The council does not propose to hold a public meeting on the proposal.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Virginia Environmental Quality Act (§ 10.1-1200 et seq. of the Code of Virginia), and the council's Public Participation Guidelines (VR 305-01-001.)

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1206 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 22,

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1992, to Keith J. Buttleman, 202 N. Ninth Street, Suite 900, Richmond, Virginia.

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth Street, Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to amend regulations to reflect 1992 amendments of § 9-160 D pertaining to the Council's Commercial Diversification Survey and the new requirements for the Council to collect Form 990s from nonprofit health care institutions.

Statutory Authority: §§ 9-160 and 9-164 of the Code of Virginia, as amended by the 1992 Session of the Virginia General Assembly.

Written comments may be submitted until June 22, 1992.

Contact: John A. Rupp, Executive Director, Virginia Health Services Cost Review Council, 805 E. Broad Street, 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD OF HISTORIC RESOURCES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Historic Resources intends to consider promulgating regulations entitled: **VR 390-01-01. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had

been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Sections 10.1-2205 and 10.1-2305 of the Code of Virginia authorize the Virginia Board of Historic Resources to promulgate regulations necessary for (i) the designation of historic properties, (ii) the establishment of appropriate preservation practices, (iii) approval and authorization of highway historical markers, (iv) acquisition of property, and (v) issuance of permits for archaeological excavation of human remains.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 10 a.m., Wednesday, May 27, 1992, in the board room, Department of Historic Resources, 221 Governor Street, Richmond, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), and §§ 10.1-2205 and 10.1-2305 of the Code of Virginia.

Statutory Authority: §§ 9-6.14:7.1, 10.1-2205 and 10.1-2305 of the Code of Virginia.

Written comments may be submitted until 4 p.m., May 29, 1992.

Contact: H. Bryan Mitchell, Deputy Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143.

DEPARTMENT OF HISTORIC RESOURCES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Historic Resources intends to consider promulgating regulations entitled: **VR 390-01-01:2. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the department which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish

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regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the department is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Sections 10.1-2202 authorizes the director of the Department of Historic Resources to promulgate regulations necessary to carry out all responsibilities incumbent upon the State Historic Preservation Officer, including at a minimum criteria and procedures for submitting nominations of properties to the National Park Service for inclusion in the National Register of Historic Places or for designation as National Historic Landmarks.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the department. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulations.

The department will hold a public meeting at 2 p.m., Thursday, June 18, 1992, in the board room, Department of Historic Resources, 221 Governor Street, Richmond, Virginia, to receive views and comments and to answer questions of the public.

Statutory Authority: §§ 9-6.14:7.1 and 10.1-2202 of the Code of Virginia.

Written comments may be submitted until 4 p.m., June 22, 1992.

Contact: H. Bryan Mitchell, Deputy Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-02. Virginia Tradesmen Certification Standards.** The purpose of the proposed action is to amend §§ 4.2, 4.3, 4.5 and 4.6 regarding two classifications of blaster certification - restricted and unrestricted, and § 4.4 (Temporary certification)

Statutory Authority: § 15.1-11.4 of the Code of Virginia.

Written comments may be submitted until June 12, 1992.

Contact: Jack A. Proctor, Deputy Director, 205 N. 4th Street, Richmond, VA 23219, telephone (804) 371-7772.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-04. Virginia Uniform Statewide Building Code Amusement Device Regulation.** The purpose of the proposed action is to amend those portions pertaining to passenger tramway (ski-lift) regulations; kiddie rides (types A & B); and accidents involving serious injury or fatality.

Statutory Authority: § 36-98.3 of the Code of Virginia.

Written comments may be submitted until June 12, 1992.

Contact: Jack A. Proctor, Deputy Director, 205 N. 4th Street, Richmond, VA 23219, telephone (804) 371-7772.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-06. Virginia Statewide Fire Prevention Code.** The purpose of the proposed action is to amend § F-102.1 (written enforcement notification) and § F-102.1 (Modifications).

Statutory Authority: §§ 27-95 and 27-97 of the Code of Virginia.

Written comments may be submitted until June 12, 1992.

Contact: Jack A. Proctor, Deputy Director, 205 N. 4th Street, Richmond, VA 23219, telephone (804) 371-7772.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code Volume I, New Construction.** The purpose of the proposed action is to amend those portions pertaining to: §§ 105.6 (Plans review), 201.0 and

Notices of Intended Regulatory Action

309.4.1 (family day care homes), 112.0 (violations), 120.3 and 201.0 (public nuisance), 512.0 (accessibility), 1300.4 and R-221 (lead based paint), 2700.5 and R-220 (telephone jack pre-wiring), P-1503.8, P-1503.9 - Adden. 1 and P-2301 - Adden. 2 (Water conservation).

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until June 12, 1992.

Contact: Jack A. Proctor, Deputy Director, 205 N. 4th Street, Richmond, VA 23219, telephone (804) 371-7772.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code Volume II, Property Maintenance.** The purpose of the proposed action is to amend those portions pertaining to: §§ 101.4 (Application of model codes), 104.0 (violations), 105.8 (Abatement or removal), 109.5 (Identification of handicapped parking spaces, and PM-303.4 (Lead based paint).

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until June 12, 1992.

Contact: Jack A. Proctor, Deputy Director, 205 N. 4th Street, Richmond, VA 23219, telephone (804) 371-7772.

DEPARTMENT OF LABOR AND INDUSTRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider amending regulations entitled: **VR 425-01-80. Virginia Hours of Work for Minors.** The purpose of the proposed amendment is to extend the requirement regarding hours of work, including the number of hours per week, the number of hours per day, and the hours of day applicable to minors working in nonagricultural employment to minors working on farms, in gardens and in orchards or to otherwise extend hours of work restrictions on such minors.

Statutory Authority: §§ 40.1-6 and 40.1-80.1 of the Code of Virginia.

Written comments may be submitted until June 22, 1992.

Contact: Dennis Merrill, Labor Law Director, Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth Street, Richmond, VA 23219, telephone (804) 786-3224.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider amending regulations entitled: **VR 425-01-81. Regulation Governing the Employment of Minors on Farms, in Gardens and in Orchards.** The purpose of the proposed action is to address the need for additional safeguards on the occupational use of agricultural chemicals and toxic substances by minors on farms, in gardens and in orchards. Public comments received by the department as part of the promulgation of this regulation indicated the need to further explore this issue.

Given the technical nature of the issue raised, insufficient time existed during the regulatory promulgation period to adequately explore this issue and retain the scheduled July 1, 1992, effective date. Current emergency regulations expire on June 30, 1992. This issue is therefore being addressed in a separate rulemaking.

Statutory Authority: §§ 40.1-6, 40.1-100 A and 40.1-114 of the Code of Virginia.

Written comments may be submitted until June 20, 1992.

Contact: Dennis Merrill, Labor Law Director, Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth Street, Richmond, VA 23219, telephone (804) 786-3224.

MARINE RESOURCES COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Marine Resources Commission intends to consider amending regulations entitled: **VR 450-01-0045. Public Participation Guidelines.** The purpose of the proposed action is to amend the commission's Public Participation Guidelines to (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat.

The intended amendments require an expanded NOIRA to include (i) a statement as to the need for the regulatory action; (ii) a description of alternatives available to meet the need; (iii) a request for comments on the intended regulatory action and benefits of the alternatives and suggestions; and (iv) require a summary of the NOIRA comments be submitted to the commission. In addition, the commission would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Notices of Intended Regulatory Action

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the commission.

The commission will hold a public hearing at 9:30 a.m., Tuesday, May 26, 1992, at the commission headquarters located at 2600 Washington Avenue, Newport News, to review the comments received and answer questions of the public.

Basis and statutory authority: Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 62.1-13.4 authorizes the Marine Resources Commission to promulgate regulations necessary to carry out its powers and duties under the provisions of Title 62.1.

Purpose and Substance: The purpose of this intended regulatory action is to amend the commission's Public Participation Guidelines to (i) establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and (ii) establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the intended regulatory action would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the commission. In addition, the commission would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Estimated impacts: No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines impose requirements only on the commission. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

Public meeting: The commission will hold a public meeting at the commission headquarters at 2600 Washington Avenue, Newport News, at 9:30 a.m., April 28, 1992, to receive views and comments and to answer questions of the public.

Comments: The commission seeks written comments from interested persons. To be considered, comments should be submitted no later than May 22, 1992.

Applicable laws and regulations: Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) and Title 62.1 of the Code of Virginia.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-13.4 of the Code of Virginia.

Written comments may be submitted until May 22, 1992, to Marine Resources Commission, P.O. Box 756, Newport News, Virginia.

Contact: Robert W. Grabb, Chief, Habitat Management, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **Standards Established and Methods Used to Assure High Quality of Care: Nursing Facility Criteria (Attachment 3.1C, Supplement 1)**. The purpose of the proposed action is to amend the State Plan for Medical Assistance to include criteria for nursing facility admission and continued stay based on the resident assessment instrument approved by the state (the Minimum Data Set).

Statutory Authority: § 32.1-325 of the Code of Virginia and 42 CFR 483.20 (Omnibus Budget Reconciliation Act of 1987).

Written comments may be submitted until May 18, 1992, to Victoria Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

Contact: Mary Chiles, Manager, Long Term Care, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219, telephone (804) 225-4220.

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 465-02-1. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture**. The purpose of the proposed action is to develop regulations relating to chelation therapy.

Notices of Intended Regulatory Action

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 3, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

† 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 465-05-01. Regulations Governing the Practice of Physician's Assistants.** The purpose of the proposed action is to respond to Senate Bill 192 to allow preccriptive authority for physician's assistants.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until June 19, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

DEPARTMENT OF MOTOR VEHICLES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider promulgating regulations entitled: **Salvage Act Regulations.** The purpose of the proposed action is to implement the Salvage Act.

Statutory Authority: § 46.2-203 of the Code of Virginia.

Written comments may be submitted until June 8, 1992.

Contact: L. Steve Stupasky, Program Manager, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-1939.

BOARD OF PSYCHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Psychology intends to consider amending regulations entitled: **VR 585-01-2. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to review the requirements for licensure for clinical psychologists, psychologists, and school psychologists to include educational requirements and requirements for

examination in light of action taken by the 1992 General Assembly.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

† Notice of Withdrawal

The State Department of Social Services is withdrawing the Notice of Intended Regulatory Action for VR 615-01-41, General Relief and Auxiliary Grants-Recoupment of Overpayment, published in 7:14 VA.R. 2165 April 8, 1991.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **VR 615-32-01:1. Child Day Care Scholarship Programs.** The purpose of the proposed action is to provide guidelines for federal Child Care Provider Scholarship Program.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until June 18, 1992.

Contact: Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF SOCIAL WORK

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Work intends to consider amending regulations entitled: **VR 620-01-2. Regulations Governing the Practice of Social Work.** The purpose of the proposed action is to review requirements for licensure including required examinations in light of action taken by the 1992 General Assembly.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9913.

Notices of Intended Regulatory Action

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Professional Soil Scientists intends to consider amending regulations entitled: **VR 627-02-1. Board for Professional Soil Scientists Regulations.** The purpose of the proposed action is to conduct a biennial review of the regulations and to adjust fees.

Statutory Authority: §§ 54.1-201 and 54.1-2200 et seq. of the Code of Virginia.

Written comments may be submitted until June 4, 1992.

Contact: Nelle P. Hotchkiss, Assistant Director, Virginia Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider repealing regulations entitled: **VR 625-00-00. Public Participation Guidelines.** The purpose of the proposed action is to repeal the board's existing public participation guidelines. Concurrently with this action the board is proposing to adopt Regulatory Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-502 of the Code of Virginia authorizes the Virginia Soil and Water Conservation Board to promulgate regulations necessary for the execution of Chapter 5 (§ 10.1-500 et seq.) of Title 10.1 of the Code of Virginia. This authorization covers the Erosion and Sediment Control Law and its attendant regulations. Section 10.1-603.18 of the Code of Virginia authorizes the board to promulgate regulations for the proper administration of the Flood Prevention and Protection Assistance Fund which is to include, but not limited to, the establishment of amounts, interest rates, repayment terms, consideration of the financial stability of the particular local public body applying and all other criteria for awarding of grants or loans under the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.). The Dam Safety Act under § 10.1-605

of the Code of Virginia requires the board to promulgate regulations to ensure that impounding structures in the Commonwealth are properly and safely constructed, maintained and operated (§ 10.1-604 et seq.). The Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.) authorizes the board to establish guidelines for the proper administration of the fund and the provisions of Article 4 of Chapter 6 of Title 10.1 of the Code of Virginia.

Concurrently with this action to repeal the existing VR 625-00-00, Public Participation Guidelines, the board is considering the adoption of VR 625-00-00:1, Regulatory Public Participation Guidelines, which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be developed by the Department of Conservation and Recreation and submitted to the board. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations only impose requirements on the Department of Conservation and Recreation and the board. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the board in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public process will increase and be required by regulation.

The board and department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday, May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); Chapter 5 of Subtitle I of Title 10.1 Soil and Water Conservation (§ 10.1-500 et seq.); the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.); the Dam Safety Act (§ 10.1-604 et seq.); and the Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.); all other Acts of Assembly and Code of Virginia references conferring powers, duties, and responsibilities on the board; and the board's existing VR 625-00-00, Public Participation Guidelines.

Notices of Intended Regulatory Action

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-561, 10.1-603.18, 10.1-605 and 10.1-636 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider promulgating regulations entitled: **VR 625-00-00:1. Regulatory Public Participation Guidelines.** The purpose of the proposed action is to adopt Regulatory Public Participation Guidelines for the board which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process, and establish regulations which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Regulatory Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments in the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be developed by the Department of Conservation and Recreation and submitted to the board. In addition, the department would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency with regulatory powers to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Section 10.1-502 of the Code of Virginia authorizes the Virginia Soil and Water Conservation Board to promulgate regulations necessary for the execution of Chapter 5 (§ 10.1-500 et seq.) of Title 10.1 of the Code of Virginia. This authorization covers the Erosion and Sediment Control Law and its attendant regulations. Section 10.1-603.18 of the Code of Virginia authorizes the board to promulgate regulations for the proper administration of the Flood Prevention and Protection Assistance Fund which is to include, but not limited to, the establishment of amounts, interest rates, repayment terms, consideration of the financial stability of the particular local public body applying and all other criteria for awarding of grants or loans under the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.). The Dam Safety Act under § 10.1-605

of the Code of Virginia requires the board to promulgate regulations to ensure that impounding structures in the Commonwealth are properly and safely constructed, maintained and operated (§ 10.1-604 et seq.). The Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.) authorizes the board to establish guidelines for the proper administration of the fund and the provisions of Article 4 of Chapter 6 of Title 10.1 of the Code of Virginia.

Concurrently with this action to promulgate VR 625-00-00:1, Regulatory Public Participation Guidelines, the board is considering the repeal of existing VR 625-00-00, Public Participation Guidelines. The existing regulations were written prior to the current adoption of the Virginia Code Commission's Virginia Register Form, Style and Procedures Manual.

No financial impact on regulated entities or the public is expected from the proposed regulatory action since the regulations only impose requirements on the Board and the Department of Conservation and Recreation. Regulated entities and the public should benefit from the repeal and concurrent adoption of revised regulations by the board in that the newly adopted regulations will be similar to those public participation regulations used by the different environmental agencies in the Natural Resources Secretariat. Public participation regulations will be consistent throughout the Secretariat and the amount and types of information made available to regulated entities and the public process will increase and be required by regulation.

The board and department will hold a public meeting to receive views and comments and to answer questions of the public at 9 a.m., Friday, May 22, 1992, in Conference Room B, 1st Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); Chapter 5 of Subtitle I of Title 10.1 Soil and Water Conservation (§ 10.1-500 et seq.); the Flood Prevention and Protection Assistance Fund Act (§ 10.1-603.16 et seq.); the Dam Safety Act (§ 10.1-604 et seq.); and the Conservation, Small Watersheds Flood Control and Area Development Fund Act (§ 10.1-636 et seq.); all other Acts of Assembly and Code of Virginia references conferring powers, duties, and responsibilities on the board; and the board's existing VR 625-00-00, Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1, 10.1-502, 10.1-561, 10.1-603.18, 10.1-605 and 10.1-636 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on May 27, 1992.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or Fax (804) 786-6141.

Notices of Intended Regulatory Action

DEPARTMENT OF STATE POLICE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider amending regulations entitled: **VR 545-01-07. Motor Vehicle Safety Inspection Rules and Regulations.** The purpose of the proposed action is to (i) clarify the active life of Class IV offenses and identify combinations of lesser offenses committed during the active life of any Class IV offense that constitute grounds for suspension from the inspection program; (ii) prohibit vehicle modifications that raise a vehicle's body more than three inches above the manufacturer's attachment points or frame rail, excluding the original manufacturer's spacers, washers or bushings; (iii) adopt the standards and specifications of the Society of Automotive Engineers, Inc., and the Federal Motor Vehicle Safety Standard No. 209 for motor vehicle seat belt anchorages and attachment hardware; (iv) permit the use of a stop signal arm consisting of an octagonal sign on school buses which meets Federal Motor Vehicle Safety Standards – the sign will be reflectorized or equipped with 2 red warning lights of an approved type; (v) revise the steering lash/travel standard for trucks to parallel federal standards governing steering wheel movements; (vi) delete that portion of the table setting forth the minimum criteria for brake adjustment that specifies push rod limits for air disc brakes; and (vii) revise the Approved Equipment Section to include the definitions for safety glass and safety glazing materials as abstracted from the Z26.1-1990 glazing standard adopted by the American National Standards, Inst. and Federal Motor Vehicle Safety Standard #205.

Statutory Authority: §§ 46.2-1002, 46.2-1056, 46.2-1058, 46.2-1063, 46.2-1065, 46.2-1070, 46.2-1163 and 46.2-1165 of the Code of Virginia.

Written comments may be submitted until June 20, 1992.

Contact: Captain J. P. Henriess, Safety Officer, Department of State Police, Safety Division, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider amending regulations entitled: **Standards and Specification for the Stickers or Decals Used by Counties, Cities and Towns in Lieu of License Plates.** The purpose of the proposed action is to make these standards and specifications consistent with existing state law and Motor Vehicle Safety Inspection Rules and Regulations with regards to sticker or decal placement.

Statutory Authority: § 46.2-1052 of the Code of Virginia.

Written comments may be submitted until June 20, 1992.

Contact: Captain J. P. Henriess, Safety Officer, Department of State Police, Safety Division, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 674-2017.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Waste Management Facility Operators intends to consider promulgating regulations entitled: **Regulations Governing Waste Management Facility Operators.** The purpose of the proposed action is to establish a certification program to regulate the activities of waste management facility operators in Virginia to conform to Senate Bill 877.

Statutory Authority: § 54.1-2211 of the Code of Virginia.

Written comments may be submitted until May 20, 1992.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider repealing regulations entitled: **VR 672-01-1. Public Participation Procedures for Formation and Promulgation of Regulations.** The purpose of the proposed action is to repeal the agency's existing Public Participation Guidelines. Concurrent with this action, the agency is proposing to adopt new Public Participation Guidelines (VR 672-01-1:1.)

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 10.1-1402(11) authorizes the board to promulgate and enforce regulations, and provide reasonable variances and exemptions necessary to carry out its own powers and duties and the intent of Chapter 14 of Title 10.1 of the Code of Virginia and the federal acts.

Concurrently with this action, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs

Notices of Intended Regulatory Action

and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia, the Waste Management Act (§ 10.1-1400 et seq. of the Code of Virginia), and the board's Public Participation Guidelines VR (672-01-1).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

Contact: Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 101 N. 14th Street, 11th Floor Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **VR 672-01-1:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the agency which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet

the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 10.1-1402(11) authorizes the board to promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its own powers and duties and the intent of Chapter 14 of Title 10.1 of the Code of Virginia and the federal acts.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The department will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the Waste Management Act (§ 10.1-1400 et seq. of the Code of Virginia), and the board's Public Participation Guidelines VR (672-01-1).

Statutory Authority: §§ 9-6.14:7.1 and 10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992.

Contact: Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 101 N. 14th Street, 11th Floor Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider repealing regulations entitled:

Notices of Intended Regulatory Action

VR 680-41-01. Public Participation Guidelines. The purpose of the proposed action is to repeal the agency's existing Public Participation Guidelines. Concurrently with this action, the agency is proposing to adopt new Public Participation Guidelines (VR 680-41-01:1).

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 62.1-44.15(7) authorizes the State Water Control Board to adopt rules governing the procedure of the board with respect to (i) hearings; (ii) the filing of reports; (iii) the issuance of certificates and special orders; and (iv) all other matters relating to procedure; and to amend or cancel any rule adopted.

Concurrently with this action, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and the board's Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-44.15(7) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

Contact: Ms. Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-41-01:1. Public Participation Guidelines.** The purpose of the proposed action is to adopt Public Participation Guidelines for the agency which establish, in regulation, various provisions to ensure interested parties have the necessary information to comment on regulatory actions in a meaningful fashion in all phases of the regulatory process and establish guidelines which are consistent with those of the other agencies within the Natural Resources Secretariat. Specifically, the board is considering adoption of Public Participation Guidelines which would require an expanded notice of intended regulatory action (NOIRA) to include a statement as to the need for the regulatory action; a description, if possible, of alternatives available to meet the need; and a request for comments on the intended regulatory action, comments on the costs and benefits of the alternatives, and suggestions; and require a summary of the NOIRA comments to be submitted to the board. In addition, the board would be required to perform certain analyses and state in the notice of public comment period that the analyses had been performed and are available to the public upon request.

Section 9-6.14:7.1 of the Code of Virginia requires each agency to develop, adopt and utilize public participation guidelines for soliciting input of interested parties in the formation and development of its regulations. Section 62.1-44.15(7) authorizes the State Water Control Board to adopt rules governing the procedure of the board with respect to (i) hearings; (ii) the filing of reports; (iii) the issuance of certificates and special orders; and (iv) all other matters relating to procedure; and to amend or cancel any rule adopted.

No financial impact on regulated entities or the public is expected from the intended regulatory action since the guidelines only impose requirements on the board. Regulated entities and the public should benefit from the intended regulatory action in that the guidelines used by the different environmental agencies will be consistent and the amount and types of information made available to regulated entities and the public for their use in participating in the regulatory process will increase and be required by regulation.

The board will hold a public meeting at 2 p.m., Wednesday, May 20, 1992, in the Board Room, State Water Control Board Offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, to receive views and comments and to answer questions of the public.

Applicable laws and regulations include the Administrative

Notices of Intended Regulatory Action

Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), the State Water Control Law, and the board's Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 62.1-44.15(7) of the Code of Virginia.

Written comments may be submitted until 4 p.m. on May 22, 1992, to Ms. Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia.

Contact: Ms. Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5158.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

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 AIR POLLUTION CONTROL (STATE BOARD)

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public Hearing Date: July 1, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments concern provisions covering documents by reference. The amendments incorporate the latest edition of the American Conference of Governmental Industrial Hygienists Handbook and recently promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS), including any reference methods associated with the NSPS and NESHAPS. The amendments update Appendix M which lists all of the nonstatutory documents (those other than federal and state laws and regulations) and the primary federal regulations incorporated by reference. This list includes the name, reference number and edition for each document. The edition is being updated to reflect the latest available. Also included for each document is the name and address of the organization from which it may be obtained. The amendments also update Rule 5-5 which contains the list of promulgated federal NSPS and Rule 6-1 which contains the list of promulgated federal NESHAPS, including those NSPS and NESHAPS recently promulgated and incorporated by reference through this rulemaking.

VR 120-01. Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.

PART V. ENVIRONMENTAL PROTECTION AGENCY STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (RULE 5-5)

§ 120-05-0501. General.

The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (40 CFR Part 60) designated in § 120-05-0502 are incorporated by reference into these regulations amended

by the word or phrase substitutions given in § 120-05-0503. The complete text of the subparts in § 120-05-0502 incorporated herein by reference is contained in 40 CFR Part 60 (see Appendix M). The 40 CFR section numbers appearing under each subpart in § 120-05-0502 identify the specific provisions of the subpart incorporated by reference.

§ 120-05-0502. Designated standards of performance.

Subpart A - General Provisions.

40 CFR 60.1, 40 CFR 60.2, 40 CFR 60.7, 40 CFR 60.8, 40 CFR 60.11, 40 CFR 60.13 through 40 CFR 60.15, 40 CFR 60.18
(applicability, definitions, notification and record keeping performance tests, compliance, monitoring requirements, modification, and reconstruction, and general control device requirements)

Subpart D - Fossil-Fuel Fired Steam Generators for which Construction is Commenced after August 17, 1971.

40 CFR 60.40 through 40 CFR 60.46
(fossil-fuel fired steam generating units of more than 250 million Btu per hour heat input rate and fossil-fuel fired and wood-residue fired steam generating units capable of firing fossil fuel at a heat input rate of more than 250 million Btu per hour)

Subpart Da - Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978.

40 CFR 60.40a through 40 CFR 60.49a
(electric utility steam generating units capable of combusting more than 250 million Btu per hour heat input of fossil fuel (either alone or in combination with any other fuel); electric utility combined cycle gas turbines capable of combusting more than 250 million Btu per hour heat input in the steam generator)

Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40b through 40 CFR 60.49b
(industrial-commercial-institutional steam generating units which have a heat input capacity from combusted fuels of more than 100 million Btu per hour)

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Subpart Dc - Small Industrial-Commercial-Institutional Steam Generating Units.

40 CFR 60.40c through 60.48c
(industrial-commercial-institutional steam generating units which have a heat input capacity of 100 million Btu per hour or less, but greater than or equal to 10 million Btu per hour)

Subpart E - Incinerators.

40 CFR 60.50 through 40 CFR 60.54
(incinerator units of more than 50 tons per day charging rate)

Subpart Ea - Municipal Waste Combustors.

40 CFR 60.50a through 60.59a
(municipal waste combustor units with a capacity greater than 250 tons per day of municipal-type solid waste or refuse-derived fuel)

Subpart F - Portland Cement Plants.

40 CFR 60.60 through 40 CFR 60.64
(~~kiln kilns~~, clinker cooler coolers, raw mill system systems, finish mill system systems, raw mill dryer dryers, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems)

Subpart G - Nitric Acid Plants.

40 CFR 60.70 through 40 CFR 60.74 (nitric acid production units)

Subpart H - Sulfuric Acid Plants.

40 CFR 60.80 through 40 CFR 60.85
(sulfuric acid production units)

Subpart I - Hot Mix Asphalt Facilities.

40 CFR 60.90 through 40 CFR 60.93
(dryers; systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer and storage systems associated with emission control systems)

Subpart J - Petroleum Refineries.

40 CFR 60.100 through 40 CFR 60.106
(fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers and fuel gas combustion devices)

Subpart K - Storage Vessels for Petroleum Liquids Constructed for Which Construction, Reconstruction, or

Modification Commenced after June 11, 1973, and Prior to May 19, 1978.

40 CFR 60.110 through 40 CFR 60.113
(storage vessels with a capacity greater than 40,000 gallons)

Subpart Ka - Storage Vessels for Petroleum Liquids Constructed for Which Construction, Reconstruction, or Modification Commenced after May 18, 1978, and prior to July 23, 1984.

(storage vessels with a capacity greater than 40,000 gallons)

Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

40 CFR 60.110b through 40 CFR 60.117b
(storage vessels with capacity greater than or equal to 8,790 gallons)

Subpart L - Secondary Lead Smelters.

40 CFR 60.120 through 40 CFR 60.123
(pot furnaces of more than 550 lb charging capacity, blast (cupola) furnaces and reverberatory furnaces)

Subpart M - Secondary Brass and Bronze Production Plants.

40 CFR 60.130 through 40 CFR 60.133
(reverberatory and electric furnaces of 2,205 lb 2205 pound or greater production capacity and blast (cupola) furnaces of 550 lb per hr pounds per hour or greater production capacity)

Subpart N - Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced after June 11, 1973 : Primary Emissions .

40 CFR 60.140 through 40 CFR 60.144
(basic oxygen process furnaces furnaces)

Subpart Na - Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced after January 20, 1983 : Secondary Emissions .

40 CFR 60.140a through 40 CFR 60.145a
(facilities in an iron and steel plant: top-blown BOPFs and hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPFs.)

Subpart O - Sewage Treatment Plants.

40 CFR 60.150 through 40 CFR 60.154
(incinerators that combust wastes containing more

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than 10% sewage sludge (dry basis) produced by municipal sewage treatment plants or incinerators that charge more than ~~2,205~~ *2205* pounds per day municipal sewage sludge (dry basis))

Subpart P - Primary Copper Smelters.

40 CFR 60.160 through 40 CFR 60.166
(~~dryer dryers~~ , ~~roaster roasters~~ , smelting ~~furnace~~ *furnaces*, and copper ~~converter converters~~)

Subpart Q - Primary Zinc Smelters.

40 CFR 60.170 through 40 CFR 60.176
(~~roaster roasters~~ and sintering ~~machine machines~~)

Subpart R - Primary Lead Smelters

40 CFR 60.180 through 40 CFR 60.186
(sintering ~~machine machines~~ , sintering machine discharge ~~end ends~~ , blast ~~furnace furnaces~~ , dross reverberatory ~~furnace furnaces~~ , electric smelting ~~furnace furnaces~~ and ~~converter converters~~)

Subpart S - Primary Aluminum Reduction Plants.

40 CFR 60.190 through 40 CFR 60.195
(potroom groups and anode bake plants)

Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

40 CFR 60.200 through 40 CFR 60.204
(reactors, filters, evaporators , and ~~hotwells hot wells~~)

Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

40 CFR 60.210 through 40 CFR 60.214
(evaporators, ~~hotwells hot wells~~ , acid sumps , and cooling tanks)

Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

40 CFR 60.220 through 40 CFR 60.224
(~~reactor reactors~~ , granulators, dryers, coolers, screens, and mills)

Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.

40 CFR 60.230 through 40 CFR 60.234
(mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills , and facilities which store run-of-pile triple superphosphate)

Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

40 CFR 60.240 through 40 CFR 60.244
(storage or curing piles, conveyors, elevators, screens and mills)

Subpart Y - Coal Preparation Plants.

40 CFR 60.250 through 40 CFR 60.254
(plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems , and coal transfer and loading systems)

Subpart Z - Ferroalloy Production Facilities.

40 CFR 60.260 through 40 CFR 60.266
(electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon or calcium carbide; and dust-handling equipment)

Subpart AA - Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

40 CFR 60.270 through 40 CFR 60.276
(electric arc furnaces and dust-handling ~~equipment systems that produce carbon, alloy or specialty steels~~)

Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.

40 CFR 60.270a through 40 CFR 60.276a
(~~facilities in steel plants that produce carbon, alloy, or specialty steels~~; electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems *that produce carbon, alloy, or specialty steels*)

Subpart BB - Kraft Pulp Mills.

40 CFR 60.280 through 40 CFR 60.285
(~~digester system systems~~ , brown stock washer ~~system systems~~ , multiple effect evaporator ~~system systems~~ , black liquor oxidation ~~system systems~~ , recovery ~~furnace furnaces~~ , smelt dissolving tank tanks , lime kilns, condensate ~~stripper strippers~~ and kraft pulping operations)

Subpart CC - Glass Manufacturing Plants.

40 CFR 60.290 through 40 CFR 60.296
(glass melting ~~furnace furnaces~~)

Subpart DD - Grain Elevators.

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40 CFR 60.300 through 40 CFR 60.304
(grain terminal elevators/grain storage elevators: truck unloading stations, truck loading stations, barge and ship unloading stations, barge and ship loading stations, railcar unloading stations, railcar loading stations, grain dryers , and all grain handling operations)

Subpart EE - *Surface Coating of Metal Furniture Surface Coating Operations* .

40 CFR 60.310 through 40 CFR 60.316
(metal furniture surface coating operations in which organic coatings are applied)

Subpart FF - (Reserved)

Subpart GG - Stationary Gas Turbines.

40 CFR 60.330 through 40 CFR 60.335
(stationary gas turbines with a heat input at peak load equal to or greater than 10 million Btu per hour, based on the lower heating value of the fuel fired)

Subpart HH - Lime Manufacturing Plants.

40 CFR 60.340 through 40 CFR 60.344
(each rotary lime kiln)

Subparts II through JJ - (Reserved)

Subpart KK - Lead-Acid Battery Manufacturing Plants.

40 CFR 60.370 through 40 CFR 60.374
(lead-acid battery manufacturing plants that produce or have the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 6.5 tons: grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and other lead-emitting operations)

Subpart LL - Metallic Mineral Processing Plants.

40 CFR 60.380 through 40 CFR 60.386
(each crusher and screen in open-pit mines; each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator with the following exceptions. All facilities located in underground mines are exempted from the provisions of this subpart. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempted from the provisions of this subpart)

Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.

40 CFR 60.390 through 40 CFR 60.397
(prime coat operations, guide coat operations, and top-coat operations)

Subpart NN - Phosphate Rock Plants.

40 CFR 60.400 through 40 CFR 60.404
(phosphate rock plants which have a maximum plant production capacity greater than 4 tons per hour: dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorous production)

Subpart OO - (Reserved)

Subpart PP - Ammonium Sulfate Manufacture.

40 CFR 60.420 through 40 CFR 60.424
(ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactum by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry)

Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

40 CFR 60.430 through 40 CFR 60.435
(publication rotogravure printing presses, except proof presses)

Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.

40 CFR 60.440 through 40 CFR 60.447
(pressure sensitive tape and label material coating lines)

Subpart SS - Industrial Surface Coating: Large Appliances.

40 CFR 60.450 through 40 CFR 60.456
(surface coating operations in large appliance coating lines)

Subpart TT - Metal Coil Surface Coating Operations .

40 CFR 60.460 through 40 CFR 60.466
(metal coil surface coating operations: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously)

Subpart UU - Asphalt Processing and Asphalt Roofing Manufacturing Manufacture .

40 CFR 60.470 through 40 CFR 60.474

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(each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants)

Subpart VV - Equipment Leaks of Volatile Organic Compounds in the Synthetic Organic Chemicals Manufacturing Industry.

40 CFR 60.480 through 40 CFR 60.489
(all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

Subpart WW - Beverage Can Surface Coating Industry.

40 CFR 60.490 through 40 CFR 60.496
(beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation)

Subpart XX - Bulk Gasoline Terminals.

40 CFR 60.500 through 40 CFR 60.506
(total of all loading racks at a bulk gasoline terminal which deliver liquid product into gasoline tank trucks)

Subparts YY through ZZ - (Reserved)

Subpart AAA - New Residential Wood Heaters.

40 CFR 60.530 through 40 CFR 60.539b
(each wood heater year manufactured on or after July 1, 1988, or sold at retail on or after July 1, 1990 heaters)

Subpart BBB - Rubber Tire Manufacturing Industry.

40 CFR 60.540 through 40 CFR 60.548
(each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation)

Subparts CCC through EEE - (Reserved)

Subpart CCC - (Reserved)

Subpart DDD - Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

40 CFR 60.560 through 40 CFR 60.566
(For polypropylene and polyethylene manufacturing using a continuous process that emits continuously or intermittently: all equipment used in the manufacture of these polymers. For polystyrene manufacturing using a continuous process that emits continuously: each material recovery section. For

poly(ethylene terephthalate) manufacturing using a continuous process that emits continuously: each polymerization reaction section; if dimethyl terephthalate is used in the process, each material recovery section is also an affected facility; if terephthalic acid is used in the process, each raw materials preparation section is also an affected facility. For VOC emissions from equipment leaks: each group of fugitive emissions equipment within any process unit, excluding poly(ethylene terephthalate) manufacture.)

Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

40 CFR 60.580 through 40 CFR 60.585
(each rotogravure printing line used to print or coat flexible vinyl or urethane products)

Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.

40 CFR 60.590 through 40 CFR 60.593
(each compressor, valve, pump pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

Subpart HHH - Synthetic Fiber Production Facilities

40 CFR 60.600 through 40 CFR 60.604
(each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year)

Subpart III - Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.

40 CFR 60.610 through 40 CFR 60.618
(each air oxidation reactor not discharging its vent stream into a recovery system and each combination of an air oxidation reactor or two or more air oxidation reactors and the recovery system into which the vent streams are discharged any of which were constructed, modified, or reconstructed after October 21, 1983)

Subpart JJJ - Petroleum Dry Cleaners.

40 CFR 60.620 through 40 CFR 60.625
(facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 84 pounds: petroleum solvent dry cleaning; dryers, washers, filters, stills, and settling tanks)

Subpart KKK - Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

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40 CFR 60.630 through 40 CFR 60.636
(each compressor in VOC service or in wet gas service; each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by this subpart)

Subpart LLL - Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

40 CFR 60.640 through 40 CFR 60.648
(facilities that process natural gas: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit)

Subpart MMM - (Reserved)

Subpart NNN - Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

40 CFR 60.660 through 40 CFR 60.668
(each distillation unit not discharging its vent stream into a recovery system, each combination of a distillation unit or of two or more units and the recovery system into which their vent streams are discharged any of which were constructed, modified, or reconstructed after December 30, 1983)

Subpart OOO - Nonmetallic Mineral Processing Plants.

40 CFR 60.670 through 40 CFR 60.676
(facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station)

Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

40 CFR 60.680 through 40 CFR 60.685
(each rotary spin wool fiberglass insulation manufacturing line)

Subpart QQQ - VOC Emissions from Petroleum Refinery Wastewater Systems.

40 CFR 60.690 through 40 CFR 60.699

(individual drain systems, oil-water separators, and aggregate facilities in petroleum refineries for which construction, modification, or reconstruction is commenced after May 4, 1987)

Subpart RRR - (Reserved)

Subpart SSS - Magnetic Tape Coating Facilities.

40 CFR 60.710 through 40 CFR 60.718
(each coating operation and each piece of coating mix preparation equipment)

Subpart TTT - Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.

40 CFR 60.720 through 40 CFR 60.726
(each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats)

Subpart UUU - (Reserved).

Subpart VVV - Polymeric Coating of Supporting Substrates Facilities.

40 CFR 60.740 through 40 CFR 60.748
(each coating operation and any onsite coating mix preparation equipment used to prepare coatings for the polymeric coating of supporting substrates for which construction, modification, or reconstruction begins after April 30, 1987)

Appendix A - Reference Methods.

Method 1 - Sample and velocity traverses for stationary sources.

Method 1A - Sample and velocity traverses for stationary sources with small stacks or ducts.

Method 2 - Determination of stack gas velocity and volumetric flow rate (type S pitot tube).

Method 2A - Direct measurement of gas volume through pipes and small ducts.

Method 2B - Determination of exhaust gas volume flow rate from gasoline vapor incinerators.

Method 2C - Determination of stack gas velocity and volumetric flow rate in small stacks or ducts (standard pitot tube).

Method 2D - Measurement of gas volumetric flow rates in small pipes and ducts.

Method 3 - Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.

Method 3A - Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

Method 4 - Determination of moisture content in stack gases.

Method 5 - Determination of particulate emissions from stationary sources.

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Method 5A - Determination of particulate emissions from the asphalt processing and asphalt roofing industry.

Method 5B - Determination of nonsulfuric acid particulate matter from stationary sources.

Method 5C - (Reserved)

Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.

Method 5E - Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.

Method 5F - Determination of nonsulfate particulate matter from stationary sources.

Method 5G - Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.

Method 5H - Determination of particulate emissions from wood heaters from a stack location.

Method 6 - Determination of sulfur dioxide emissions from stationary sources.

Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.

Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.

Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).

Method 7 - Determination of nitrogen oxide emissions from stationary sources.

Method 7A - Determination of nitrogen oxide emissions from stationary sources - ion chromatographic method.

Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).

Method 7C - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/colorimetric method.

Method 7D - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/ion colorimetric method.

Method 7E - Determination of nitrogen oxides

emissions from stationary sources (instrumental analyzer procedure).

Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.

Method 9 - Visual determination of the opacity of emissions from stationary sources.

Alternate Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.

Method 10 - Determination of carbon monoxide emissions from stationary sources.

Method 10A - Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries.

Method 10B - Determination of carbon monoxide emissions from stationary sources.

Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.

Method 12 - Determination of inorganic lead emissions from stationary sources.

Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.

Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.

Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.

Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.

Method 15A - Determination of total reduced sulfur emissions from sulfur recovery plants in petroleum refineries.

Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.

Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).

Method 16B - Determination of total reduced sulfur emissions from stationary sources.

Method 17 - Determination of particulate emissions from stationary sources (instack filtration method).

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Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.

Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates and electric utility steam generators.

Method 20 - Determination of nitrogen oxides, sulfur dioxide, and oxygen emissions from stationary gas turbines.

Method 21 - Determination of volatile organic compounds leaks.

Method 22 - Visual determination of fugitive emissions from material processing sources and smoke emissions from flares.

Method 23 - Determination of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans from stationary sources.

Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.

Method 24A - Determination of volatile matter content and density of printing inks and related coatings.

Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.

Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.

Method 25B - Determination of total gaseous organic concentration using a nondispersive infrared analyzer.

Method 26 - Determination of hydrogen chloride emissions from stationary sources.

Method 27 - Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.

Method 28 - Certification and auditing of wood heaters.

Method 28A - Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.

Appendix B - Performance specifications.

Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

Performance Specification 2 - Specifications and test

procedures for sulfur dioxide and nitric oxides continuous emission monitoring systems in stationary sources.

Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 4A - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring system in stationary sources.

Performance Specification 6 - Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.

Performance Specification 7 - Specifications and test procedures for hydrogen sulfide continuous emission monitoring systems in stationary sources.

Appendix C - Determination of Emission Rate Change.

Appendix D - Required Emission Inventory Information

Appendix E - (Reserved)

Appendix F - Quality Assurance Procedures.

Procedure 1 - quality assurance requirements for gas continuous emission monitoring systems used for compliance determination.

Appendix G - (Not applicable)

Appendix H - (Reserved)

Appendix I - Removable label and owner's manual.

§ 120-05-0503. Word or phrase substitutions.

In all the standards designated in § 120-05-0502 substitute:

A. Owner or other person for owner or operator.

B. Board for Administrator.

C. Board for U.S. Environmental Protection Agency (except in references).

D. § 120-05-03 for § 60.8.

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E. § 120-05-05 C for § 60.7(c).

PART VI.
ENVIRONMENTAL PROTECTION AGENCY
NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS (RULE 6-1)

§ 120-06-0101. General.

The Environmental Protection Agency (EPA) Regulations on National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61) designated in § 120-06-0102 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in § 120-06-0103. The complete text of the subparts in § 120-06-0102 incorporated herein by reference is contained in 40 CFR Part 61 (see Appendix M). The 40 CFR section numbers appearing under each subpart in § 120-06-0102 identify the specific provisions of the subpart incorporated by reference.

§ 120-06-0102. Designated emission standards.

Subpart A - General Provisions.

40 CFR 61.01 through 40 CFR 61.02 and 40 CFR 61.12 through 40 CFR 61.15
(applicability, definitions, compliance, emission tests, monitoring, modification)

Subpart B - Radon 222 Emissions from Underground Uranium Mines.

40 CFR 61.20 through 40 CFR ~~61.28~~ 61.26

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart C - Beryllium.

40 CFR 61.30 through 40 CFR 61.34

Subpart D - Beryllium Rocket Motor Firing.

40 CFR 61.40 through 40 CFR 61.44

Subpart E - Mercury.

40 CFR 61.50 through 40 CFR 61.55

Subpart F - Vinyl Chloride.

40 CFR 61.60 through 40 CFR 61.71

Subpart G - (Reserved)

Subpart H - Emissions of Radionuclides Other than Radon From Department of Energy (DOE) Facilities.

40 CFR 61.90 through 40 CFR ~~61.98~~ 61.97

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart I - Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission (NRC) and Federal Facilities Not Covered by Subpart H.

40 CFR 61.100 through 40 CFR ~~61.108~~ 61.109

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.

40 CFR 61.110 through 40 CFR 61.112

Subpart K - Radionuclide Emissions From Elemental Phosphorus Plants.

40 CFR 61.120 through 40 CFR 61.127

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart L - Benzene Emissions From Coke By-Product Recovery Plants.

40 CFR 61.130 through 40 CFR 61.139

Subpart M - Asbestos.

40 CFR 61.140 through 40 CFR ~~61.156~~ 61.157

NOTE: Under § 40.1-51.20 of the Code of Virginia, the Virginia Department of Labor and Industry also holds authority to enforce the following: 40 CFR 61.140, Applicability; 40 CFR 61.141, Definitions; 40 CFR 145, Standard for demolition and renovation; 40 CFR 61.146, Standard for spraying; 60 CFR 148, Standard for insulating materials; 60 CFR 150, Standard for waste disposal for manufacturing, fabricating, demolition, renovation, spraying operations except subsection (a)(4); and 40 CFR 154, Standard for active waste disposal, except subsection (d); and 40 CFR 156, Cross-reference to other asbestos regulations.)

Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.

40 CFR 61.160 through 40 CFR 61.165

Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.

40 CFR 61.170 through 40 CFR 61.177

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Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

40 CFR 61.180 through 40 CFR 61.186

Subpart Q - Radon Emissions From Department of Energy Facilities.

40 CFR 61.190 through 40 CFR 61.193

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart R - Radon Emissions From Phosphogypsum Stacks.

40 CFR 61.200 through 40 CFR 61.205

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart S - (Reserved).

Subpart T - Radon Emissions From the Disposal of Uranium Mill Tailings.

40 CFR 61.220 through CFR 61.225

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart U - (Reserved).

Subpart V - Equipment Leaks (Fugitive Emission Sources).

40 CFR 61.240 through 40 CFR 61.247

Subpart W - Radon ~~222~~ Emissions from Licensed ~~Uranium~~ Operating Mill Tailings.

40 CFR 61.250 through 40 CFR 61.252

NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.

Subpart X - (Reserved)

Subpart Y - Benzene Emissions From Benzene Storage Vessels.

40 CFR 61.270 through 40 CFR 61.277

Subparts Z-AA - (Reserved)

Subpart BB - Benzene Emissions From Benzene Transfer Operations.

40 CFR 61.300 through 40 CFR 61.306

Subparts CC-EE - (Reserved)

Subpart FF - Benzene Waste Operations.

40 CFR 61.340 through 40 CFR 61.358

Appendix B - Test Methods.

Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - air streams.

Method 101A - Determination of particulate and gaseous mercury emissions from sewage sludge incinerators.

Method 102 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - hydrogen streams.

Method 103 - Beryllium screening method.

Method 104 - Determination of beryllium emissions from stationary sources.

Method 105 - Determination of mercury in wastewater treatment plant sewage sludges.

Method 106 - Determination of vinyl chloride from stationary sources.

Method 107 - Determination of vinyl chloride content of inprocess wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

Method 108 - Determination of particulate and gaseous arsenic emissions.

Method 108A - Determination of arsenic content in ore samples from nonferrous smelters.

Method 108B - Determination of arsenic content in ore samples from nonferrous smelters.

Method 108C - Determination of arsenic content in ore samples from nonferrous smelters.

Method 111 - Determination of polonium-210 emissions from stationary sources.

(NOTE: Authority to enforce the above test method is being retained by EPA and it is not incorporated by reference into these regulations.)

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Method 114 - Test methods for measuring radionuclide emissions from stationary sources.

(NOTE: Authority to enforce the above test methods is being retained by EPA and it is not incorporated by reference into these regulations.)

Method 115 - Monitoring for radon-222 emissions.

(NOTE: Authority to enforce the above test method is being retained by EPA and it is not incorporated by reference into these regulations.)

Appendix C - Quality assurance procedures.

Procedure 1 - Determination of adequate chromatographic peak resolution.

Procedure 2 - Procedure for field auditing gas cylinder analysis.

Appendix D - Methods for estimating radionuclide emissions.

(NOTE: Authority to enforce the above methods is being retained by EPA and it is not incorporated by reference into these regulations.)

Appendix E - Compliance procedures methods for determining compliance with subpart I.

(NOTE: Authority to enforce the above methods is being retained by EPA and it is not incorporated by reference into these regulations.)

§ 120-06-0103. Word or phrase substitutions.

In all of the standards designated in § 120-06-0102 substitute:

- A. Owner or other person for owner or operator.
- B. Board for Administrator.
- C. Board for U.S. Environmental Protection Agency (except in references).
- D. Part VIII and § 120-06-05 A for §§ 61.05(a), 61.07 and 61.09.
- E. § 120-06-03 for § 61.14.

APPENDIX M. DOCUMENTS INCORPORATED BY REFERENCE.

I. General.

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been

incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and non-statutory documents incorporated by reference and their availability may be found in Section II.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR ~~(1990)~~ (1991) in effect July 1, 1990 1991. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR Part 35.20 means Section 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this appendix any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this appendix may be examined by the public at the headquarters office of the Department of Air Pollution Control, Eighth Floor, Ninth Street Office Building, Richmond, Virginia between 8:30 a.m. and 4:30 p.m. of each business day.

II. Specific documents.

A. Code of Federal Regulations.

1. The provisions specified below from the Code of Federal Regulations (CFR) in effect as of July 1, 1990 1991, are incorporated herein by reference.

a. 40 CFR Part 40 - National Primary and Secondary Ambient Air Quality Standards.

(1) Appendix A - Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(2) Appendix B - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(3) Appendix C - Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

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(4) Appendix D - Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(5) Appendix E - Reference Method for Determination of Hydrocarbons Corrected for Methane.

(6) Appendix F - Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(7) Appendix G - Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(8) Appendix H - Interpretation of the National Ambient Air Quality Standards for Ozone.

(9) Appendix I - Reserved.

~~(9)~~ 10 Appendix J - Reference Method for the Determination of Particulate Matter as PM10 in the Atmosphere.

~~(10)~~ (11) Appendix K - Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

b. 40 CFR Part 58 - Ambient Air Quality Surveillance.

Appendix B - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

c. 40 CFR Part 60 - Standards of Performance for New Stationary Sources.

(1) Subpart A - General Provisions.

(a) § 60.1 - Applicability.

(b) § 60.2 - Definitions.

(c) § 60.7 - Notification and record keeping.

(d) § 60.8 - Performance tests.

(e) § 60.11 - Compliance with standards and maintenance requirements.

(f) § 60.13 - Monitoring requirements.

(g) § 60.14 - Modification.

(h) § 60.15 - Reconstruction.

(i) § 60.18 - General control device requirements.

(2) Subpart D - Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.

(3) Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.

(4) Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.

(5) Subpart Dc - Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

~~(5)~~ (6) Subpart E - Standards of Performance for Incinerators.

(7) Subpart Ea - Standards of Performance for Municipal Waste Combustors.

~~(6)~~ (8) Subpart F - Standards of Performance for Portland Cement Plants.

~~(7)~~ (9) Subpart G - Standards of Performance for Nitric Acid Plants.

~~(8)~~ (10) Subpart H - Standards of Performance for Sulfuric Acid Plants.

~~(9)~~ (11) Subpart I - Standards of Performance for Hot Mix Asphalt Facilities.

~~(10)~~ (12) Subpart J - Standards of Performance for Petroleum Refineries.

~~(11)~~ (13) Subpart K - Standards of Performance for Storage Vessels for Petroleum Liquids ~~Constructed for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973 and Prior to May 19, 1978.~~

~~(12)~~ (14) Subpart Ka - Standards of Performance for Storage Vessels for Petroleum Liquids ~~Constructed for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.~~

~~(13)~~ (15) Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

~~(14)~~ (16) Subpart L - Standards of Performance for Secondary Lead Smelters.

~~(15)~~ (17) Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.

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~~(16)~~ (18) Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973.

~~(17)~~ (19) Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983.

~~(18)~~ (20) Subpart O - Standards of Performance for Sewage Treatment Plants.

~~(19)~~ (21) Subpart P - Standards of Performance for Primary Copper Smelters.

~~(20)~~ (22) Subpart Q - Standards of Performance for Primary Zinc Smelters.

~~(21)~~ (23) Subpart R - Standards of Performance for Primary Lead Smelters.

~~(22)~~ (24) Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.

~~(23)~~ (25) Subpart T - Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

~~(24)~~ (26) Subpart U - Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

~~(25)~~ (27) Subpart V - Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

~~(26)~~ (28) Subpart W - Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.

~~(27)~~ (29) Subpart X - Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

~~(28)~~ (30) Subpart Y - Standards of Performance for Coal Preparation Plants.

~~(29)~~ (31) Subpart Z - Standards of Performance for Ferroalloy Production Facilities.

~~(30)~~ (32) Subpart AA - Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

~~(31)~~ (33) Subpart AAa - Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.

~~(32)~~ (34) Subpart BB - Standards of Performance for Kraft Pulp Mills.

~~(33)~~ (35) Subpart CC - Standards of Performance for Glass Manufacturing Plants.

~~(34)~~ (36) Subpart DD - Standards of Performance for Grain Elevators.

~~(35)~~ (37) Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.

(38) Subpart FF - Reserved.

~~(36)~~ (39) Subpart GG - Standards of Performance for Stationary Gas Turbines.

~~37~~ (40) Subpart HH - Standards of Performance for Lime Manufacturing Plants.

(41) Subpart II - Reserved.

(42) Subpart JJ - Reserved.

~~(38)~~ (43) Subpart KK - Standards of Performance for Lead-Acid Battery Manufacturing Plants.

~~(39)~~ (44) Subpart LL - Standards of Performance for Metallic Mineral Processing Plants.

~~(40)~~ (45) Subpart MM - Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.

~~(41)~~ (46) Subpart NN - Standards of Performance for Phosphate Rock Plants.

~~(42)~~ (47) Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.

~~(43)~~ (48) Subpart QQ - Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.

~~(44)~~ (49) Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.

~~(45)~~ (50) Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.

~~(46)~~ (51) Subpart TT - Standards of Performance for Metal Coil Surface Coating.

~~(47)~~ (52) Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.

~~(48)~~ (53) Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.

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~~(49)~~ (54) Subpart WW - Standards of Performance for the Beverage Can Surface Coating Industry.

~~(50)~~ (55) Subpart XX - Standards of Performance for Bulk Gasoline Terminals.

(56) Subpart YY - Reserved.

(57) Subpart ZZ - Reserved.

~~(51)~~ (58) Subpart AAA - Standards of Performance for New Residential Wood Heaters.

~~(52)~~ (59) Subpart BBB - Standards of Performance for Rubber Tire Manufacturing Industry.

(60) Subpart CCC - Reserved.

(61) Subpart DDD - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

(62) Subpart EEE - Reserved.

~~(53)~~ (63) Subpart FFF - Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

~~(54)~~ (64) Subpart GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.

~~(55)~~ (65) Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.

~~(56)~~ (66) Subpart III - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Processes.

~~(57)~~ (67) Subpart JJJ - Standards of Performance for Petroleum Dry Cleaners.

~~(58)~~ (68) Subpart KKK - Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

~~(59)~~ (69) Subpart LLL - Standards of Performance for Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

(70) Subpart MMM - Reserved.

~~(60)~~ (71) Subpart NNN - Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.

~~(61)~~ (72) Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.

~~(62)~~ (73) Subpart PPP - Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.

~~(63)~~ (74) Subpart QQQ - Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems.

(75) Subpart RRR - Reserved.

~~(64)~~ (76) Subpart SSS - Standards of Performance for Magnetic Tape Coating Facilities.

~~(65)~~ (77) Subpart TTT - Standards of Performance for Industrial Surface Coating; Surface Coating of Plastic Parts for Business Machines.

(78) Subpart UUU - Reserved.

~~(66)~~ (79) Subpart VVV - Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.

~~(67)~~ (80) Appendix A - Reference Methods.

(a) Method 1 - Sample and velocity traverses for stationary sources.

(b) Method 1A - Sample and velocity traverses for stationary sources with small stacks or ducts.

(c) Method 2 - Determination of stack gas velocity and volumetric flow rate (type S pitot tube).

(d) Method 2A - Direct measurement of gas volume through pipes and small ducts.

(e) Method 2B - Determination of exhaust gas volume flow rate from gasoline vapor incinerators.

(f) Method 2C - Determination of stack gas velocity and volumetric flow rate in small stacks or ducts (standard pitot tube).

(g) Method 2D - Measurement of gas volumetric flow rates in small pipes and ducts.

(h) Method 3 - Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.

(i) Method 3A - Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

(j) Method 4 - Determination of moisture content in stack gases.

(k) Method 5 - Determination of particulate emissions from stationary sources.

(l) Method 5A - Determination of particulate emissions from the asphalt processing and asphalt

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roofing industry.

~~(m)~~ Method 5B - Determination of nonsulfuric acid particulate matter from stationary sources.

~~(n)~~ Method 5C - Reserved.

~~(o)~~ Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.

~~(p)~~ Method 5E - Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.

~~(q)~~ Method 5F - Determination of nonsulfate particulate matter from stationary sources.

~~(r)~~ Method 5G - Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.

~~(s)~~ Method 5H - Determination of particulate emissions from wood heaters from a stack location.

~~(t)~~ Method 6 - Determination of sulfur dioxide emissions from stationary sources.

~~(u)~~ Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.

~~(v)~~ Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.

~~(w)~~ Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).

~~(x)~~ Method 7 - Determination of nitrogen oxide emissions from stationary sources.

~~(y)~~ Method 7A - Determination of nitrogen oxide emissions from stationary sources - ion chromatographic method.

~~(z)~~ Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).

~~(aa)~~ Method 7C - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/colorimetric method.

~~(bb)~~ Method 7D - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/ion chromatographic method.

~~(cc)~~ Method 7E - Determination of nitrogen oxides emissions from stationary sources

(instrumental analyzer procedure).

~~(dd)~~ Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.

~~(ee)~~ Method 9 - Visual determination of the opacity of emissions from stationary sources.

~~(ff)~~ Alternative Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.

~~(gg)~~ Method 10 - Determination of carbon monoxide emissions from stationary sources.

~~(hh)~~ Method 10A - Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries

~~(ii)~~ Method 10B - Determination of carbon monoxide emissions from stationary sources.

~~(jj)~~ Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.

~~(kk)~~ Method 12 - Determination of inorganic lead emissions from stationary sources.

~~(ll)~~ Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.

~~(mm)~~ Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.

~~(nn)~~ Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.

~~(oo)~~ Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.

~~(pp)~~ Method 15A - Determination of total reduced sulfur emissions from sulfur recovery plants in petroleum refineries.

~~(qq)~~ Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.

~~(rr)~~ Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).

~~(ss)~~ Method 16B - Determination of total reduced sulfur emissions from stationary sources.

~~(tt)~~ Method 17 - Determination of particulate

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emissions from stationary sources (in-stack filtration method).

~~(tt)~~ (uu) Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.

~~(uu)~~ (vv) Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates from electric utility steam generators.

~~(vv)~~ (ww) Method 20 - Determination of nitrogen oxides, sulfur dioxide, and oxygen emissions from stationary gas turbines.

~~(ww)~~ (xx) Method 21 - Determination of volatile organic compounds leaks.

~~(xx)~~ (yy) Method 22 - Visual determination of fugitive emissions from material sources and smoke emissions from flares.

(zz) Method 23 - Determination of polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans from stationary sources.

~~(yy)~~ (aaa) Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.

~~(zz)~~ (bbb) Method 24A - Determination of volatile matter content and density of printing inks and related coatings.

~~(aaa)~~ (ccc) Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.

~~(bbb)~~ (ddd) Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.

~~(ccc)~~ (eee) Method 25B - Determination of total gaseous organic concentration using a nondispersive infrared analyzer.

(fff) Method 26 - Determination of hydrogen chloride emissions from stationary sources.

~~(ddd)~~ (ggg) Method 27 - Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.

~~(eee)~~ (hhh) Method 28 - Certification and auditing of wood heaters.

~~(fff)~~ (iii) Method 28A - Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.

~~(66)~~ (81) Appendix B - Performance Specifications.

(a) Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

(b) Performance Specification 2 - Specifications and test procedures for sulfur dioxide and nitric oxides continuous emission monitoring systems in stationary sources.

(c) Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

(d) Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

(e) Performance Specification 4A - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

~~(e)~~ (f) Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring systems in stationary sources.

~~(f)~~ (g) Performance Specification 6 - Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.

(h) Performance Specification 7 - Specifications and test procedures for hydrogen sulfide continuous emission monitoring systems in stationary sources.

~~(69)~~ (82) Appendix C - Determination of Emission.

(83) Appendix D - Required Emission Inventory Information.

(84) Appendix E - Reserved.

~~(70)~~ (85) Appendix F - Quality Assurance Procedures.

Procedure 1 - Quality assurance requirements for gas continuous emission monitoring systems used for compliance determination.

(86) Appendix H - Reserved.

~~(71)~~ (87) Appendix I - Removable label and owner's manual.

d. 40 CFR Part 61 - National Emission Standards for Hazardous Air Pollutants.

(1) Subpart A - General Provisions.

(a) § 61.01 - Applicability.

(b) § 61.02 - Definitions.

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(c) § 61.12 - Compliance with standards and maintenance requirements.

(d) § 61.13 - Emission tests and waiver of emission tests.

(e) § 61.14 - Monitoring requirements.

(f) § 61.15 - Modification.

(2) Subpart C - National Emission Standard for Beryllium.

(3) Subpart D - National Emission Standard for Beryllium Rocket Motor Firing.

(4) Subpart E - National Emission Standard for Mercury.

(5) Subpart F - National Emission Standard for Vinyl Chloride.

(6) Subpart G - Reserved.

~~(6)~~ (7) Subpart J - National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.

~~(7)~~ (8) Subpart L - National Emission Standard for Benzene Emissions From Coke By-Product Recovery Plants.

~~(8)~~ (9) Subpart M - National Emission Standard for Asbestos.

~~(9)~~ (10) Subpart N - National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

~~(10)~~ (11) Subpart O - National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.

~~(11)~~ (12) Subpart P - National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

(13) Subpart S - Reserved.

(14) Subpart U - Reserved.

~~(12)~~ (15) Subpart V - National Emission Standard for Equipment Leaks (Fugitive Emission Sources).

~~(13)~~ (16) Subpart W - National Emission Standard for Radon-222 Emissions from Licensed Uranium Mill Tailings.

(17) Subpart X - Reserved.

~~(14)~~ (18) Subpart Y - National Emission Standard

for Benzene Emissions from Benzene Storage Vessels.

(19) Subpart Z - Reserved.

(20) Subpart AA - Reserved.

~~(15)~~ (21) Subpart BB - National Emission Standard for Benzene Emissions from Benzene Transfer Operations.

(22) Subpart CC - Reserved.

(23) Subpart DD - Reserved.

(24) Subpart EE - Reserved.

~~(16)~~ (25) Subpart FF - National Emission Standard for Benzene Waste Operations.

~~(17)~~ (26) Appendix B - Test Methods.

(a) Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - air streams.

(b) Method 101A - Determination of particulate and gaseous mercury emissions from sewage sludge incinerators.

(c) Method 102 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - hydrogen streams.

(d) Method 103 - Beryllium screening method.

(e) Method 104 - Determination of beryllium emissions from stationary sources.

(f) Method 105 - Determination of mercury in wastewater treatment plant sewage sludge.

(g) Method 106 - Determination of vinyl chloride from stationary sources.

(h) Method 107 - Determination of vinyl chloride content of inprocess wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

(i) Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

(j) Method 108 - Determination of particulate and gaseous arsenic emissions.

(k) Method 108A - Determination of arsenic content in ore samples from nonferrous samples.

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(l) Method 108B - Determination of arsenic content in ore samples from nonferrous smelters.

(m) Method 108C - Determination of arsenic content in ore samples from nonferrous smelters.

~~(18)~~ (27) Appendix C - Quality Assurance Procedures.

(a) Procedure 1 - Determination of adequate chromatographic peak resolution.

(b) Procedure 2 - Procedure for field auditing GC analysis.

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

B. U.S. Environmental Protection Agency.

1. The documents specified below from the U.S. Environmental Protection Agency are incorporated herein by reference.

a. Guideline on Air Quality Models (revised), EPA-450/2-78-027R, OAQPS No. 1.2-080, July 1986, as amended by Supplement A, PB88150958, July 1987.

b. Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. 999-AP-13, PB190235, 1965 PB82250721, 1980.

2. Copies may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone (703) 487-4650.

C. U.S. government.

1. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987, (U.S. Government Printing Office stock number 041-001-00-314-2).

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

D. American Society for Testing and Materials (ASTM).

1. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

a. D323-82, "Test Method for Vapor Pressure of Petroleum Products (Reid Method)" from Section 5, Volume 05.01 of the 1985 Annual Book of ASTM Standards.

b. D97-87, "Test Method for Pour Point of Petroleum Oils" from Section 5, Volume 05.01 of the 1989 Annual Book of ASTM Standards.

2. Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; phone (215) 299-5400.

E. American Petroleum Institute (API).

1. The following document from the American Petroleum Institute is incorporated herein by reference: API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Third Edition, 1989.

2. Copies may be obtained from: American Petroleum Institute, 2101 L Street, Northwest, Washington, D.C. 20037; phone (202) 682-8000.

F. American Conference of Governmental Industrial Hygienists (ACGIH).

1. The following document from the ACGIH is incorporated herein by reference: ACGIH Handbook - Threshold Limit Values for Chemical Substances in the Work Environment Adopted by ACGIH with Intended Changes for ~~1990-1991~~ 1991-1992.

2. Copies may be obtained from: ACGIH, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211; phone (513) 661-7881.

G. National Fire Prevention Association (NFPA).

1. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

a. NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 1985 Edition.

b. NFPA 30, Flammable and Combustible Liquids Code, 1987 Edition.

c. NFPA 30A, Automotive and Marine Service Station Code, 1987 Edition.

2. Copies may be obtained from the National Fire Prevention Association, Batterymarch Park, Quincy, Massachusetts 02269; phone (617) 770-3000.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

Statutory Authority: §§ 9-158, 9-160 and 9-164 of the Code of Virginia.

Proposed Regulations

Public Hearing Date: N/A – Written comments may be submitted until July 20, 1992.

(See Calendar of Events section for additional information)

Summary:

These regulations allow those health care institutions, which neither receive Medicare nor Medicaid reimbursement for patients, to develop their own methodology to ascertain nursing home costs and eliminate the requirement that these facilities utilize the allocation methodology used for the Medicare program or for the Medicaid program or for cost reports filed with the Virginia Department of Medical Assistance Services.

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

“Adjusted patient days” means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

“Aggregate cost” means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's reasonable current operating costs, including reasonable expenses for operating and maintenance of approved services and facilities, reasonable direct and indirect expenses for patient care services, working capital needs and taxes, if any;
2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and reasonable accumulation of funds for approved capital projects;
3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2 of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services;

4. For investor-owned institutions organized as proprietorships, partnerships, or S-corporations an imputed income tax, for fiscal years ending July 1, 1989, or later, at a combined federal and state income tax rate equal to the maximum tax rates for federal and state income taxes. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Such tax computation shall be exclusive of net operating loss carryforwards prior to July 1, 1989. Operating losses incurred after July 1, 1989, may be carried forward no more than five years but may not be carried back prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution.

“Certified nursing facility” means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

“Council” means the Virginia Health Services Cost Review Council.

“Consumer” means any person (i) whose occupation is other than the administration of health activities or the provision of health services (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

“Health care institution” means (i) a general hospital, ordinary hospital, or outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 and (iii) a hospital operated by the University of Virginia or Virginia Commonwealth University. In no event shall such term be construed to include any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or outpatient clinic.

“Hospital” means any facility licensed pursuant to §§ 32.1-123, et seq. or 37.1-179 et seq. of the Code of Virginia.

“Late charge” means a fee that is assessed a health care institution that files its budget, annual report, or charge schedule with the council past the due date.

“Nursing home” means any facility or any identifiable component of any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, in which the primary function is the provision, on a continuing basis, of

nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

"*Voluntary cost review organization*" means a nonprofit association or other nonprofit entity which has as its function the review of health care institutions' costs and charges but which does not provide reimbursement to any health care institution or participate in the administration of any review process under Chapter 4 of Title 32.1 of the Code of Virginia.

"*Patient day*" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

§ 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

§ 2.4. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the

Virginia Administrative Process Act, codified as § 9-6.14:1, et seq. of the Code of Virginia applied to their promulgation.

§ 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the final regulation is published in the Virginia Register.

§ 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

PART III. COUNCIL PURPOSE AND ORGANIZATION.

§ 3.1. Statement of mission.

The council is charged with the responsibility to promote the economic delivery of high quality and effective institutional health care services to the people of the Commonwealth and to create an assurance that the charges are reasonably related to costs.

The council recognizes that health care institutional costs are of vital concern to the people of the Commonwealth and that it is essential for an effective cost monitoring program to be established which will assist health care institutions in controlling their costs while assuring their financial viability. In pursuance of this policy, it is the council's purpose to provide for uniform measures on a statewide basis to assist in monitoring the costs of health care institution's without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

§ 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

§ 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

§ 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

Proposed Regulations

§ 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

PART IV. VOLUNTARY COST REVIEW ORGANIZATIONS.

§ 4.1. Application.

Any organization desiring approval as a voluntary rate review organization may apply for approval by using the following procedure:

1. Open application period. A voluntary cost review organization may apply for designation as an approved voluntary cost review organization to be granted such duties as are prescribed in § 9-162 of the Code of Virginia.

2. Contents of application. An application for approval shall include:

a. Documentation sufficient to show that the applicant complies with the requirements to be a voluntary cost review organization, including evidence of its nonprofit status. Full financial reports for the one year preceding its application must also be forwarded. If no financial reports are available, a statement of the projected cost of the applicant's operation with supporting data must be forwarded;

b. If any of the organization's directors or officers have or would have a potential conflict of interests affecting the development of an effective cost monitoring program for the council, statements must be submitted with the application to fully detail the extent of the other conflicting interest;

c. A detailed statement of the type of reports and administrative procedures proposed for use by the applicant;

d. A statement of the number of employees of the applicant including details of their classification; and

e. Any additional statements or information which is necessary to ensure that the proposed reporting and review procedures of the applicant are satisfactory to the council.

§ 4.2. Review of application.

A. Designation.

Within 45 calendar days of the receipt of an application for designation as a voluntary cost review organization, the council shall issue its decision of approval or disapproval. Approval by the council shall take effect immediately.

B. Disapproval.

The council may disapprove any application for the reason that the applicant has failed to comply with application requirements, or that the applicant fails to meet the definition of a cost review organization, or fails to meet the specifications cited in paragraph A above concerning application contents or that the cost and quality of the institutional reporting system proposed by the applicant are unsatisfactory.

C. Reapplication.

An organization whose application has been disapproved by the council may submit a new or amended application to the council within 15 calendar days after disapproval of the initial application. An organization may only reapply for approval on one occasion during any consecutive 12-month period.

§ 4.3. Annual review of applicant.

A. By March 31 of each year, any approved voluntary cost review organization for the calendar year then in progress which desires to continue its designation shall submit an annual review statement of its reporting and review procedures.

B. The annual review statement shall include:

1. Attestation by the applicant that no amendments or modifications of practice contrary to the initially approved application have occurred; or

2. Details of any amendments or modifications to the initially approved application, which shall include justifications for these amendments or modifications.

C. The council may require additional information from the applicant supporting that the applicant's reports and procedures are satisfactory to the council.

§ 4.4. Revocation of approval.

The council may revoke its approval of any cost review organization's approval when the review procedures of that organization are no longer satisfactory to the council or for the reason that the voluntary cost review organization could be disapproved under § 4.2.B of these regulations.

§ 4.5. Confidentiality.

A voluntary cost review organization approved as such by the council shall maintain the total confidentiality of all filings made with it required by these regulations or law. The contents of filings or reports summaries and recommendations generated in consequence of the council's regulations may be disseminated only to members of the council, the council's staff and the individual health care institution which has made the filings or which is the subject of a particular report.

PART V. CONTRACT WITH VOLUNTARY COST REVIEW ORGANIZATION.

§ 5.1. Purpose.

It is the intention of the council to exercise the authority and directive of § 9-163 of the Code of Virginia whereby the council is required to contract with any voluntary cost review organization for services necessary to carry out the council's activities where this will promote economy and efficiency, avoid duplication of effort, and make best use of available expertise.

§ 5.2. Eligibility.

In order for a voluntary cost review organization to be eligible to contract with the council, it shall have met all other requirements of §§ 4.1 and 4.5 of these regulations relating to voluntary cost review organization and have been approved as such an organization.

§ 5.3. Contents of contract.

The written agreement between the council and any voluntary cost review organization shall contain such provisions which are not inconsistent with these regulations or law as may be agreed to by the parties. Any such contract shall be for a period not to exceed five years.

PART VI. FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. Each health care institution shall file an annual report of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms provided by the council together with the certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia, which shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. Extensions of filing times may be granted for extenuating circumstances upon a health care institution's written application for a 30-day extension. Such request for extension shall be filed no later than 120 days after the end of a health care institution's fiscal year. Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the annual report filed with the council. ~~The~~ *For those health care institutions that participate in either the Medicare or Medicaid program, the cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings filings submitted to the council. Any health care institution that does not participate in the Medicare or Medicaid program may develop and utilize an alternative*

methodology to determine the nursing home portion of its costs if it chooses not to utilize the cost allocation methodology used by the Department of Medical Assistance Services and Medicare. That methodology shall then be approved by the council and the health care institution must continue to utilize that methodology for all subsequent filings unless a subsequent change is approved by the council.

§ 6.2. Each health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-161 B of the Code of Virginia on forms provided by the council. The institution's projection (budget) shall be received by the council no later than 60 days before the beginning of its respective applicable fiscal year. This regulation shall be applicable to nursing homes or certified nursing facilities for each fiscal year starting on or after June 30, 1990. Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the budget filed with the council. ~~The~~ *For those health care institutions that participate in either the Medicare or Medicaid program, the cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings filings submitted to the council. Any health care institution that does not participate in the Medicare or Medicaid program may develop and utilize an alternative methodology to determine the nursing home portion of its costs if it chooses not to utilize the cost allocation methodology used by the Department of Medical Assistance Services and Medicare. That methodology shall then be approved by the council and the health care institution must continue to utilize that methodology for all subsequent filings unless a subsequent change is approved by the council.*

§ 6.3. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-161 D of the Code of Virginia. The institution's schedule of charges shall be received by the council within 10 days after the beginning of its respective applicable fiscal year or within 15 days of being notified by the council of its approval of the charges, whichever is later.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed at least 60 days in advance of its effective date, together with supporting data justifying the need for the amendment. Changes in charges which will have a minimal impact on revenues are exempt from this requirement.

§ 6.3:1. Each health care institution shall file annually a survey of rates charged. For hospitals, the survey shall consist of up to 30 select charges, including semi-private and private room rates. The survey shall also consist of

Proposed Regulations

charges of the most frequently occurring diagnoses or procedures for inpatient and outpatient treatment. The charges shall be calculated by taking an average for one month of all patient bills where the requested CPT or ICD-9 code numbers are indicated as the principal diagnosis or procedure. This information shall be received by the council from each hospital no later than April 30 of each year. The annual charge survey for nursing homes shall include up to 30 select charges, including semi-private and private room rates. The select charges shall reflect the rates in effect as of the first day of a sample month to be chosen by the council. This information shall be provided to the council no later than March 31 of each year.

§ 6.3:2. Each hospital or any corporation that controls a hospital shall respond to a survey conducted by the council to determine the extent of commercial diversification by such hospitals in the Commonwealth. The survey shall be in a form and manner prescribed by the council and shall request the information specified in subdivision a, f, g, h and i below on each hospital or such corporation and, with respect to any tax-exempt hospital or controlling corporation thereof, the information specified in subdivision a through i below for each affiliate of such hospital or corporation, if any:

- a. The name and principal activity;
- b. The date of the affiliation;
- c. The nature of the affiliation;
- d. The method by which each affiliate was acquired or created;
- e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;
- f. The total assets;
- g. The total revenues;
- h. The net profit after taxes, or if not-for-profit, its excess revenues; and
- i. The net quality, or if not-for-profit, its fund balance.

§ 6.3:3. The information specified in § 6.3:2 shall relate to any legal controls that exist as of the 1st of July of each calendar year in which the survey is required to be submitted.

§ 6.3:4. Each hospital or any corporation that controls a hospital and that is required to respond to the survey specified in § 6.3:2 shall complete and return the survey to the council by the 31st day of August of each calendar year or 120 days after the hospital's fiscal year end, whichever is later, in which the survey is required to be submitted.

§ 6.3:5. Each hospital that reports to the council or any corporation which controls a hospital that reports to the council shall submit an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.

§ 6.4. All filings prescribed in § 6.1, § 6.2 and § 6.3:2 of these regulations will be made to the council for its transmittal to any approved voluntary cost review organization described in Part IV of these regulations.

§ 6.5. A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council. The filing fee shall be no more than 11 cents per adjusted patient day for each health care institution filing. Prior to the beginning of each new fiscal year, the council shall determine a filing fee for hospitals and a filing fee for nursing homes based upon the council's proportionate costs of operation for review of hospital and nursing home filings in the current fiscal year, as well as the anticipated costs for such review in the upcoming year.

§ 6.6. Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of § 6.2 of these regulations. The balance of the filing fee shall be paid to the council at the same time the health care institution files its annual report under the provisions of § 6.1 of these regulations. When the council grants the health care institution an extension, the balance of the filing fee shall be paid to the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. During the year of July 1, 1989, through June 30, 1990, each nursing home and certified nursing facility shall pay a fee of 7 cents per adjusted patient day when it files its annual report in order to comply with subdivisions A1 and A2 of § 9-159 of the Code of Virginia. Following June 30, 1990, all nursing homes and certified nursing facilities shall submit payment of the filing fees in the amount and manner as all other health care institutions.

§ 6.7. A late charge of \$10 per working day shall be paid to the council by a health care institution that files its budget or annual report past the due date.

§ 6.8. A late charge of \$50 shall be paid to the council by the health care institution that files the charge schedule past the due date.

§ 6.9. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:2 or file the audited consolidated financial statement required by § 6.3:5 or both.

§ 6.10. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:1.

PART VII. WORK FLOW AND ANALYSIS.

§ 7.1. The annual report data filed by health care institutions as prescribed in § 6.1 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations, may be published and disseminated as determined by the council. The health care institution which is the subject of any summary, report, recommendation or comment shall receive a copy of same at least 10 days prior to the meeting at which the same is to be considered by the council.

§ 7.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 6.2 of these regulations shall be analyzed as directed by the council. Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations will be published and disseminated by the council. Amendments or modifications to the annually filed schedule of charges shall be processed in a like manner and reviewed by the council no later than 50 days after receipt of properly filed amendments or modifications. Any health care institution which is the subject of summaries and findings of the council shall be given upon request an opportunity to be heard before the council.

PART VIII. PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 8.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection. However, the detailed annual historical data filed by the individual health care institutions will be excluded from public inspection in accordance with § 9-159 B, of the Code of Virginia.

§ 8.2. Periodically, but at least annually, the council will publish the rates charged by each health care institution in Virginia for up to 30 of the most frequently used services in Virginia, including each institution's average semiprivate and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these

schedules filed under the provisions of § 6.3 of these rules and regulations will be kept on file at the council office for public inspection. Staff findings and recommendations and related council decisions on changes to health care institutions' rates and charges will also be kept on file at the council office for public inspection and available to the news media.

§ 8.3. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 8.3.1. The council will also periodically publish and disseminate information which will allow consumers to compare costs and services of hospitals, nursing homes and certified nursing facilities.

§ 8.4. The staff findings and recommendations and related council decisions on individual health care institutions' annual budget and related rate filings will be kept on file at the council office for public inspection. However, the detailed annual budget data filed by the individual health care institutions will be excluded from public inspection.

§ 8.5. The council may release historical financial and statistical data reported by health care institutions to state or federal commissions or agencies based on individual, specific requests, and the merit of such requests. Requests must list the purpose for which the requested data is to be used to permit the council to reach a valid decision on whether or not the data requested will fit the need and should, therefore, be made available. Under no circumstances will data be released which contains "personal information" as defined in § 2.1-379(2) of the Code of Virginia.

§ 8.6. The council shall not release prospective (budgeted) financial and statistical data reported by health care institutions to anyone, except for the staff findings and recommendations as provided for in § 8.4 of these regulations.

§ 8.7. No data, beyond that specified in §§ 8.1 through 8.4 of these regulations will be released to other nongovernmental organizations and entities, except that data deemed pertinent by the council in negotiations with third-party payors such as Blue Cross/Blue Shield, commercial insurers, etc. Such pertinent data may be released and used on an exception, as needed, basis.

§ 8.8. Except for data specified in §§ 8.1 through 8.4 of these regulations available to anyone, the council shall have a right to furnish data, or refuse to furnish data, based on merit of the request and ability to furnish data based on data and staff time availability. The council may

Proposed Regulations

levy a reasonable charge to cover costs incurred in furnishing any of the data described in this section of the rules and regulations.

NOTICE: The forms used in administering the Virginia Health Services Cost Review Council Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Virginia Health Services Cost Review Council, 805 East Broad Street, 9th Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Report Form for Provision of Financial Annual Summary (Historical Data) by Acute and Psychiatric Health Care Institutions

Budget Submission for Acute Care and Psychiatric Facilities

Report Form for Provision of Financial Annual Summary (Historical Data) by Long Term Care Facilities

Budget Submission Forms for Long Term Care Facilities and Explanatory Comments

Historical Submission Forms for Outpatient Surgical Hospitals and Explanatory Comments

Budget Submission Forms for Outpatient Surgical Hospitals and Explanatory Comments

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-02-3.1400. State Plan for Medical Assistance: Methods of Providing Transportation.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until July 17, 1992.

(See Calendar of Events section for additional information)

Summary:

This policy will discontinue the prior authorization requirement for nonemergency transportation for recipients to and from their medical appointments.

The section of the State Plan for Medical Assistance affected by this action is Attachment 3.1 D, Methods of Providing Transportation.

The Code of Federal Regulations, § 440.53, provides that a State Plan must specify that the Medicaid agency will assure necessary transportation for

recipients to and from providers and that it will describe the methods that will be used to meet this requirement. Also, § 440.170(a) defines transportation as including expenses for travel determined to be necessary by the agency to secure medical examinations and treatment for a recipient. Transportation may only be furnished by a provider to whom direct vendor payment can appropriately be made by the agency. Travel expenses may include the cost of transportation for the recipient by ambulance, taxicab, common carrier, or other appropriate means.

Prior to the emergency regulation, all nonemergency transportation had to be preauthorized by the local health department (in the locality in which the recipient resides) or one of five pilot projects, working out of the local departments of social services. To obtain Medicaid payment for transportation, the recipient had to secure prior authorization by contacting the appropriate local agency. Once the local agency verified the recipient's current Medicaid eligibility and the recipient selected the desired provider, the local agency scheduled the trip. Prior to providing the service, the provider obtained his Medicaid billing invoice from the local agency. Once the transportation service had been rendered, the provider completed the mileage covered on the invoice and returned it to the local authorizing agency. The local agency verified that prior authorization was granted, signed the invoice and submitted it to the Medicaid fiscal agent for payment. In an evaluation of the costly preauthorization process conducted by local health departments and the pilot sites, it was determined that this process resulted in minimal denial of recipient requests for transportation. As a matter of fact, the DMAS Division of Client Appeals received only six appeals during 1991 because transportation was denied due to the preauthorization process.

Since the preauthorization process has not proven effective, DMAS sees no need to continue preauthorization of transportation. The agreements with the pilot sites expired December 31, 1991, so action was taken to discontinue preauthorization of transportation.

With the Governor's approval, effective January 1, 1992, the requirements associated with prior authorization of nonemergency transportation were eliminated including the manual post-service verification of each claim by local health department staffs. This monitoring of claims payment will be accomplished by system edits and ongoing monitoring by agency staff. Recipients requiring transportation to covered medical appointments will make their own arrangements with the provider of their choice.

Local health departments throughout the state under an interagency agreement between DMAS and the Department of Health will assist those recipients who

require help with locating transportation providers and distribute bus and toll tickets. It will be the providers' responsibility to verify recipients' current Medicaid eligibility by reviewing eligibility cards or by the use of the automated Recipient Eligibility Verification System (REVS) using the toll free number. Appropriate utilization of transportation services by both recipients and providers will be monitored by the DMAS' Division of Program Compliance as well as operational staff of the Division of Client Services.

VR 460-02-3.1400. Methods of Providing Transportation.

§ 1.0. Transportation of recipients to and from providers of services covered by this plan is available in either of two categories: ambulance and non-ambulance. In either category, preauthorization for the service is required from the local health departments, except under emergency conditions. Ambulet is not an authorization form of transportation.

§ 2.0. Requirements for transportation must be expressed by an eligible recipient to a local office of the State Agency. The local office assures that transportation is not otherwise available to the recipient and is necessary to receive a covered service, arranges for transportation service as required, and subsequently verifies the accuracy of transportation carrier billing after service is rendered. In an emergency, after-the-fact preauthorizations are provided as justified.

§ 3.0. All ambulance operators must meet State licensing standards and enroll as accepted providers with the State Agency. All non-ambulance carriers must provide transportation in accordance with prior agreements on services and rates, or negotiated with local office of the State Agency.

§ 4.0. In addition to ambulances, the following modes of transportation will be allowable for recipients: common use bus (intra-city and inter-city), commercial taxicabs, and special projects (such as QEO and other grant projects) vehicles. Air travel will be authorized only when known to be essential to a critical need of the recipient. In responding to recipient requests, the transportation mode will be provided which will assure that economical services, adequate to need, will be furnished. A recipient's right to a free choice of providers will be preserved in compliance with 42 CFR 431.51. The obligation of the Program to assure that payment is made only where transportation is not otherwise available to a recipient will also be preserved.

§ 5.0. Payment may be made to an individual, recruited by an eligible recipient, for non-emergency transportation, on the basis of a fee per loaded passenger mile with no waiting time.

§ 1. Transportation of recipients to and from providers of services covered by this plan is available in either of two categories: emergency and nonemergency. In either

category, arrangements for transportation shall be made between recipients and the transportation providers for covered medical services.

§ 2. Eligible recipients will seek the most economical means of transportation to their medical appointments. These arrangements will be made with an enrolled transportation provider of the recipients' choice.

§ 3. Ambulances, wheelchair vans, and taxis must be licensed to provide services in the Commonwealth by the appropriate state or local licensing agency. Registered drivers must be licensed to operate a motor vehicle in the Commonwealth and must maintain automobile insurance.

§ 4. Payment for transportation may only be made when transportation is not otherwise available to recipients. The following modes of transportation shall be allowable for recipients: ambulance, wheelchair van, common user bus (intra-city and inter-city), registered driver, and commercial taxicabs. Air travel may be preauthorized only when known to be essential to a critical need of the recipient. In responding to recipients' requests, the mode of transportation will be that which assures economical transportation services that are adequate to meet recipients' medical needs. Recipients' right to a free choice of providers shall be preserved in compliance with 42 CFR 431.51.

§ 5. Payment may be made to an individual, through the Registered Driver Program, who has been recruited by an eligible recipient, for nonemergency transportation, on the basis of a fee per loaded passenger mile with no coverage of waiting time.

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TRANSPORTATION SERVICES Special Services Invoice VIRGINIA

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRATION REGULATIONS

131
3 PROVIDER NAME
92 APR 16 PM 4:00

1 TRANS. CODE
2 PROVIDER I.D. NO. (7)
4 PROVIDER ADDRESS
CITY
STATE
ZIP CODE

5 PROVIDER TELEPHONE NO.
AREA CODE ()

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		PICK-UP POINT			DESTINATION			<input type="checkbox"/> 1 WAY <input type="checkbox"/> RTTRIP			
2	RECIPIENT I.D. NO.	7			8	NO. PASS.	MILES	9	10	11	12
	RECIPIENT NAME	MO.	DAY	YR.	WAIT TIME						
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	RECIPIENT NAME	MO.	DAY	YR.	WAIT TIME						
		PICK-UP POINT			DESTINATION			<input type="checkbox"/> 1 WAY <input type="checkbox"/> RTTRIP			
4	RECIPIENT I.D. NO.	7			8	NO. PASS.	MILES	9	10	11	12
	RECIPIENT NAME	MO.	DAY	YR.	WAIT TIME						
		PICK-UP POINT			DESTINATION			<input type="checkbox"/> 1 WAY <input type="checkbox"/> RTTRIP			

↑
WAS TRIP A RESULT OF ACCIDENTAL INJURY? IF YES (X) IN BLOCK 13.

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THIS IS TO CERTIFY THAT THE FOREGOING INFORMATION IS TRUE, ACCURATE AND COMPLETE. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS, AND THAT ANY FALSE CLAIMS, STATEMENTS, OR DOCUMENTS OR CONCEALMENT OF A MATERIAL FACT, MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS.

DATE

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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.

BOARD FOR CONTRACTORS

Title of Regulation: VR 220-01-2. Rules and Regulations of the Board for Contractors.

Statutory Authority: § 54.1-1102 of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

These amendments include definitions of specialty services which may be performed under the "specialty contractor" license classification, clarify issues regarding trade-related examinations, limit the number of firms for which a qualified individual may act in that capacity, and provide the means necessary to discipline contractors engaging in excavation work who fail to notify Miss Utility pursuant to the Underground Utility Damage Prevention Act (§ 56-265.14 et seq. of the Code of Virginia).

VR 220-01-2. Rules and Regulations of the Board for Contractors.

PART I. GENERAL.

§ 1.1. Definitions of license classifications.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Building contractors" (Abbr: BLD) are those whose contracts include construction on real property owned, controlled or leased by another person of commercial, industrial or institutional buildings or structures, or single or multiple-family residential buildings, including accessory-use structures, and the remodeling, repair or improvement or dismantling of any size building.

"Highway/heavy contractors" (Abbr: H/H) are those whose contracts include construction of roads, streets, bridges, railroads, public transit systems, runways, dams, parking lots, towers, tanks, structural signs and lights, foundations and miscellaneous drainage structures, or the dismantling thereof, or involve demolition, clearing, grading, excavating, paving, road markings, pile driving, foundations and miscellaneous drainage structures or nonwater well drilling. Also included are those whose contracts include the installation or maintenance or dismantling of power systems for the generation and

primary and secondary distribution of electric current ahead of the customer's meter; the installation or maintenance or dismantling of telephone, telegraph or signal systems for public utilities; and the installation, maintenance or dismantling of water, gas, and sewer lines, pumping stations, and treatment plants.

"Specialty contractors" are those whose contracts are for specialty services which do not substantially fall within the scope of any other classification within these regulations.

"Electrical contractors" (Abbr: ELE) are those whose contracts include construction or removal which falls within the provisions of the National Electrical Code.

"Plumbing contractors" (Abbr: PLB) are those whose contracts include the installation, maintenance, extension, or alteration or removal of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary or storm drainage facilities; the venting system and the public or private water supply systems within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation, maintenance, extension, or alteration of storm-water, liquid waste, or sewerage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

"HVAC contractors" (Abbr: HVA) are those whose work includes the installation, alteration, or repair of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, and mechanical refrigeration systems.

"Specialty contractors" (Abbr: SVC) are those whose contracts are for specialty services which do not substantially fall within the scope of any other classification within these regulations.

§ 1.2. Definitions of specialty services performed under the specialty contractors license classification.

The following words and terms shall have the following meanings with regard to specialty services:

"Alarm/security systems contracting" (Abbr: ALS) is that service which provides for the installation, repair, improvement or removal of alarm systems or security systems annexed to real property. (Note: Excluding the installation of applicable and incidental locking devices, no other license classification or specialty service provides for this function.)

"Appliance/fixture contracting" (Abbr: APF) is that

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service which provides for the installation, addition, repair, improvement or removal of appliances or fixtures annexed to real property, excluding gas appliances or fixtures. (Note: No other license classification or specialty service provides for this function.)

"Asbestos contracting" (Abbr: ASB) is that service which provides for the removal, encapsulation or installation of asbestos containing materials annexed to real property. (Note: No other license classification or specialty service provides for this function.)

"Billboard/sign contracting" (Abbr: BSC) is that service which provides for the installation, repair, improvement or dismantling of any billboard or structural sign permanently annexed to real property. (Note: The highway/heavy license classification also provides for this function.)

"Blast/explosive contracting" (Abbr: BEC) is that service which provides for the use of explosive charges for the repair, improvement, alteration or demolition of any real property or any structure annexed to real property. (Note: This function can only be performed in conjunction with the highway/heavy license classification.)

"Commercial improvement contracting" (Abbr: CIC) is that service which provides for additions, repairs or improvements to nonresidential buildings or structures or nonresidential accessory-use structures annexed to real property. (Note: The building license classification also provides for this function.)

" [~~Electronic~~ Electronic/communication] systems contracting" (Abbr: ESC) is that service which provides for the installation, repair, improvement or removal of electronic [or communication] systems annexed to real property. (Note: No other license classification or specialty service provides this function.)

"Elevator/escalator contracting" (Abbr: EEC) is that service which provides for the installation, repair, improvement or removal of elevators or escalators permanently annexed to real property. (Note: No other license classification or specialty service provides this function.)

"Environmental systems contracting" (Abbr: EVS) is that service which provides for the installation, repair, improvement or removal of septic tanks and systems annexed to real property. (Note: The [~~license classification of plumbing~~ plumbing license classification also provides for this function when the septic tanks or systems are adjacent to any building, structure or conveyance. The highway/heavy license classification also provides for this function when the septic tanks or systems are not adjacent to any building, structure or conveyance.)]

"Equipment/machinery contracting" (Abbr: EMC) is that service which provides for the installation or removal of equipment or machinery from the customer's meter. (Note:

No other license classification or specialty service provides for this function.)

"Farm improvement contracting" (Abbr: FIC) is that service which provides for the installation, repair or improvement of a nonresidential farm building or structure, or nonresidential farm accessory-use structure, or additions thereto. (Note: The building license classification also provides for this function.)

"Fire alarm-extinguishing systems contracting" (Abbr: FAE) is that service which provides for the installation, repair or improvement of fire alarm systems, fire extinguishing systems and fire alarm extinguishing systems annexed to real property. (Note: Excluding the installation of single-unit stand-alone smoke detectors, no other license classification or specialty service provides for this function.)

"Gas fitting contracting" (Abbr: GFC) is that service, performed by plumbing or HVAC contractors, which provides for the installation, repair or improvement of gas pipes and appliances annexed to real property. (Note: This function can only be performed in conjunction with the plumbing or HVAC license classification.)

"Home improvement contracting" (Abbr: HIC) is that service which provides for additions, repairs or improvements to residential buildings or structures or residential accessory-use structures. (Note: The building license classification also provides for this function.)

" [~~Irrigation/sprinkler~~ Landscape irrigation] contracting" (Abbr: ISC) is that service which provides for the installation, repair, improvement or removal of irrigation systems or outdoor sprinkler systems. (Note: The plumbing license classification also provides for this function [when the irrigation system is adjacent to any building, structure or conveyance. The highway/heavy classification also provides for this function when the irrigation system is not adjacent to any building, structure or conveyance] .)

"Landscape [service] contracting" (Abbr: LSC) is that service which provides for the alteration or improvement of a land area by means of excavation, clearing, grading or other means of site preparation. (Note: The highway/heavy license classification also provides for this function.)

"Miscellaneous contracting" (Abbr: MSC) is that service which does not fall under any other license classification or specialty service. (Note: No other license classification or specialty service provides for this function.)

"Modular/mobile building contracting" (Abbr: MBC) is that service which provides for the installation or removal of a modular or mobile building. (Note: The building and highway/heavy license classifications also provide for this function.)

"Marine facility contracting" (Abbr: MCC) is that service

which provides for the construction, repair, improvement or removal of any structure the purpose of which is to access, impede or alter a body of surface water. (Note: The highway/heavy license classification also provides for this function.)

"Passive energy systems contracting" (Abbr: PES) is that service which provides for the installation, repair or improvement, from the customer's meter, of passive energy generation systems or passive supplemental energy systems annexed to real property. (Note: No other license classification or specialty service provides this function.)

["Radon mitigation contracting" (Abbr: RMC) is that service which provides for additions, repairs or improvements to commercial, industrial or institutional buildings or structures, or single or multiple-family residential buildings for the purpose of mitigating or preventing the effects of radon gas. (Note: This function can only be performed in conjunction with the building license classification or commercial improvement, farm improvement or home improvement specialty services.)]

"Recreational facility contracting" (Abbr: RFC) is that service which provides for the construction, repair or improvement of any recreational facility, excluding the construction of buildings and paving. (Note: Excluding paving, the building license classification also provides for this function.)

"Striping/driveway contracting" (Abbr: SDC) is that service which provides for the striping of roadways or parking lots or the construction of limited access driveways. (Note: The highway/heavy license classification also provides for this function.)

"Vessel construction contracting" (Abbr: VCC) is that service which provides for the construction, repair or improvement of a nonresidential vessel to hold or convey fluid bodies. (Note: The highway/heavy license classification also provides for this function.)

"Water well contracting" (Abbr: WWC) is that service which provides for the construction of a water well to reach groundwater as defined in § 62.1-44.85(8) of the Code of Virginia. (Note: No other license classification or specialty service provides for this function.)

Note: Specialty contractors engaging in construction which involves the following activities or items or similar activities or items may fall under the specialty service of commercial improvement, home improvement or farm improvement:

Awnings	Marble
Blinds	Masonry
Bricks	Metal Work
Bulkheads	Millwrighting
Cabinetry	Mirrors
Carpentry	Miscellaneous Iron
Carpeting	Ornamental Iron
Casework	Painting
Caulking	Partitions

Ceilings	Plastic Wall Finishing
Chimneys	Protective Coatings
Chutes	Rigging
Concrete	Roofing
Conduit Rodding	Rubber Linings
Curtains	Railings
Curtain Walls	Sandblasting
Decks	Scaffolding
Doors	Screens
Drapes	Siding
Drywall	Sheet Metal
Epoxy	Shingles
Exterior Decoration	Shutters
Facings	Skylights
Fences	Special Coatings
Fiberglass	Stone
Fireplaces	Storage Bins & Lockers
Fireproofing	Stucco
Floors	Temperature Controls
Coverings	Terrazzo
Flooring	Tile
Glass	Vaults
Glazing	Vinyl Flooring
Grouting	Waterproofing
Grubbing	Wall Coverings
Guttering	Wall Panels
Illumination	Wall Tile
Insulation	Weatherstripping
Interior Decorating	Welding
Lighting	Windows
Lubrication	Wood Floors

PART II. ENTRY.

§ 2.1. Requirements for licensure as a Class A sole proprietorship, partnership, association or corporation.

Every *Each* sole proprietorship, *general* partnership, *limited partnership*, association or corporation seeking a Class A license shall complete an application furnished by the Department of Commerce and shall meet or exceed the requirements set forth below prior to issuance of the license.

A. Each ~~sole proprietorship, partnership, association or corporation~~ applicant shall have in its full-time employ a designated employee who is a *sole proprietor, partner of the general partnership, managing partner of the limited partnership, member of the association, officer of the corporation or an individual in the full-time employ of the firm, who is at least 18 years of age and who has successfully completed or who has been deemed to have fulfilled the written or oral licensure examination required by the board.*

B. The board, in its discretion, may deny *any application for licensure to any firm* in which the sole proprietor, officers of the corporation, ~~general~~ partners of the *general partnership, managing partners of the limited partnership*, members of the association, or designated employee have not maintained good standing in every jurisdiction where licensed as a contractor and shall not have had that license suspended, revoked or surrendered in connection with a disciplinary action in any jurisdiction within five years prior to applying for licensure in Virginia.

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C. ~~Applicants~~ *Each applicant* will be required to provide information for the past five years including but not limited to outstanding past-due debts, judgments, outstanding state or federal tax obligations, and defaults on bonds. (Evidence of a pattern of failure to pay debts or noncompliance with contractual obligations sufficient to warrant the conclusion that the contracting business applying for a license is not likely to meet the financial responsibilities of a contractor shall be a basis for the denial of a license.)

D. ~~Applicants~~ *Each applicant* will be required to submit, on a form provided by the board, *information on the financial position of the contracting firm, a current balance sheet showing the assets, liabilities, and capital of the firm, A financial statement showing Excluding any jointly owned residence, each applicant will also be required to state a net worth of less than or net equity of \$45,000 for an individual ; partnership, or association, excluding any jointly owned residence, or a net equity of less than \$45,000 for a corporation shall be a basis for the denial of a license or more .*

E. ~~Applicants~~ shall provide evidence acceptable to the board of five years experience in the license classification or specialty service for which licensure is sought. For license classifications or specialty services in which the board also requires an examination to demonstrate experience, the contractor shall have in the full-time employment of the firm seeking licensure an individual who has successfully completed an examination approved by the board.

E. *Each applicant shall have in its full-time employ a qualified individual who is a sole proprietor, partner of the general partnership, managing partner of the limited partnership, member of the association, officer of the corporation or an individual in the full-time employ of the firm, who is at least 18 years of age and who has five years experience in the license classification or specialty service sought by the firm. For license classifications or specialty services in which the board also requires an examination to demonstrate experience, the qualified individual for the firm shall have also successfully completed or been deemed to have fulfilled the trade-related examination approved by the board.*

F. Any Class A contractor licensed in the Commonwealth of Virginia prior to January 1, 1991, and in business on December 31, 1990, shall , *within their current period of licensure*, provide to the board in writing the name of one full-time employee who is at least 18 years of age and that employee shall be deemed to have fulfilled the requirement for examination in § 2.1 of these regulations, so long as he remains a full-time employee of that contractor. Upon the departure of that employee, the contractor shall name another full-time employee in accordance with § 2.1 A. A fee shall be required for a declaration of a designated employee in accordance with § 2.5 D of these regulations.

G. The board, in its discretion, may deny licensure to any firm in which the sole proprietor, officers of the corporation, ~~general~~ partners of the *general partnership, managing partners of the limited partnership*, members of the association, or designated employee have been convicted in any jurisdiction of a misdemeanor involving lying, cheating or stealing; or of any felony. Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

§ 2.2. Requirements for licensure as a Class B sole proprietorship, partnership, association or corporation.

Every ~~Each~~ sole proprietorship, *general partnership, limited partnership*, association or corporation seeking a Class B license shall complete an application furnished by the Department of Commerce and shall meet or exceed the requirements set forth below prior to issuance of the license.

A. ~~Each sole proprietorship, partnership, association or corporation applicant~~ shall have in its full-time employ a designated employee who is a *sole proprietor, partner of the general partnership, managing partner of the limited partnership, member of the association, officer of the corporation or an individual in the full-time employ of the firm, who is at least 18 years of age and who has successfully completed or who has been deemed to have fulfilled the written or oral licensure examination required* by the board.

B. The board, in its discretion, may deny ~~any application for licensure to any firm~~ in which the sole proprietor, officers of the corporation, ~~general~~ partners of the *general partnership, managing partners of the limited partnerships*, members of the association, or designated employee have not maintained good standing as a licensed contracting business in every jurisdiction where licensed as a contractor and shall not have had that license as a contracting business suspended, revoked or surrendered in connection with a disciplinary action in any jurisdiction within five years prior to applying for licensure in Virginia.

C. ~~Applicants~~ *Each applicant* will be required to provide information for the past three years including but not limited to outstanding past-due debts, judgments, outstanding state or federal tax obligations, and defaults on bonds. (Evidence of a pattern of failure to pay debts or noncompliance with contractual obligations sufficient to warrant the conclusion that the contracting business applying for a license is not likely to meet the financial responsibilities of a contractor shall be a basis for the denial of a license.)

D. ~~Applicants~~ *Each applicant who were not registered in the Commonwealth of Virginia prior to January 1, 1991, and in business on December 31, 1990, [will be required*

to submit, on a form provided by the board, *information on the financial position of the contracting firm.*] a current balance sheet showing the assets, liabilities, and capital of the firm. A financial statement showing a net worth of less than \$15,000 for an individual; partnership, or association, excluding any jointly owned residence; or a net equity of less than \$20,000 \$15,000 for a corporation shall be a basis for the denial of a license. [*who was not registered in the Commonwealth of Virginia prior to January 1, 1991, and in business on December 31, 1990, will be required to submit, on a form provided by the board, information on the financial position of the contracting firm. Excluding any jointly owned residence, each applicant will also be required to state a net worth or net equity of \$15,000 or more.*]

E. Applicants shall provide evidence acceptable to the board of three years experience in the license classification or specialty service for which licensure is sought. For license classifications or specialty services in which the board also requires an examination to demonstrate experience, the contractor shall have in the full-time employment of the firm seeking licensure an individual who has successfully completed an examination approved by the board. *Each applicant shall have in its full-time employ a qualified individual who is a sole proprietor, partner of the general partnership, managing partner of the limited partnership, member of the association, officer of the corporation or an individual in the full-time employ of the firm, who is at least 18 years of age and who has three years experience in the license classification or specialty service sought by the firm. For license classifications or specialty services in which the board also requires an examination to demonstrate experience, the qualified individual for the firm shall have also successfully completed or been deemed to have fulfilled the trade-related examination approved by the board.*

F. Any Class B contractor registered in the Commonwealth of Virginia prior to January 1, 1991, and in business on December 31, 1990, shall, *within their registration period*, provide to the board in writing the name of one full-time employee who is at least 18 years of age and that employee shall be deemed to have fulfilled the requirement for examination in § 2.2 of these regulations, so long as he remains a full-time employee of that contractor. Upon the departure of that designated employee, the contractor shall name another full-time employee in accordance with § 2.2 A. A fee shall be required for a declaration of a designated employee in accordance with § 2.5 D of these regulations.

G. The board, in its discretion, may deny licensure to any firm in which the sole proprietor, officers of the corporation, general partners of the general partnership, managing partners of the limited partnership, members of the association, or designated employee have been convicted in any jurisdiction of a misdemeanor involving lying, cheating or stealing; or of any felony. Any plea of nolo contendere shall be considered a conviction for the

purposes of this subsection. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

§ 2.3. Examination requirements.

A. The designated employee for a Class A firm, except as provided in § 2.1 F, shall attain a passing grade established by the board on ~~an~~ a licensure examination the subject of which shall be the regulations and statutes of the board and on the general knowledge necessary to engage in the administrative and business activities of the Class A firm. The Class A licensure examination shall consist of the Virginia section, General section, and Advanced section. The Virginia section will test the candidate's knowledge of statutory and regulatory requirements. The General section will test the candidate's general administrative and business knowledge necessary to engage in contracting activities. The Advanced section will test the candidate's general administrative and business knowledge necessary to engage in Class A contracting activities.

B. The designated employee for a Class B firm, except as provided in § 2.2 F, shall attain a passing grade established by the board on ~~an~~ a licensure examination the subject of which shall be the regulations and statutes of the board and on the general knowledge necessary to engage in the administrative and business activities of the Class B firm. The Class B licensure examination shall consist of the Virginia section and General section. The Virginia section will test the candidate's knowledge of statutory and regulatory requirements. The General section will test the candidate's general administrative and business knowledge necessary to engage in contracting activities.

C. *Licensure examinations for designated employees which are required by the board shall be approved by the board and provided by the board or by a testing service acting on behalf of the board. (Note: An individual fulfilling the licensure examination requirement for a contracting firm is referred to as a designated employee.)*

D. *Trade-related examinations which are also required by the board to demonstrate experience for a license classification or specialty service shall be approved by the board [and provided by the board, a testing service acting on behalf of the board, or another governmental agency or organization. The board currently requires trade-related examinations in the electrical, plumbing and HVAC license classifications and the blast/explosive, gas fitting, radon mitigation and water well contracting specialty services]. (Note: An individual fulfilling a trade-related examination requirement for a contracting firm must also serve as a firm's qualified individual.)*

§ 2.4. License by reciprocity.

A. Applicants for Class A licensure by reciprocity shall

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meet the requirements set forth in § 2.1 of these regulations. A designated employee, for the firm seeking reciprocal licensure, who has passed in the jurisdiction of original licensure an examination deemed to be substantially equivalent to the *licensure* examination required by the board shall only be required to successfully complete the Virginia section and when deemed necessary the Advanced section of the *licensure* examination. *A qualified individual for the firm seeking reciprocal licensure who has passed in the jurisdiction of original licensure an examination deemed to be substantially equivalent to a trade-related examination required by the board shall be deemed to have fulfilled the trade-related examination requirement.*

B. Applicants for Class B licensure by reciprocity shall meet the requirements set forth in § 2.2 of these regulations. A designated employee, for the firm seeking reciprocal licensure, who has passed in the jurisdiction of original licensure an examination deemed to be substantially equivalent to the *licensure* examination required by the board shall only be required to successfully complete the Virginia section of the *licensure* examination. *A qualified individual for the firm seeking reciprocal licensure who has passed in the jurisdiction of original licensure an examination deemed to be substantially equivalent to a trade-related examination required by the board shall be deemed to have fulfilled the trade-related examination requirement.*

C. Applicants for Class A and Class B licensure by reciprocity shall provide evidence acceptable to the board of experience in the license classification or specialty service for which licensure is sought.

D. C. No license shall be issued to an applicant whose previous license/registration has been suspended for nonpayment of a Virginia Contractor Transaction Recovery Fund assessment until all past-due assessments have been paid.

§ 2.5. Fees for licensing, designated employee declaration, and examination.

A. Fee payments.

Each check or money order shall be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable.

B. Class A original license fee.

The fee for an initial Class A license shall be \$85.

C. Class B original license fee.

The fee for an initial Class B license shall be \$65.

D. Class A designated employee declaration fee.

The fee for declaring a designated employee for Class A

licensure shall be \$25.

E. D. Class B Designated employee declaration fee.

The fee for declaring a designated employee for Class A or B licensure shall be \$25.

F. E. Class A licensure examination fee.

The fee for a Class A *licensure* examination shall be \$60. The fee for an examination in any individual section of the Class A *licensure* examination package shall be \$20 for the Virginia section, \$20 for the General section, and \$20 for the Advanced section. Individuals who successfully complete one or more but not all of the sections upon initial examination shall have 12 months from the date of that initial examination to successfully complete the remaining sections of the Class A examination package.

G. F. Class B licensure examination fee.

The fee for a Class B *licensure* examination shall be \$40. The fee for an examination in any individual section of the Class B *licensure* examination package shall be \$20 for the Virginia section and \$20 for the General section. Individuals who successfully complete only one section upon initial examination shall have 12 months from the date of that initial examination to successfully complete the remaining section of the Class B examination package.

H. G. Class A reciprocity licensure examination fee fees.

The fee for a Class A reciprocity *licensure* examination shall be \$20 for individuals required to take the Virginia section of the Class A *licensure* examination package and \$40 for individuals required to take both the Virginia section and Advanced section of the Class A *licensure* examination package.

I. H. Class B reciprocity licensure examination fee.

The fee for a Class B reciprocity *licensure* examination shall be \$20 for individuals required to take the Virginia section of the Class B *licensure* examination package.

J. I. Upgrade licensure examination fee fees .

The fee for a Class B to Class A upgrade examination shall be \$20 for the Advanced section of the Class A examination package. The fee for the Advanced section of the *licensure* examination shall be \$20 when a designated employee for a Class B contractor seeks to successfully complete the Class A *licensure* examination requirement.

K. J. License classification or specialty service trade-related examination [fee fees].

The [fee fees] for an [a] trade-related [examination examinations], when offered by the board [or a testing service on behalf of the board], [in any of the license

classifications or specialty services shall ~~not~~ be \$150 more than \$100 - are as follows:]

[The fee for a specialty examination in the service of water well contracting is \$40.

(NOTE: Examination fees for license classification or specialty service examinations, which are required but not administered by the board or a testing service on behalf of the board, pursuant to § 2.3 D of these regulations, shall be determined by the governmental agency or organization administering the applicable license classification or specialty service exam.]

PART III. RENEWAL AND REINSTATEMENT.

§ 3.1. Renewal.

All Class A and Class B licensees wishing to renew their licenses must apply for license renewal every two years. After January 1, 1991, Class B registrations are not renewable in accordance with § 54.1-1108.1 of the Code of Virginia.

A. Fees.

The application fee for renewal of a Class A license is \$65 and the application fee for renewal of a Class B license is \$45. All fees required by the board are nonrefundable.

B. Procedures.

The Department of Commerce will mail a renewal notice to the licensee outlining procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the license may be submitted with the required fee as an application for renewal *within 30 days of the expiration date of the license* .

C. Applicants for renewal of a license (expiring on or after January 31, 1991) shall certify on a form provided by the board that they meet the current standards for entry as follows:

1. Those applying for renewal of a Class A license shall meet the requirements of §§ 2.1 A, 2.1 B, 2.1 G, and, where applicable, § 2.1 E.
2. Those applying for renewal of a Class B license shall meet the requirements of §§ 2.2 A, 2.2 B, 2.2 G, and, where applicable, § 2.2 E.

D. The date on which the renewal fee is received by the department or its agent will determine whether the licensee is eligible for renewal or required to apply for reinstatement.

§ 3.2. Reinstatement.

[Any licensee failing to apply for renewal of its license within 30 days of its expiration date will be required to reinstate the license. Should the Department of Commerce fail to receive a licensee's renewal application or fees within 30 days of the license expiration date, the licensee will be required to reinstate the license.]

A. Fees.

The application fee for reinstatement of a Class A license is \$75 and the application fee for reinstatement of a Class B license is \$60. All fees required by the board are nonrefundable.

B. Applicants for reinstatement shall meet the requirements of § 3.1 of these regulations.

C. The date on which the reinstatement fee is received by the Department of Commerce or its agent will determine whether the license is reinstated or a new application for licensure is required.

D. In order to ensure that licensees are qualified to practice as contractors, no reinstatement will be permitted once six months from the expiration date of the license has passed. After that date the applicant must apply for a new license and meet the then current entry requirements.

§ 3.3. Board discretion to deny renewal or reinstatement.

The board may deny renewal or reinstatement of a license for the same reasons as it may refuse initial licensure or discipline a licensee.

PART IV. STANDARDS OF PRACTICE.

§ 4.1. ~~Change in~~ Management personnel.

A. Reporting of Management Personnel.

Class A licensees and Class B licensees/registrants shall report in writing or on a form provided by the board ~~any changes in~~ the following personnel:

The sole proprietor;

~~The general~~ Partners of a general partnership ;

Managing partners of a limited partnership;

Members of an association;

Officers of the corporation;

Designated employee;

~~Individual~~ qualified in a license classification or specialty service *Qualified individual* .

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B. Changes in management personnel.

This information must be provided to the board Should any change occur in the management personnel, the licensee/registrant is required to report those changes to the board within 90 days of the change. A change in management personnel shall be reported as follows:

1. When there is a change in the sole proprietor, the partners of a general partnership, managing partners of a limited partnership, or members of an association, the licensee/registrant will report those changes in a signed statement to the board. (A change in the sole proprietor, the partners of a general partnership, managing partners of a limited partnership, or members of an association will result in the termination of the license/registration.)

2. When there is a change in the officers of the corporation, the licensee/registrant shall report the changes [in a signed statement to on a form provided by] the board.

3. When there is a change in the designated employee, the licensee shall declare, on a form provided by the board, a new designated employee. New designated employees shall be declared as follows:

a. Individuals declared as designated employees for Class A firms shall meet the requirements of § 2.1 A, § 2.3 A or §§ 2.4 A and 2.5 D.

b. Individuals declared as designated employees for Class B firms shall meet the requirement of § 2.1 B, § 2.3 B or §§ 2.4 B and 2.5 D.

4. When there is a change in a qualified individual, the licensee shall report, on a form provided by the board, a new qualified individual. New qualified individuals shall be reported as follows:

a. Individuals reported as qualified individuals for Class A firms shall meet the requirements of § 2.1 E.

b. Individuals reported as qualified individuals for Class B firms shall meet the requirements of § 2.2 E.

C. Status of license due to changes in the officers of a corporation, designated employee, or qualified individuals.

In the event that a reported change of personnel affects the status of the contracting firm's license/registration the board shall promptly notify the Class A licensed firm and Class B licensed/registered firm in writing that the continuation of the firm's license/registration has been deferred for the board's review and consideration. Subsequent to the board's consideration, the firm will further be notified in writing that its license/registration

has been granted or denied in accordance with the requirements of §§ 2.1 A, 2.1 E, and 2.1 G for Class A licensees; §§ 2.2 A, 2.2 E, and 2.2 G for Class B licensees; and § 2.2 G for Class B registrants these regulations .

D. Restrictions for designated employees [and qualified individuals] .

Designated employees [and qualified individuals] are required to be in the full-time employ of the contracting firm, which means they may not, as designated employees [or qualified individuals] , represent more than two firms at one time unless they also serve as the sole proprietor, partner in the general partnership, managing partner in limited partnership, member of the association, or officer of the corporation for those same contracting firms.

[E. Restrictions for qualified individuals.

Qualified individuals are required to be in the full-time employ of the contracting firm, which means they may not, as qualified individuals, represent more than two firms at one time.]

§ 4.2. Name changes Firm names .

A licensee/registrant must operate under the name in which the license/registration is issued. As long as there is no change in the legal entity, a licensee/registrant may secure a name change by submitting a written request to the board for such a change. The request must show the name as it then appears on the license/registration and the new name, and must be accompanied by a Certificate of Amendment from the State Corporation Commission if the licensee/registrant is a corporation, or authorization from the appropriate local court, if a licensee/registrant other than a corporation is trading under a fictitious name.

§ 4.3. Changes, additions, or deletions to license classifications or specialty services.

A licensee may change a license classification or specialty service or obtain additional license classifications or specialty services by providing demonstrating, on a form provided by the board, acceptable evidence acceptable to the board of experience in that the license classification classifications or specialty service services sought . When the board also requires an examination to demonstrate experience in a license classification or specialty service, acceptable evidence can be demonstrated by certifying on a form provided by the Department of Commerce the full-time employment of an individual who has successfully completed the appropriate examination for the license classification or specialty service sought. The experience necessary for a Class A firm may be demonstrated by meeting the requirements of § 2.1 E. The experience necessary for a Class B firm may be demonstrated by meeting the requirements of § 2.2 E. The fee for each change or addition is \$25. All fees required

by the board are nonrefundable. If a licensee is seeking to delete a license classification or specialty service, then it shall provide a signed statement listing the license classifications or specialty services to be deleted. There is no fee for the deletion of a license classification or specialty service. (If the licensee only has one license classification or specialty service, the deletion of that classification or service will result in the termination of the license.)

§ 4.4. Change of address.

Licensees/registrants shall report any change of address to the board in writing within 30 days of the change.

§ 4.5. Transfer of license/registration prohibited.

No license/registration issued by the board shall be assigned or otherwise transferred. Licenses/registrations are issued to the legal business entities whether they be proprietorships, general partnerships, limited partnerships, associations, or corporations; joint ventures or other legal entities. Whenever there is any change in the ownership of a sole proprietorship, general partnership, or association, a new license is required. Also, whenever the managing partners of a limited partnership change or when a corporation is dissolved and a new corporation formed, a new license is required.

PART V. STANDARDS OF CONDUCT.

§ 5.1. Prohibited acts Filing of charges .

[A.] All complaints against contractors [; excluding complaints by utilities involving violations of the Underground Utility Damage Prevention Act,] may be filed with the Department of Commerce at any time during business hours, pursuant to § 54.1-1114 of the Code of Virginia.

[B. A utility may file a report with the Department of Commerce, pursuant to § 54.1-1114 of the Code of Virginia, listing all contractors who have caused damage to the utility's lines more than 10 times in the preceding year, as a result of a failure to comply with the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). The report shall list each contractor separately and shall contain a precise explanation of each incident involving damage to the utility's lines. The report shall further contain all documentation supporting the complaint, which is available to the utility. The report shall contain the utility's certification that it has exhausted its available civil remedies or does not intend to seek such civil remedies. Each contractor listed in the report must be notified by the utility, in writing, of the pending charges prior to issuance of the report. The utility will further include with its notification to the contractor a written statement providing that the contractor has the right to contact the Department of Commerce and respond to the allegations contained in the

report.

C. A utility may file a complaint with the Department of Commerce, pursuant to § 54.1-1114 of the Code of Virginia, when a contractor has failed to properly notify Miss Utility prior to excavation.]

§ 5.2. Prohibited acts.

The following are cause for disciplinary action:

1. Failure in any material way to comply with provisions of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia or the regulations of the board.
2. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license.
3. Where the sole proprietor, officer of the corporation, partner in the partnership, members of the association, or designated employee have failed to report to the board, in writing, the suspension or revocation of a contractor license by another state or his conviction in a court of competent jurisdiction of a building code violation.
4. Publishing or causing to be published any advertisement relating to contracting which contains an assertion, representation, or statement of fact that is false, deceptive, or misleading.
5. Gross [Negligence Gross negligence], or continued incompetence, or misconduct in the practice of his profession.
6. A finding of improper or dishonest conduct in the practice of his profession by a court of competent jurisdiction.
- 6: 7. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of these regulations, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee/registrant or his agent. At a minimum the contract shall specify or disclose the following:
 - a. When work is to begin and the estimated completion date;
 - b. A statement of the total cost of the contract and the amounts and schedule for progress payments including a specific statement on the amount of the

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down payment;

c. A listing of ~~specified~~ materials and work to be performed, *which is specifically requested by the consumer*;

d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;

e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;

f. Disclosure of the cancellation rights of the parties;

g. *A For contracts resulting from a door to door solicitation, a signed acknowledgement by the consumer that he has been provided with and read the Department of Commerce statement of protections available to him through the Board of for Contractors;*

h. Contractor's name, address, license/registration number, expiration date, class of license/registration, and license classifications or specialty services;

i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

7. 8. Failure to make prompt delivery to the consumer before commencement of work of a fully executed copy of the contract as described in subdivision 6 7 of this section for construction or contracting work.

8. 9. Failure of the contractor to maintain for a period of three years from the date of contract a complete and legible copy of all documents relating to that contract, including, but not limited to, the contract and any addenda or change orders.

9. 10. Refusing or failing, upon request or demand, to produce to the board, or any of its agents, any document, book, record or copy thereof in the licensee's/registrant's possession concerning a transaction covered by these regulations or for which the licensee/registrant is required to maintain records, or failing to cooperate in the investigation of a complaint filed with the board against the contractor.

10. 11. Abandonment, or the intentional and unjustified failure to complete work contracted for, or the retention or misapplication of funds paid, for which work is either not performed or performed only in part. (Unjustified cessation of work under the contract for a period of 30 days or more shall be considered

evidence of abandonment.)

11. 12. Making any misrepresentation or making a false promise of a character likely to influence, persuade, or induce.

12. 13. Aiding or abetting an unlicensed/unregistered contractor to violate any provision of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia, or these regulations; or combining or conspiring with or acting as agent, partner, or associate for an unlicensed/unregistered contractor; or allowing a firm's license/registration to be used by an unlicensed/unregistered contractor; or acting as or being an ostensible licensee/registrant for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's/registrant's business.

13. 14. Where the sole proprietor, officers of the corporation, general partners in the partnership, members of the association, or designated employee have offered, given or promised anything of value or benefit to any federal, state, or local employee for the purpose of influencing that employee to circumvent, in the performance of his duties, any federal, state, or local law, regulation, or ordinance governing the construction industry.

14. 15. *Where the firm, sole proprietor, partners in the general partnership, managing partners in the limited partnership, member of the association, officers of the corporation or designated employee have been convicted or found guilty, after initial licensure, regardless of adjudication, in any jurisdiction of any felony or of a misdemeanor involving lying, cheating or stealing, there being no appeal pending therefrom or the time of appeal having elapsed. Any plea of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.*

15. 16. ~~Failing~~ *Having failed to inform the board in writing within 30 days that the firm or its sole proprietor or one of its partners in the general partnership, managing partners in the limited partnership, members of the association, officers of the corporation or that its designated employee of pleading has pleaded guilty or nolo contendere or of being was convicted and found guilty of any felony or of a misdemeanor involving lying, cheating or stealing.*

16. 17. ~~Have~~ *Having been disciplined by any county, city, town, or any state or federal governing body, which action shall be reviewed by the board before it takes any disciplinary action of its own.*

17. 18. Failure to comply with the Virginia Uniform

Statewide Building Code , as amended .

[19. Failure of all contractors who excavate to adopt a prominently displayed written policy which includes the following:

a. A statement that it is the firm's policy to prevent damage to underground utility lines while engaging in the activities of a "Contractor," as defined in § 54.1-1100 of the Code of Virginia;

b. A statement that it is the firm's policy to advise the designated representatives of all affected utility companies, or Miss Utility, of the location of any proposed excavations at least 48 hours, excluding Saturdays, Sundays and holidays, prior to excavation;

c. A statement that it is the firm's policy to notify the designated representatives of all affected utility companies, or Miss Utility, of a proposed excavation and provide such information as the utility company requires under the Underground Utility Prevention Act.

d. A statement that it is the firm's policy to take all reasonable steps to protect buried utility lines and that such protection shall include steps to ensure that the lines are protected while exposed;

e. A statement that it is the firm's policy to report any damages to utility lines to the affected utility companies and the responsible public safety officials;

f. A statement that it is the firm's policy to inform all its employees who supervise excavations of this section of the regulations.]

[~~20.~~ 19.] Failure of a contractor to notify Miss Utility prior to excavation.

[~~21.~~ 20.] Practicing in a license classification or specialty service for which the contractor is not licensed.

NOTICE: The forms used in administering the Regulations of the Board for Contractors are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Commerce, 3600 West Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Contractors License Application Form (RBC-4, 07-01-92)
Contractors Class A Renewal Application Form (RBC-12, 07-01-92)
Contractors Class A Reinstatement Application Form (RBC-10, 07-01-92)

Class B Registration to License Application Form (RBC-11, 07-01-92)

Contractors Designated Employee Declaration Application Form, (RBC-5, 07-01-92)

Contractors Change of Corporate Officers Application (RBC-5.1, 07-01-92)

Contractors License Classification or Specialty Service Addition Application Form (RBC-14, 07-01-92)

Contractors Change of Qualified Individual Application Form (RBC-14.1, 07-01-92)

Experience Reference Form (SBC:O, 07-01-92)

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

Title of Regulation: VR 240-04-3. Rules Relating to the Court-Appointed Special Advocate Program (CASA).

Statutory Authority: § 9-173.6, 9-173.7 and 9-173.8 of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

These rules outline the policies and procedures that local Court-Appointed Special Advocate Programs will be required to follow. These include (i) guidelines on the selection and training of volunteer advocates, (ii) policies governing program and volunteer administration, and (iii) record keeping responsibilities.

VR 240-04-3. Rules Relating to the Court-Appointed Special Advocate Program (CASA).

PART I. GENERAL DEFINITIONS.

§ 1.1. Definitions.

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

["Board" means the Criminal Justice Services Board.]

"CASA" means court-appointed special advocate.

"CASA program" means any locally operated program which utilizes court-appointed volunteers to assist in judicial proceedings involving allegations that a child is abused, neglected, in need of services or in need of supervision [and for whom the judge determines such services are appropriate] .

["Case" means a child or sibling group referred to the CASA program.]

"DCJS" means the Department of Criminal Justice Services.

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"Program director" means the director or coordinator of a local CASA program.

"Volunteer" means the court-appointed special advocate.

PART II. PROGRAM ADMINISTRATION.

§ 2.1. Advisory boards.

A. Although advisory boards are not mandated, CASA advisory boards are recommended.

B. The composition of local CASA advisory boards should include persons having knowledge of or an interest in court matters, child welfare and juvenile justice issues from both public and private sectors.

§ 2.2. Record keeping and monitoring.

A. CASA programs are required to maintain records of the activities of the CASA program.

B. CASA programs will provide quarterly reports on the operation of the CASA program to the Department of Criminal Justice Services in a format provided by the department. The CASA quarterly reports (Appendix A) will cover the following periods: July-September; October-December; January-March; April-June. These reports are due by the 20th day of the month following the end of each quarter.

C. The quarterly reports will include the following:

1. The number of volunteers who completed training during the quarter, the number currently assigned to cases, and the number of inactive or unassigned volunteers;
2. The number of volunteer hours and a dollar equivalency for volunteer services for the quarter as prescribed by DCJS;
3. The number of cases served during the quarter including cases opened, closed and continued from previous quarters to ensure unduplicated numbers;
4. Average number of cases per volunteer;
5. Breakdown of the types of cases handled during the quarter;
6. Breakdown of the age, sex, and race of children served at the time of case assignment;
7. For cases closed during the quarter, the average length of time each case was assigned to the program;
8. For cases closed during the quarter, the average length of time each child was in out-of-home

placement while assigned to the program; and

9. The number of new cases referred during the quarter awaiting assignment of a CASA volunteer or denied service due to lack of a CASA volunteer.

[~~D. The April-June quarterly report may also serve as an annual report. In addition to the quarterly statistical, the annual report will include, but not be limited to, the following:~~]

[D. An annual report (Appendices B, C and D) will be due September 15 of each year. The annual report will include, but not limited to, the following:]

1. An annual statistical summary;
2. A program budget which contains expenditure and income projections and the sources and amounts of income from each source;
3. A narrative detailing the program's accomplishments, major changes in program policy or operation during the past year;
4. A letter from the CASA program's fiscal agent or accountant identifying who is responsible for maintaining the fiscal records, stating where the fiscal records are routinely kept and a statement, prepared in accordance with generally accepted accounting practices, showing the total cash receipts and disbursements for the CASA program for the past year.

§ 2.3. Program and personnel policies.

A. Programs will ensure that an attorney is available for CASA program directors and boards to provide legal consultation in matters pertaining to administration of the programs.

B. Programs will not employ as paid staff any individual who concurrently supervises children-in-need of services or juvenile offender cases, either for the courts or any child serving agencies.

C. Programs shall write policies on the following and make those written policies available to the respective court:

1. The maximum number of cases to which a volunteer may be assigned at any one time. If that number is larger than three active cases, a rationale must be [~~provided to~~ submitted to and approved by] DCJS.
2. The maximum number of volunteers to be supervised by each staff person. Consideration should be given to the exact number of hours each staff person spends in supervision (as opposed to administrative or other duties). [~~In no case shall~~

the staff-to-volunteer ratio exceed either one staff to 30 volunteers or one staff to 30 assigned CASA cases. The staff-to-volunteer ratio should not exceed 1 staff to 30 volunteers. A request must be submitted to and approved by DCJS should that number exceed 30.]

3. A policy for the review, investigation and handling of any complaints that may be received concerning CASA volunteers, including procedures for the removal of CASA program to accept and prioritize cases for assignment to CASA volunteers.

4. Policies shall be developed identifying the specific factors to be used by the CASA program to accept and prioritize cases for assignment to CASA volunteers.

5. A policy emphasizing the confidentiality of the records and information to which CASA volunteers will have access, and training volunteers on the importance of confidentiality.

6. A policy identifying the objectives, standards, and conduct for CASA volunteers and the procedures that the CASA program has implemented to evaluate the performance of its volunteers in order to ensure that volunteers are meeting CASA's objectives and standards of conduct.

7. A policy and procedure for CASA volunteers to report incidents of suspected child abuse and neglect.

8. A policy and procedure concerning CASA investigations, CASA's role and responsibility in assisting the guardian ad litem, and monitoring court order compliance.

D. CASA programs shall provide staff capable of managing effective and efficient program operations. The following job descriptions provide for essential CASA program management:

1. The program director is responsible for accomplishing organizational goals and all managerial functions. This staff position requires a degree or equivalent experience in child welfare, public administration, counseling, human services, and experience with community organization and volunteer program management. Generally the duties and responsibilities of the program director will include:

a. Conducting or overseeing the recruitment, screening, training, supervision and evaluation of the program volunteers and staff;

b. Developing and maintaining procedures for case record keeping; supervising staff and volunteers in completing record-keeping tasks;

c. Serving as a liaison to the court [and local

agency, to the advisory board, to local agencies serving children] and DCJS personnel;

d. Planning program growth and development, including special projects, budgets, annual workplans, and analysis of trends in program services;

e. Representing the program to networks of service providers, and community coalitions dealing with child welfare issues;

f. Providing liaison and support to an advisory board; and

g. Supervising program operations.

2. Program volunteer coordinator. Depending on program size, it may be necessary to designate a staff person having knowledge of or interest in court matters, child welfare and juvenile justice issues who will focus exclusively on volunteer recruitment, screening, training and case assignment. Generally, the duties and responsibilities of the program volunteer coordinator will include:

a. Developing and distributing volunteer recruitment materials, and conducting presentations on the CASA program for the purpose of recruiting volunteers and increasing community awareness;

b. Screening volunteer applications and conducting interviews to determine suitability of the applicant for the CASA program;

c. Arranging training for CASA volunteers;

d. Recommending trained volunteers for acceptance into the CASA program;

e. Planning volunteer recognition events;

f. Evaluating effectiveness of volunteer recruitment, training, assignment, and recognition efforts; and

g. Conducting annual written evaluations of each CASA volunteer.

PART III. VOLUNTEER ADMINISTRATION.

§ 3.1. Case assignment.

A. The CASA program director shall be responsible for all decisions pertaining to the assignment or removal of specific volunteers to specific cases.

B. A CASA volunteer will not be assigned to a case involving any professional connection or close personal relationship with the child client or family.

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§ 3.2. CASA volunteer duties and responsibilities.

A. Volunteers shall follow specific policies regarding the nature of assistance:

1. Provided to the guardian ad litem;
2. Relating to his investigative role; and
3. Relating to monitoring compliance with court orders.

B. The CASA's investigation involves fact-finding via [interviews,] professional reports, observation of family and social interactions, and observation of the child's environment.

[C. The CASA's investigation involves the observation of the child's current and ongoing circumstances; CASAs are specifically prohibited from actively seeking from the child information on the precipitating incident or allegation.]

[C. The CASA's investigation involves the observation of the child's circumstances. CASAs may conduct interviews of children; however, CASAs are specifically prohibited from questioning or inquiring of the child information regarding a precipitating incident or allegation involving child abuse and neglect.]

D. The CASA volunteer should encourage interdisciplinary coordination and cooperation, whenever possible, in an effort to develop a plan of action in conjunction with other local agencies and professionals.

§ 3.3. Confidentiality.

A. A CASA volunteer shall follow specific policies regarding the following:

1. Reporting suspected child abuse and neglect, and the procedure for making such reports;
2. Confidentiality of records and information which are collected by the volunteer as part of his duties; and
3. Contacting and interviewing persons involved in the case.

B. To the extent permitted by confidentiality regulations (both state and federal), CASA volunteers should share information gathered with other involved professionals whenever possible and practicable.

§ 3.4. Code of ethics.

A. CASA volunteers should conduct themselves in a professional manner, adhering to a code of ethics which is consistent with ethical principles established by local, state or national guidelines.

B. A CASA volunteer should not become inappropriately involved in the case of providing direct service delivery to any parties that could (i) lead to a conflict of interest or liability problems, or (ii) cause a child or family to become dependent on the CASA volunteer for services which should be provided by other agencies or organizations.

C. CASA volunteers should develop a general understanding of the code of ethics of other professionals with whom the CASA will be working.

PART IV.

QUALIFICATIONS OF VOLUNTEERS.

§ 4.1. Qualifications.

A. CASA volunteers must be 21 years of age.

B. CASA volunteers must have the ability to communicate effectively, both orally and in writing, sufficient to prepare court reports and to provide testimony.

C. CASA volunteers must possess mature judgment, a high degree of responsibility and sufficient time to assist in advocating for the best interests of the child.

D. CASA volunteers must be able to relate to persons of different cultures, ethnic backgrounds and different socioeconomic status.

[E. Knowledge of or experience in human services, with an emphasis in child welfare, is preferred.]

§ 4.2. Screening.

A. CASA volunteers must successfully complete screening procedures which, at a minimum, shall consist of a written application and personal interview.

B. Pursuant to § 9-173.8 of the Code of Virginia, [CASA programs shall conduct a formal security check of the volunteer applicant by screening criminal records through local and state law-enforcement agencies and the Central Child Abuse Registry. If the volunteer applicant has lived in another state within the past 12 months, the CASA program should also conduct criminal records checks in that area. CASA volunteers shall provide, at their own cost, a copy of their criminal history record or certification that no conviction data is maintained on them, in accordance with § 19.2-389, and a copy of information from the central registry, maintained pursuant to § 63.1-248, on any investigation of child abuse or neglect undertaken on him or certification that no such record is maintained on him. If the volunteer applicant has lived in another state within the past 12 months, the CASA volunteer should also provide a copy of their criminal history record from that area.] An applicant should be rejected if he refuses to sign a release of information for appropriate law-enforcement checks.

C. CASA volunteers must have three references who will speak to their character, judgment and [~~experience in working with children~~ suitability for the position of CASA volunteer] .

§ 4.3. Training.

CASA volunteers must successfully complete required training as set forth in § 5.1 of this regulation.

PART V. TRAINING GUIDELINES FOR VOLUNTEERS.

§ 5.1. Training.

A. To ensure that volunteers are fully prepared to perform their role as a CASA and to assume the accompanying responsibilities, each volunteer must participate in a minimum of 25 hours of training prior to being accepted as a CASA and assigned cases. Credit may not be given (towards this 25 hours of training) for any previous training obtained by a volunteer prior to application to a CASA program.

B. The initial training curriculum for a CASA should, at a minimum, include instructions on:

1. The delineation of the roles and responsibilities of a CASA focusing on the rationale for family preservation/permanency planning, discussion of the basic principles of advocacy, distinction between the appropriate and inappropriate activities for a CASA, level of commitment required of a CASA involved in a case and the performance expectations, review of the case assignment process and procedures, differentiation between the role of the CASA and other system personnel, and a comprehensive list of resources available and when and how to utilize these resources;
2. The importance of confidentiality in the work of a CASA, proper record-keeping techniques, and the scope of state and federal statutes on the confidentiality of records;
3. The dynamics of cultural diversity and the development of cultural sensitivity by the CASA;
4. The nature of child abuse and neglect, the impact of drugs/alcohol on the incidence of abuse, identification of the family conditions and patterns which lead to and perpetuate abuse and neglect, and discussions of how social services respond to and assess reports of abuse and neglect;
5. The general principles and concepts of child and family development;
6. Permanency planning in the context of state law with consideration of the state's position on family preservation, family reunification and alternative

permanent plans for a child who cannot be returned to the home. Through the critical use of these concepts, discussion of how a case plan is devised;

7. Basic communication and interview skills, with guidelines for dealing with sensitive issues and the interaction between the CASA and other parties to a case, and practice in conducting interviews and writing reports;

8. The juvenile court process which should include an outline of the various types of court events, what transpires at each event, the CASA's role at the event, who to contact when there is a question about the court process, a glossary of legal terminology, how to prepare for a hearing, and how to prepare a report for the court; and

9. The development of advocacy skills, such as negotiation and conflict management, and how they may be used by the CASA to improve the conditions for a child.

C. The initial training program should provide an opportunity for the volunteer to observe actual court proceedings similar to those in which he would be involved as a CASA volunteer. This observation is above and beyond the hours included in the initial training.

D. CASA volunteers in training should be provided an opportunity to visit community agencies and institutions relevant to their work as a volunteer.

E. The CASA program should provide volunteers in training with the following written materials:

1. Copies of pertinent laws, regulations, and policies;
2. A statement of commitment form clearly stating the minimum expectations of the volunteer once trained; and
3. A training manual which is easy to update and revise.

F. Trainers and faculty for the initial training program and any ongoing training or continuing education should be persons with substantial knowledge, training and experience in the subject matter which they present and should also be competent in the provision of technical training to lay persons.

G. CASA program staff and others responsible for the initial training program should be attentive to the participation and progress of each trainee and be able to objectively evaluate his abilities according to criteria developed by the CASA program for that purpose. CASA directors should use the Comprehensive Training Curriculum for CASA from the National CASA Association and training curricula developed within the state as a reference in designing and developing their training

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program.

H. The CASA program should make available a minimum of 12 hours of continuing education annually for volunteers who are accepted into the program. These ongoing training programs should be designed and presented to maintain and improve the volunteer's level of knowledge and skill. Special attention shall be given to informing volunteers of changes in the law, local court procedures, the practices of other agencies involved, CASA program policies and developments in the fields of child development, child abuse and child advocacy. Ongoing training may be provided directly by the CASA program, in conjunction with another agency or agencies, or through an outside agency. All training provided by outside agencies must have been reviewed and approved by the CASA program director for its suitability for the continuing education of the CASA volunteers.

I. On an annual basis each CASA volunteer should participate in such continual education activities as determined by the program director.

APPENDIX B



REGISTRAR OF REGULATIONS

PROGRAM 29 MID-07

Program Name: _____
 Localities Served: _____
 Reporting Person: _____
 Date: _____
 Year: _____

Annual Case Summary

Volunteer Activity This Year

Volunteers completing training: _____
 # Volunteers active on cases: _____
 # Volunteers inactive or unassigned: _____
 Total volunteer hours: _____ X _____ per hour
 Total volunteer \$ equivalency: _____
 * Multiply the total number of volunteer hours this year by the hourly rate to arrive at the total volunteer \$ equivalency.

Cases This Year

Holdover cases: _____ # Abuse/Neglect cases: _____
 + # New cases: _____ # Custody cases: _____
 = # Total cases: _____ # CHINS cases: _____
 * Add the total number of active cases this year to the number of holdover cases to arrive at the total number of active cases this year. * Specify: _____
 # Total cases: _____ = # Cases per Volunteer: _____
 # Volunteers: _____
 * Divide the total number of active cases this year by the number of active volunteers that year to arrive at the average number of cases per volunteer.
 # New cases not yet assigned: _____
 # New cases denied (no available volunteer): _____

Children Served This Year

AGE
 # 0-24 mos.: _____
 # 2-5 yrs.: _____
 # 6-10 yrs.: _____
 # 11-14 yrs.: _____
 # 15+ yrs.: _____

SEX
 # Male: _____
 # Female: _____

RACE
 # Black: _____
 # White: _____
 # Hispanic: _____
 # Asian: _____
 # Native American: _____
 # Other: _____

Closed Cases This Year

Total days assigned: _____ = Average assignment length: _____
 * For cases closed this year, divide sum of the total duration of all closed cases by the number of closed cases to arrive at the average length of assignments.
 # Cases closed: _____
 # Total days out-of-home: _____ = Average length of placement: _____
 * For cases closed this year, divide sum of the total duration of all closed cases by the number of closed cases to arrive at the average length of out-of-home placement.

Completed forms should be returned to:
 VA Department of Criminal Justice Services
 805 E. Broad Street
 Richmond, VA 23219
 attn: CASA Program



APPENDIX A



REGISTRAR OF REGULATIONS

PROGRAM 29 MID-07

Program Name: _____
 Localities Served: _____
 Reporting Person: _____
 Date: _____
 Quarter: _____

Quarterly Case Summary

Volunteer Activity This Quarter

Volunteers completing training: _____
 # Volunteers active on cases: _____
 # Volunteers inactive or unassigned: _____
 Total volunteer hours: _____ X _____ per hour
 Total volunteer \$ equivalency: _____
 * Multiply the total number of volunteer hours this quarter by the hourly rate to arrive at the total volunteer \$ equivalency.

Cases This Quarter

Holdover cases: _____ # Abuse/Neglect cases: _____
 + # New cases: _____ # Custody cases: _____
 = # Total cases: _____ # CHINS cases: _____
 * Add the total number of active cases this quarter to the number of holdover cases to arrive at the total number of active cases this quarter. * Specify: _____
 # Total cases: _____ = # Cases per Volunteer: _____
 # Volunteers: _____
 * Divide the total number of active cases this quarter by the number of active volunteers that quarter to arrive at the average number of cases per volunteer.
 # New cases not yet assigned: _____
 # New cases denied (no available volunteer): _____

Children Served This Quarter

AGE
 # 0-24 mos.: _____
 # 2-5 yrs.: _____
 # 6-10 yrs.: _____
 # 11-14 yrs.: _____
 # 15+ yrs.: _____

SEX
 # Male: _____
 # Female: _____

RACE
 # Black: _____
 # White: _____
 # Hispanic: _____
 # Asian: _____
 # Native American: _____
 # Other: _____

Closed Cases This Quarter

Total days assigned: _____ = Average assignment length: _____
 * For cases closed this quarter, divide sum of the total duration of all closed cases by the number of closed cases to arrive at the average length of assignment.
 # Cases closed: _____
 # Total days out-of-home: _____ = Average length of placement: _____
 * For cases closed this quarter, divide sum of the total duration of all closed cases by the number of closed cases to arrive at the average length of out-of-home placement.

Completed forms should be returned to:
 VA Department of Criminal Justice Services
 805 E. Broad Street
 Richmond, VA 23219
 attn: CASA Program



APPENDIX D

REGISTRAR OF REGULATIONS
 APR 29 10:07 AM '07

Program Name: _____
 Localities Served: _____
 Reporting Person: _____
 Date: _____
 Year: _____



Annual Financial Status

Please attach a letter from program's fiscal agent or accountant identifying who is responsible for the program's financial records, stating where the financial records are retained, and how they are prepared in accordance with generally accepted accounting practices, showing the total cash receipts and disbursements for the CASA Program for the past year.

APPENDIX C

REGISTRAR OF REGULATIONS
 APR 29 10:07 AM '07

Program Name: _____
 Localities Served: _____
 Reporting Person: _____
 Date: _____
 Year: _____



Annual Case Summary Narrative Form

Use this form to describe the program's accomplishments and major changes in program policy or operation during the past year.



Attach to Annual Case Summary Form and Return to:
 VA Department of Criminal Justice Services
 801 E. Broad Street
 Richmond, VA 23219
 attn: CASA Program



Attach to Annual Case Summary Form and Return to:
 VA Department of Criminal Justice Services
 801 E. Broad Street
 Richmond, VA 23219
 attn: CASA Program

COUNCIL ON THE ENVIRONMENT

Title of Regulation: VR 305-02-01. Guidelines for the Preparation of Environmental Impact Assessments for Oil or Gas Well Drilling Operations in Tidewater Virginia.

Statutory Authority: § 62.1-195.1 of the Code of Virginia.

Effective Date: June 19, 1992.

Summary:

This regulation sets forth criteria and procedures for assessing the environmental impacts of oil and gas well drilling and related production and transportation operations proposed to occur in Tidewater Virginia. These criteria and procedures include (i) describing the proposed oil or gas drilling, production and transportation operation, (ii) describing environmental and natural resource features potentially affected by oil or gas drilling, production or transportation activities, (iii) analyzing the probabilities and potential consequences of an oil or gas discharge to the environment, (iv) describing the potential fiscal and economic impacts associated with drilling, production or transportation activities, (v) discussing potential secondary impacts resulting from induced economic development, and (vi) public and agency review and comment procedures.

VR 305-02-01. Guidelines for the Preparation of Environmental Impact Assessments for Oil or Gas Well Drilling Operations in Tidewater Virginia.

PART I. APPLICABILITY AND GENERAL REQUIREMENTS.

§ 1.1. Definitions.

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

"Access road" means a paved or unpaved route or path from a public highway or public road to a well site or associated facility.

"Administrator" means the Administrator of the Virginia Council on the Environment.

"Associated facilities" means any facility used for gas or oil operations in the Commonwealth, other than a well or well site.

"Chesapeake Bay Preservation Area" means [~~any land designated~~ an area delineated] by a local government [pursuant to Part III of in accordance with] "VR 173-02-01: Chesapeake Bay Preservation Area Designation and Management Regulations" and § 10.1-2109 of the Chesapeake Bay Preservation Act. A Chesapeake Bay

Preservation Area consists of Resource Protection Areas and Resource Management Areas.

"Council" means the Virginia Council on the Environment as described in Chapter 12 (§ 10.1-1200 et seq.) of Title 10.1 of the Code of Virginia.

"Council member agencies" means those agencies designated as members of the council in § 10.1-1202 of the Code of Virginia.

"Cuttings" means fragments of rock produced in a well bore by a drill bit and brought to the surface by drilling fluids or air pressure.

"Department" means the Department of Mines, Minerals and Energy [as described in § 45.1-1.1 et seq. of the Code of Virginia] .

"Director" means the Director of the Department of Mines, Minerals and Energy or his authorized agent.

"Drilling fluid" means any fluid or drilling mud circulated in the well bore during drilling operations.

"Economic characteristics" means activities associated with the production, distribution and consumption of goods and services.

"Enhanced recovery" means (i) any activity involving injection of any air, gas, water or other fluid into the productive strata, (ii) application of pressure, heat or other means for the reduction of viscosity of the hydrocarbons, or (iii) the supplying of additional motive force other than normal pumping to increase the production of gas or oil from any well, wells or pool.

"Environment" means the natural, scenic and historic attributes of Virginia.

"Environmental impact assessment" or "assessment" means that documentation which is required by § 62.1-195.1 of the Code of Virginia to be a part of any application for a permit to drill an oil or gas well in Tidewater Virginia.

"Exploratory well" means any well drilled (i) to find and produce gas or oil in an unproven area, (ii) to find a new reservoir in a field previously found to be productive of gas or oil in another reservoir, or (iii) to extend the limits of a known gas or oil reservoir.

"Facilities and equipment" means all [~~surface~~] infrastructure supporting the development, drilling, construction, completion or operation of any [~~oil or~~] gas [or oil] operation including but not limited to well drilling equipment, well heads, separators, compressors, pumps, manifolds, vehicles, fluid circulation systems, waste handling facilities, [storage tanks,] valves, pipelines, etc., used to explore for, produce or transport oil or gas.

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"Fiscal characteristics" means the structure of taxation, public revenue, public expenditure, and public debt.

"Gas" or "natural gas" means all natural gas whether hydrocarbon or nonhydrocarbon or any combination or mixture thereof, including hydrocarbons, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen [,] casing head gas and all other fluids not defined as oil.

[*"Gas or oil operation" or "operation"* means any activity relating to drilling, redrilling, deepening, stimulating, production, enhanced recovery, converting from one type of well to another, combining or physically changing to allow the migration of fluid from one formation to another, plugging or replugging any well, land disturbing activity relating to the development, construction, operation and abandonment of a gathering pipeline, the development, operation, maintenance and restoration of any site involved with gas or oil operations, or any work undertaken at a facility used for gas or oil operations. The term embraces all of the land or property that is used for or which contributes directly or indirectly to a gas or oil operation, including all roads.]

"Gas well" means any well which produces or [~~is likely to be~~ appears] capable of producing a ratio of 6,000 cubic feet (6 Mcf) of gas or more to each barrel of oil, on the basis of a gas-oil ratio test.

[*"Gathering pipeline"* means (i) a pipeline which is used or intended for use in the transportation of gas or oil from the well to a transmission pipeline or other pipeline regulated by the Federal Energy Regulatory Commission or the State Corporation Commission or (ii) a pipeline which is used or intended for use in the transportation of gas or oil from the well to an off-site storage, marketing, or other facility where the gas or oil is sold.]

"Highly erodible soils" means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula $RKLS/T$, as defined by the Food Security Act (F.S.A.) Manual of August, 1988 in the "Field Office Technical Guide" of the U.S. Department of Agriculture, Soil Conservation Service, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

"Highly permeable soils" means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soils Handbook" of July 1983 in the "Field Service Technical Guide" of the U.S. Department of Agriculture, Soil Conservation Service.

"Historic properties" means any prehistoric or historic district, site, building, structure or object included in or eligible for inclusion in the National Register of Historic Places or the Virginia Historical Landmarks Register including any artifacts, records and remains that are related to and located within such properties.

"Historic properties survey" means a survey undertaken to establish the presence or absence of historic properties, and any related and necessary management plans developed to conserve such resources.

"Land-disturbing activity" means any change in or reconfiguration of the land surface or vegetation on the land surface through vegetation clearing or earth moving activities including but not limited to clearing, grading, excavating, drilling, transporting or filling.

"Mcf" means, when used with reference to natural gas, one thousand cubic feet of gas at [~~an atmospheric~~ a] pressure [base] pressure of 14.73 pounds per square inch [gauge] and at a temperature [base] of 60 degrees F.

"Natural area preserve" means a natural area that has been dedicated pursuant to § 10.1-213 of the Code of Virginia.

"Natural heritage resources" means the habitat of [rare,] threatened or endangered plant [~~or~~ and] animal species, rare or [state] significant natural communities or [~~geological~~ geologic] sites, and similar features of scientific interest benefiting the welfare of the citizens of the Commonwealth.

"Natural heritage survey" means a survey undertaken to establish the presence or absence of natural heritage resources, and any related and necessary management plans developed to conserve such resources.

"Nontidal wetlands" means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions [~~and which meet the technical criteria and field standards for wetlands set forth in the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands."~~], as defined by the U.S. Environmental Protection Agency pursuant to § 404 of the Federal Water Pollution Control Act, in 33 C.F.R. 328.3b, dated November 13, 1986.]

"Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir.

[*"Oil ~~or~~ gas operation" or "operation"* means any activity relating to drilling, redrilling, deepening, stimulating, production, enhanced recovery, converting

from one type of well to another, combining or physically changing to allow the migration of fluid from one formation to another, plugging or replugging any well, ground disturbing activity relating to the development, construction, operation and abandonment of a gathering pipeline, the development, operation, maintenance and restoration of any site involved with oil or gas operations, or any work undertaken at a facility used for gas or oil operations. The term embraces all of the land or property that is used for or which contributes directly or indirectly to operations, including all roads. Section 62.1-195.1 requires an assessment to address production and transportation activities associated with oil or gas operations. Therefore, the definition also includes, for the purposes of this regulation, any activities relating to the development, construction, operation, maintenance, abandonment and restoration of pipeline systems, production facilities, and processing facilities; and transportation activities conducted for the purpose of moving oil, gas, wastes, supplies or equipment from one location to another.]

"Oil well" means any well which produces or [is likely to be appears] capable of producing a ratio of less than 6,000 cubic feet (6 Mcf) of gas to each barrel of oil, on the basis of a gas-oil ratio test.

["Open space" means any land, water, or submerged land which is provided for, preserved for, or used for (i) park or recreational purposes, (ii) conservation of land or other natural resources, (iii) cultural, historic or scenic purposes, (iv) assisting in the shaping of the character, direction, and timing of community development, or (v) nontidal or tidal wetlands.]

"Operations area" means the location of the well, well site, associated facilities, production facilities, access roads, pipeline systems, and other related facilities and equipment necessary to the conduct of [oil or a] gas [operations or oil operation] .

"Person" means any [corporation, association, or partnership, one or more individuals, or any unit of government or agency thereof individual or group, any partnership, corporation, association, organization or other legal entity, including any public body] .

"Pipeline systems" means all parts of those physical facilities through which gas or oil moves in transportation, including but not limited to pipes, valves, and other appurtenances attached to pipes such as compressor units, metering stations, regulator stations, delivery stations, holders, or other related facilities.

"Pipeline corridor" means those areas which pipeline systems pass through or will be constructed to pass through, including associated easements, leases, or rights-of-way.

"Production well" means a well, related production facilities and equipment and activities related to the

drilling of a well for the purpose of developing and producing, or converting an exploratory well to develop or produce, oil [and or] gas from geological strata for the purpose of sale, exchange, transfer or use by the owner or for the purpose of exchange, transfer, sale or use by any other person.

"Rare, threatened or endangered species" means any insect, fish, wildlife or plant species which is listed as, is a candidate for listing as, or is recommended for listing as a rare, threatened or endangered species by the U.S. Fish and Wildlife Service, the Department of Agriculture and Consumer Services, the Department of Game and Inland Fisheries, or the Department of Conservation and Recreation.

["Recreational resources" means the broad range of outdoor and indoor public and private areas and facilities, many of which are identified in the "Virginia Outdoors Plan," used in meeting Virginia's recreational needs including but not limited to public parks, public forests, natural areas, wildlife management areas, lakes and reservoirs, historic resources, trails, rivers, beaches, water access areas, Virginia byways, tidal and nontidal wetlands, and greenways.]

"Scenic resources" means features which characterize an area by giving it a special visual identity or which present unique vistas or landscapes, including but not limited to such features as designated or candidate state or federal scenic rivers, federal or state scenic highways or parkways, Virginia byways, and scenic values as recognized by local, state or federal governments.

"Tidal wetlands" means "vegetated wetlands" and "nonvegetated wetlands" as defined in § 62.1-13.2 of the Code of Virginia.

"Tidewater Virginia" means that area of Virginia as defined in § 10.1-2101 of the Code of Virginia and the localities of Manassas and Manassas Park.

"Virginia Outdoors Plan" means the State Comprehensive Outdoor [Recreation] Plan [developed and] administered by the Department of Conservation and Recreation.

["Waste from gas, oil, or geophysical operations" means any substance other than gas or oil which is (i) produced or generated during or results from the development, drilling and completion of wells and associated facilities or the development and construction of gathering pipelines or (ii) produced or generated during or results from well, pipeline and associated facilities' operations including, but not limited to, brines and produced fluids other than gas or oil. In addition, this term shall include all rubbish and debris, including all material generated during or resulting from well plugging, site restoration, or the removal and abandonment of gathering pipelines and associated facilities.]

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["Waste fluids" means water and other liquids resulting from or produced by the development, drilling, construction, completion or operation of oil or gas operations and which contain or which may contain minerals, salts, oil or other hydrocarbons, sediment, and other chemical or physical constituents, and which include but are not limited to produced fluids, spent drilling fluids, fracturing fluids, and rigwash waters, etc.

"Well bore" means any shaft or hole drilled, bored or dug to explore for or to produce oil or gas.]

["Well" means any shaft or hole sunk, drilled, bored or dug into the earth or into underground strata for the extraction, injection or replacement of any gaseous or liquid substance, or any shaft or hole sunk or used in conjunction with such extraction, injection or placement. The term shall not include any shaft or hole, sunk, drilled, bored, or dug into the earth for the sole purpose of pumping or extracting therefrom potable, fresh or usable water for household, domestic, industrial, agricultural, or public use and shall not include water boreholes, methane drainage boreholes where the methane is vented or flared rather than produced and saved, subsurface boreholes drilled from the mine face or an underground coal mine, any other boreholes necessary or convenient for the extraction of coal or drilled pursuant to a uranium exploratory program carried out pursuant to the laws of this Commonwealth, or any coal or nonfuel mineral core hole or borehole for the purpose of exploration.]

§ 1.2. Authority.

This regulation implements § 62.1-195.1 of the Code of Virginia which requires the Council on the Environment to develop criteria and procedures to assure the orderly preparation and evaluation of environmental impact assessments for [oil or] gas [or oil] well drilling operations in Tidewater Virginia.

§ 1.3. Purpose.

The purpose of this regulation is to set out criteria and procedures to be followed by [oil or] gas [or oil] well drilling permit applicants when preparing environmental impact assessments and by the administrator, the council and its member agencies, other state agencies, local government officials, and the public when reviewing environmental impact assessments. It is intended to foster the development of useful information which is presented in a manner that assists the administrator, [the] council and its member agencies, appropriate state agencies, Planning District Commissions, potentially affected local governments, and making decisions about the potential environmental, fiscal or economic impacts associated with drilling an oil or gas well in Tidewater Virginia and related production and transportation activities.

§ 1.4. Applicability.

[A.] The environmental impact assessment requirements and criteria apply to all oil or gas well drilling operations, whether an exploratory well or a production well, proposed to occur in Tidewater Virginia. Any person proposing to drill an exploratory well or production well in Tidewater Virginia shall submit to the department, as part of his application for a permit to drill such a well, an environmental impact assessment.

B. If the permit application is for an exploratory well, the assessment shall comply with the requirements and criteria contained in Part II of this regulation. If the application is for a production well, the assessment shall meet all information requirements and criteria contained in Part II and Part III.

§ 1.5. General information requirements.

A. The environmental impact assessment is to contain information on and a discussion of the elements outlined in the following sections of this regulation. Discussions should be no longer than necessary to fully explain the issues and potential impacts in a given topical area. Data and analyses should be commensurate with the degree of impact.

B. An environmental impact assessment shall contain a title page; an executive summary; a table of contents; a list of figures; a list of tables; a list of maps and plats; the main body of the report as outlined in this regulation; a list of preparers; a topical index; an annex containing a list of local, state, or federal permits that are applicable to the proposed operations; and other annexes as needed. The executive summary shall summarize the assessment focusing on the major conclusions; the potential environmental, fiscal and economic impacts; and avoidance, minimization or mitigative measures proposed to address environmental, fiscal and economic impacts.

C. Where information contained in the permit application or any supporting documentation satisfies any of the criteria contained in this regulation, the applicant may choose to submit the permit application or supporting documents or any part thereof rather than repeat the information in the assessment. If a permit application or related documents are submitted to fulfill specific information requirements of this regulation, the appropriate information shall be clearly referenced in the assessment.

PART II. INFORMATION REQUIREMENTS [FOR EXPLORATION WELLS] .

§ 2.1. Description of the [oil or] gas [or oil] operation.

A. The applicant shall describe the [oil or] gas [or oil] operation to be performed. The description of the [oil or gas] operation should include information on the location, size (length, height, width and area), and number of such facilities and related land requirements (including

easements or rights-of-way). The information should also include a timetable for establishing, completing and removing drilling operations and constructing, operating and removing production facilities.

B. The discussion of the [~~oil and gas~~] operation shall be accompanied by:

1. A general location map depicting the operations area and surrounding areas at a map scale which is as detailed or more detailed than a map at a scale of 1:24000; and

2. Detailed site plat(s) of the proposed operations area at a scale no greater than 1:600 depicting the location of:

a. Proposed land-disturbing activities,

b. Facilities and equipment, pipeline corridors, and natural resource features discussed in § 2.2 [that can be graphically presented and] that will be or could be affected by [the] proposed [~~operations operation~~] .

c. Any existing manmade features within the proposed operations area, including but not limited to buildings, water wells, roads, drainage ditches, ponds, etc.

C. The description of [~~gas and oil operations the operation~~] shall include a discussion of the following:

1. The type of drilling operation;

2. Power systems, energy or fuel sources necessary for drilling and associated facilities equipment operation;

3. Fluid circulation systems including a discussion of and a list of the proposed drilling fluids, fluid components, toxicity classification, and information on the projected amount and rate of drilling fluid production;

4. Well control and blowout prevention devices including a description of the proposed methods of containment of potential oil, gas or waste fluid releases;

5. Any proposed utility connections for water supply or sewage disposal purposes;

6. Projected types, quantities, and chemical characteristics of waste [~~fluids from gas, oil or geophysical operations~~] , including any planned surface water or groundwater emissions [referencing where possible information available from previous gas or oil operations conducted in Tidewater Virginia] ;

7. Projected types, quantities, and chemical characteristics of solid wastes produced by [~~oil or gas operations~~ the operation referencing where possible information from previous gas or oil operations conducted in Tidewater Virginia] ;

8. Proposed on-site and off-site solid and liquid waste management procedures including waste transfer areas and procedures, disposal areas or facilities, handling facilities and equipment, storage areas and related facilities and equipment, and proposed methods of disposal whether by land application, burying, injection or by other means;

9. [~~Proposed environmental protection features and devices which will enhance the safety of the proposed operations~~ Any planned enhanced recovery activities related to the production of gas or oil from the proposed well] ;

10. Projected air emissions by [type source] , quantity, [chemical characteristics,] and duration resulting from [the] proposed [~~operations operation~~] on an average daily basis [referencing where possible information available from previous gas or oil operations conducted in Tidewater Virginia] ;

11. Methods which will be used to acquire necessary water supplies to conduct [the] proposed [~~operations operation~~] including the amount of daily withdrawals, daily or weekly fluctuations in withdrawal rates, duration of withdrawals, and any effects on stream flow, how much water will be needed to support [~~operations the operation~~] , and how such water supplies will be used in the proposed [~~operations operation~~] ;

12. Descriptions, presented in narrative and graphic format as appropriate, of proposed erosion and sediment control practices and stormwater management practices which will be installed to manage surface water quality; [and]

13. Descriptions, presented in narrative and graphic format as appropriate, of proposed site reclamation and revegetation plans for all operations areas [: ; and]

[14. Descriptions of proposed gas or oil production and transportation facilities and equipment.]

D. A description of land-disturbing activities which will result from the proposed [~~oil or gas~~] operation should include a discussion of the size, extent and location of activities including the following activities:

1. The clearing of vegetation, including a description of the types of vegetation to be cleared;

2. Land grading and filling activities;

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3. Constructing new or expanded access roads;
4. Constructing fluid reserve pits, sumps, dikes, tanks or similar devices; [~~and~~]
5. Constructing associated facilities whether inside or outside of the operations area [: ;]
- [6. Constructing and installing pipeline systems including proposed trenching, earth-moving, or vegetation clearing activities; and
7. Constructing and installing gas or oil production facilities and equipment.]

§ 2.2. Description of the environment and natural resource features potentially affected by the [~~oil or~~] gas [or oil] operation.

A. The discussion under this part shall include a description of the existing environment and natural resource features which will be or may be affected by the [~~oil or~~] gas [or oil] operation and how they will be or may be affected. The analysis of the environment and natural resource features shall encompass, at the minimum, any area located within 1320 feet of a proposed well and within 100 feet of proposed pipeline systems or associated facilities [unless the applicant for the permit to drill can demonstrate that a smaller impact analysis area is appropriate given the nature and location of the proposed gas or oil operation and the potential impact of such an operation on the environment and natural resources] . The 1320-foot distance is half of the statewide well spacing requirement set out for gas wells in § 45.1-361.17 and will ensure that the impact analysis for wells established in Tidewater Virginia at the statewide spacing will be tangential. The 100-foot distance from pipelines and associated facilities will ensure that Chesapeake Bay Preservation Areas or other environmentally sensitive resources that may be affected by the oil or gas operation will be detected. The potential for impacts by the proposed oil or gas operation on natural resource features and the environment which are located outside of the [~~aforementioned area~~] 1320-foot impact analysis area for wells and the 100-foot impact analysis area for pipeline systems and associated facilities] shall also be considered and discussed. The discussion shall be supported with graphic information in the form of a plat or plats at a scale between 1:1000 and 1:4000 showing the location of natural resources that will be or may be affected by the proposed operation. The discussion shall include, but not be limited to:

1. Physical site conditions such as:

- a. Topographical features including relief, slope, project area elevation, and landscape features such as beaches, sand dunes, shorelines, etc.;
- b. Surface water hydrology and drainage patterns including locations of embayments, rivers or

streams and related subaqueous beds, tidal or nontidal wetlands, and the 100-year floodplain in the watershed potentially affected by the proposed [~~operations~~ operation] ;

c. Existing surface water quality characteristics and how water quality may be affected by emissions from [the] proposed [~~oil or gas operations~~ operation] ;

d. Existing air quality and how air quality may be affected by emissions from [the] proposed [~~oil or gas operations~~ operation] ;

e. Geological conditions such as groundwater hydrogeology, including the depths to the top and bottom of groundwater aquifers; general characteristics of the geologic strata to be penetrated by drilling activities; and a discussion of the possibility for land subsidence and any potential impacts associated with land subsidence which may result from [~~oil or gas operations~~ the operation] ;

f. A description of the existing water quality of groundwater aquifers which will be or may be affected by drilling activities or liquid waste disposal activities focusing particularly on the potability of water in potentially affected aquifers and the extent to which identified aquifers are currently used as domestic or community water supplies;

g. A discussion of the soil types on which [~~oil or gas operations~~ an operation] will be located including an identification of prime agricultural lands, highly permeable soils, highly erodible soils, and soil profile descriptions of each representative soil series on the well site to a depth of 72 inches;

h. The identification and location of any public water supply intakes within the watershed where [~~oil or gas operations~~ an operation] will occur and located within 10 miles downstream of the proposed well site; or any public or private water supply wells located within a one-mile radius of the proposed oil or gas well drilling operation; and

i. Chesapeake Bay Preservation Areas, both Resource Protection Areas (RPAs) and Resource Management Areas (RMAs), located within 1320 feet of the proposed [~~operation~~ operations] area.

2. Biological conditions and resources including but not limited to:

a. A description of the terrestrial and aquatic habitat types and associated flora and fauna, including any natural heritage resources which are documented by performing a natural heritage survey in conformance with methodologies established by the Department of Conservation and

Recreation, and any rare, threatened or endangered species present;

b. A description of the use patterns of terrestrial habitat by wildlife including areas such as nesting, roosting, breeding and calving areas or other unique natural habitat;

c. A description of the use patterns of freshwater, estuarine and marine habitat by terrestrial and aquatic species, including but not limited to submerged aquatic vegetation, fish spawning areas, shellfish beds, habitat of anadromous fish and other finfish, and benthic organisms; and

d. State Wildlife Management Areas, State Natural Area Preserves, National Wildlife Refuges, or elements of Virginia's National Estuarine Research Reserve System or other unique or important natural communities.

3. Culturally important areas such as historical [, open space,] and recreational resources, including those resources listed in the Virginia Outdoors Plan, including but not limited to:

a. Historic properties which are documented by performing a historic properties survey in conformance with guidelines established by the Department of Historic Resources;

b. Public beaches;

c. Scenic resources;

d. Public water access sites;

e. Local, state, or national parks, recreational areas [, open space,] or forests;

f. State-owned or state managed lands;

g. Federally-owned or federally managed lands;

h. Easements held for agricultural, forestal, open space, horticultural or other conservation purposes; and

i. Prime agricultural lands as identified by the U.S. Soil Conservation Service and important farm lands as identified by the Virginia Department of Agriculture and Consumer Services.

B. Describe the typical noise levels currently existing at the proposed operations areas. Describe any [~~oil or gas~~] operation activities that will produce noise over 65 decibels measured at the boundary of the operations area, the source and daily duration of those activities producing the noise, and the estimated external noise level at the nearest noise receptor such as a residence, school, hospital, business, public meeting place, feature identified

in the Virginia Outdoors Plan, or wildlife habitat. The applicant should describe what measures [, if any,] will be taken to reduce projected exterior noise levels below 65 decibels at the nearest receptor.

C. Describe any activities associated with the [~~oil or gas~~] operation that will produce light or glare within the operations area after sundown and before dawn. Describe the hours that artificial lighting sources will exist, including flaring of wells, gas processing facilities, or production facilities, the intensity of any light sources, and the time such light sources would be in operation. Describe the potential aesthetic, nuisance, safety, or environmental hazards that light or glare may produce outside of the operations area. Describe [~~any what~~] steps [, if any,] that will be taken to minimize light or glare.

D. Describe the actions and measures that will be taken to avoid, minimize, and mitigate impacts on natural, scenic, recreational, and historic resources identified in the assessment. The assessment shall also discuss irrevocable or irreversible losses of the natural resources identified in the assessment.

§ 2.3. Procedures for estimating the probability of a discharge.

[~~A~~] The assessment shall provide an analysis of the probabilities of accidental discharges of oil, condensate, natural gas, and waste [from gas, oil or geophysical operations] or [~~other~~] liquids being released into the environment during drilling, production, and transportation due to well blowout, equipment failure, transportation accidents and other reasons. Such an analysis shall include calculations based upon generally accepted engineering failure analysis procedures. An applicant shall calculate a spill probability analysis for three sizes of discharge events – minor, moderate, or major. The applicant shall define the categories of minor, moderate or major discharge and describe the sources of information used to formulate the analyses and the assumptions used to construct the analyses. Discharge probability analyses for minor discharges should include calculations for a discharge that would not be expected to escape the operations area.

§ 2.4. Procedures for determining the consequences of a discharge.

The environmental impact assessment shall include a description of potential environmental and natural resource effects associated with discharges including the consequences of a discharge on finfish, shellfish and other marine or freshwater organisms; birds and other wildlife; air and water quality; [~~and~~] land and water resources [; and including the specific environmental and natural resource features listed in § 2.2. The analysis should be specific to the proposed operation, the proposed location of the operation, and the natural resources in the vicinity of the proposed operation] . The spill analysis shall be

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completed for oil, condensate, waste [from gas, oil or geophysical operations] or [other] fluids, and natural gas discharges resulting from minor, moderate or major discharges as defined and described pursuant to the requirements of § 2.3.

§ 2.5. Spill release and contingency planning.

A. The environmental impact assessment shall describe procedures which will be developed and implemented to prepare for, equipment which will be installed to detect and respond to, and facilities and equipment which will be installed [or available] to contain minor, moderate and major discharges of oil, condensate, natural gas, waste [from gas, oil, or geophysical operations] or [other] fluids as defined pursuant to the requirements of § 2.3 as well as fires or other hazards to the environment. [A Spill Prevention Control and Countermeasure Plan prepared in conformance with the requirements of Title 40, Code of Federal Regulations, Part 112 (40 CFR Part 112) may be submitted to fulfill the information requirements of this section. A discharge contingency plan prepared in conformance with the requirements of the State Water Control Board's regulation entitled "VR 680-14-07: Oil Discharge Contingency Plans and Administrative Fees for Approval" will fulfill the information requirement of this section.]

[B. Such discussions should describe the following:

1. Safety devices which will be installed to ensure early detection of accidental or unexpected discharges from oil or gas operations involving fuels, oil, gas or wastes, and a timetable for inspecting and maintaining discharge detection and response equipment, pipeline systems and other equipment and facilities.

2. Identification of:

a. Response equipment, supplies and materials available from the operator, selected private contractors or local or regional emergency response sources such as public fire or rescue services;

b. Projected response times by identified response personnel;

c. Proposed discharge emergency notification system including designation of individuals and alternates who will provide the notice of a release and the identification of those agencies or individuals who will be notified in the event of a release;

d. Responsible private, local, state, or federal emergency response personnel and the needs and requirements of these groups regarding information on hazardous and flammable materials, regardless of materials weight or volume, used or stored in the project area; and

e. Information on a discharge response strategy to be followed by the operator, his employees, private response contractors, and local, state, or federal response personnel for emergency situations that may arise in connection with oil or gas operations.

3. Specific actions to be taken if a discharge is discovered including:

a. Designation of a response coordinator who will be responsible for directing spill response operations;

b. Designation of a location for a discharge response operations center and provision of a reliable communications system for directing response operations;

c. Designation of the operator's employee responsibilities in case of a release event and a discussion of the training employees will receive to ensure they are capable of handling assigned responsibilities; and

d. Provisions for the clean-up, abatement or disposal of discharged materials including oil, produced waters, wastes, contaminated materials used in response activities, or materials affected and contaminated by the discharge.]

§ 2.6. Hydrogen sulfide release contingency planning.

A. A discussion of the potential for encountering hydrogen sulfide shall be included in the assessment. The assessment shall discuss steps that will be taken [, if any,] to respond if indicators of such gas are encountered, if there exists a potential for a release of hydrogen sulfide gas, or in the event of a hydrogen sulfide release. [A hydrogen sulfide contingency plan prepared in conformance with requirements set forth by the department by regulation may be submitted if it meets the criteria set forth in this section.]

B. A hydrogen sulfide release contingency plan should address the following:

1. Methods and devices that will be used to detect hydrogen sulfide gas to prevent the gas from becoming an environmental concern. Include a description of detection equipment to be used and equipment testing and calibration procedures.

2. Operating procedures to be employed if the operations area atmospheric concentration of hydrogen sulfide gas reaches [(i) 5 ppm (7 mg/m³); (ii) 10 ppm (14 mg/m³), and (iii) 25 ppm (35 mg/m³) limits established by the Department of Labor and Industry in "VR 425-02-36 Air Contaminants (1910.1000)"] and including a discussion of:

a. Appropriate emergency notification procedures

for local residents, emergency service and medical personnel;

b. Notification procedures for responsible regulatory agencies; and

c. Appropriate visual and audible warning systems for [excursions of] atmospheric hydrogen sulfide gas [above 5 ppm (7 mg/m³)] within the operations area.

3. The potential for [continuous] low-level hydrogen sulfide emissions (one hour average) to result in concentrations in areas of public access above levels deemed harmful to human health [- in accordance with the State Air Pollution Control Board's "Emission Standards for Toxic Pollutants (Rule 4-3)" and "Standards of Performance for Toxic Pollutants (Rule 5-3)." Provide an air quality screening analysis of the effects of low-level hydrogen sulfide emissions on ambient air from designed emission points and from likely upset events.]

§ 2.7. Economic impacts.

A. Describe the potential impacts of the proposed [oil or gas] operation on the economic characteristics of the affected locality and, as necessary, surrounding localities. The information should address how these economic characteristics will be affected during (i) the drilling and construction phases of [oil or gas operations the operation], and (ii) the production phases of [oil or gas operations the operation]. In all projections constructed by the applicant, the methodology for constructing projections and the assumptions, calculations and computations used to formulate projections should also be presented and described.

B. The description should include information on the following conditions:

1. An analysis of the potential positive or negative effects of the proposed [oil or gas] operation on the current population with regard to potential changes in the demographic structure of the locality according to age, income and employment characteristics;

2. An analysis of the projected employment levels including estimates of the variation in employment levels over time for (i) the drilling and construction phases of the [oil and gas] operation, including the construction of pipeline systems, associated facilities and production facilities, and (ii) the production phases of the proposed operation. Indicate whether any new positions created by the proposed construction and operations activities may be or will be filled from the labor pool available in the affected locality or in neighboring localities;

3. The types of services that can be provided from businesses located in the affected locality or in

surrounding localities. Include a general estimate of the amount of contract awards that will be or could be made available to service providers in the affected locality and neighboring localities and the projected duration of service contracts;

4. The existing land uses, including residential, forestal, agricultural, commercial, industrial, urban, suburban, open space, recreational or other land use characteristics within the locality that will be affected, changed or which may be subject to change as a result of the proposed [oil or gas] operation. The discussion shall be supported with graphic information in the form of a plat or plats of existing land uses within 1320 feet of the well and within 100 feet of associated facilities and pipeline systems at a scale between 1:1000 and 1:4000; and

5. The [locality's] affected [locality's] industrial and commercial bases and economic conditions with emphasis on dominant economic sectors (i.e., agriculture, forestry, fishing and aquaculture, service industries, and industrial activities.) Special attention should be given to the tourism and recreation industries and how they may be affected by the [oil or gas] operation. Describe how the proposed location of the [oil or gas] operation may adversely affect or displace other natural resource-based commercial activities and enterprises in the affected locality or in neighboring localities such as agriculture, fishing, tourism, forestry, etc.

C. Describe the actions and measures that will be taken to avoid impacts, minimize impacts, and mitigate unavoidable impacts on economic characteristics identified in the assessment. [The assessment should also discuss irreversible impacts on or commitments of local economic resources based upon impacts identified in the assessment.]

§ 2.8. Fiscal impacts.

A. The assessment should present an analysis of the existing fiscal characteristics [, revenue structure,] and physical infrastructure in the county, city, or town where the proposed [oil and gas operations are operation is] to be located [and how to the extent] they may be affected by the proposed [oil or gas] operation. [The applicant should identify measures that may need to be undertaken in order to maintain or expand the services, revenue sources, expenditure levels and capital facilities of the affected local government due to the proposed operation. As appropriate, the applicant should describe any new, upgraded or expanded infrastructure and capital facilities that will be necessary to support the proposed operation, estimates how much improvements may cost and the person or persons who will be responsible for providing necessary infrastructure or capital facility improvements.] In all projections of potential effects on infrastructure and related fiscal impacts, methodologies for constructing projections, related assumptions, calculations and

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computations used to formulate projections should also be presented and described.

B. The assessment should address the following fiscal and infrastructure elements:

1. The transportation systems including roads, railroads or existing oil or gas pipelines that are available to support the [~~oil or gas~~] operation and how they will be affected by the proposed [~~oil or gas~~] operation. The discussion should include an estimate of the number of vehicle trips that will be generated on the transportation system, the size of any operational support vehicles, and the design capacity of affected roads relative to the projected size, weight and volume of vehicle traffic [. Identify any new transportation system needs, including pipeline systems and roads, necessary to meet the demands of the proposed operation and how the applicant will develop or assist in developing and upgrading necessary transportation systems] ;

2. Infrastructure and capital facility support systems available including utility services, water services, sewer services, solid waste disposal services and facilities, etc. and the projected demands the proposed [~~oil or gas~~] operation will place on such systems and their existing capacity to respond to that demand. Identify any needed upgrades or expansion of related infrastructure, equipment or services, estimate the cost of providing upgrades, and describe how the applicant will assist in providing resources to met such needs;

3. The availability of public safety and health services such as hospitals, emergency rescue services, police and fire services and related infrastructure and the capacity to respond to accidents or incidents that may result from the [~~oil or~~] gas [or oil] operation. Identify any needed upgrades or expansion of related infrastructure, equipment or services, estimate the cost of providing upgrades, and describe how the applicant will assist in providing resources to meet such needs;

4. The distribution of existing temporary and permanent housing units within the locality and whether these will be adequate to accommodate the projected influx of the [~~oil or gas~~] operation workers. Discuss how any need for temporary housing may affect existing land uses. Also, discuss how any projected housing needs will be met by the applicant if available units are insufficient to meet the projected housing demand; and

5. The public service needs, including but not limited to educational services, recreational needs, and social services, that will be generated by the immigration of laborers into the affected locality in support of the [~~oil and gas~~] operation. Discuss the capacity of these services and whether the existing capacity is

sufficient to handle the projected population increase. If the existing capacity is projected to be insufficient to meet anticipated needs, the applicant should explain what measures will be necessary to address increased service needs.

C. Describe the actions and measures that will be taken to avoid, minimize, and mitigate impacts on fiscal characteristics identified in the assessment associated with the expansion or development of infrastructure to support the proposed [~~oil and gas~~] operation.

PART III. INFORMATION REQUIREMENTS FOR [~~PRODUCTION WELLS EVALUATING SECONDARY ENVIRONMENTAL IMPACTS~~] .

[§ 3-1. Information requirements for production wells.

A. An environmental impact assessment describing a proposed production well shall address all of the criteria set forth in Part II.

B. In addition to information required by § 3-1 A the environmental impact assessment for a production well shall include a discussion of the following:

1. Any planned enhanced recovery activities related to production of oil or gas from the proposed well;

2. Any activities associated with the proposed well which will result in land-disturbing activities necessary to construct and install pipeline systems including proposed trenching, earth-moving, or vegetation clearing activities and a discussion of the size, extent, and location of proposed land-disturbing activities;

3. Any activities associated with the proposed well which will result in land-disturbing activities necessary to construct and install oil or gas production facilities and equipment, including proposed trenching, earth-moving, or vegetation clearing activities and a discussion of the size, extent, and location of proposed land-disturbing activities;

4. The revenue structure, expenditure levels and financial capabilities of the affected local government and a projection of new services or expenditures that will be incurred by the local government as a result of the proposed oil or gas operation. The applicant should identify measures that may be necessary to expand or maintain services, revenue sources, expenditure levels, and capital needs of the affected local government due to the proposed oil or gas operation;

5. A description of new transportation systems necessary to support development and production activities, including any new pipeline systems and roads, the person who will be responsible for constructing or installing new pipelines systems or

new or upgraded public roads; how much upgrades may cost, and how the applicant may assist in developing and upgrading necessary transportation systems; and

6. A description of any new, upgraded or expanded infrastructure and capital facilities that will be necessary to support the proposed oil or gas production operations; estimates of how much upgrades may cost, and the persons or persons who will be responsible for providing any necessary infrastructure or capital facilities.]

[§ 3-2, § 3.1.] Examination of secondary environmental impacts due to induced economic development.

Based on the analysis of potential economic impacts identified in § 2.7, [and] fiscal impacts identified in § 2.8, [and impacts associated with production addressed in § 3-1,] examine and discuss the potential secondary environmental effects of induced economic development due to the proposed [oil or gas] operation. Such analysis should include impacts associated with any new infrastructure development provided to support the [gas or] oil [or gas] operation including but not limited to the construction of new roads, [pipeline systems,] sewers, schools, water supplies, public services, waste handling facilities, housing units, etc., on natural, scenic, [open space,] recreational, and historic resources.

PART IV. COUNCIL MEMBER AGENCY AND GENERAL PUBLIC REVIEW AND COMMENT PROCEDURES.

§ 4.1. Council notification by the department.

Upon receiving [an environmental impact assessment for a permit application to drill an oil or] gas well [drilling operation] in Tidewater Virginia, the director shall notify the administrator that a coordinated review [of an environmental impact assessment] must be initiated. The applicant shall provide the department with 17 copies of the environmental impact assessment and the department will deliver the copies to the administrator. The 90-day review process will begin upon receipt of the appropriate number of copies of the environmental impact assessment by the administrator.

§ 4.2. Initiation of assessment review by state and local agencies and by the general public.

A. The administrator shall prepare and submit a general notice for publication in the Virginia Register within three days of the receipt of an environmental impact assessment. The availability of an assessment shall be given public notice, paid for by the applicant, by publication in a [daily] newspaper having a general circulation in the locality where drilling is proposed. The administrator shall also develop a mailing list containing the names of persons who indicate they want to be notified about the availability of oil or gas environmental

impact assessment documents and will forward a copy of the general notice submitted for publication in the Virginia Register to those persons on the mailing list.

B. The general notice will contain the following information:

1. The proposed location of the [oil or gas operations operation] including the name of the locality and other general descriptive information regarding the location of the proposed operation,
2. A general description of the proposed operation,
3. The deadline for the general public to submit written comments, which shall not be less than 30 calendar days after publication of the notice,
4. A designated location where the environmental impact assessment can be reviewed,
5. A contact person from whom additional information can be obtained on the environmental impact assessment, and
6. An address for mailing comments on an assessment to the administrator.

C. The administrator shall submit copies of the environmental impact assessment to all council member agencies, to the chief executive officer of the affected local government, to the executive director of the affected Planning District Commission, and to other state or local agencies requesting a copy of the assessment. Council member agencies shall provide their cooperation in reviewing environmental impact assessments submitted by applicants. State agency comments shall be returned to the administrator as soon as possible but no later than 50 calendar days after receiving a copy of an assessment from the administrator.

D. The administrator may [decide, in consultation with the director, to] hold a public information hearing on an impact assessment. Such a public hearing, if any, shall be held during the public comment period in the locality in which the operation is proposed. Notice of such a hearing, including the date, time, and location of the meeting, will be announced in a general notice published in the Virginia Register and in a notice mailed to persons on the mailing list.

§ 4.3. Review of comments.

The administrator shall review all written state agency, local government, Planning District Commission, and public comments and any written or oral comments received during any public hearing. based on the administrator's review of written comments, oral and written comments received at public hearings, and the environmental impact assessment, the administrator will prepare and submit a written report [of its findings and

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recommendations] to the director. [~~The written report will contain findings and recommendations for conditions suggested for inclusion in the permit to drill issued by the department.~~] The administrator's findings and recommendations on an assessment will be available for public inspection at the offices of the council.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

Statutory Authority: §§ 9-158, 9-160 and 9-164 of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

One of the changes to § 6.1 of the regulation and the change to § 7.1 of the regulation indicate that each individual licensed health care institution must submit facility specific filings, but that the screening process used by the council to review those filings would still be applied in a manner so that a hospital system could be analyzed systemwide by the council. That change also applies to one of the changes found in § 6.2 of the regulation.

The other change to § 6.1 indicates that the council may waive the audit requirement and the imposition of a penalty if an "extenuating circumstance" exists, such as a bankruptcy proceeding, closure of the institution, or the institution is a new facility that has recently opened. The waiver of a penalty for an "extenuating circumstance" is found in § 6.7 of the regulation.

The third regulatory change is found in §§ 6.2 and 6.3 of the regulation. These changes will require the submission of a health care institution's historical filings and its certified audited financial statement prior to the acceptance of the filing of a subsequent year's budget or the filing of a request for an interim rate increase by that facility.

VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Adjusted patient days" means inpatient days divided by the percentage of inpatient revenues to total patient revenues.

"Aggregate cost" means the total financial requirements of an institution which shall be equal to the sum of:

1. The institution's reasonable current operating costs, including reasonable expenses for operating and maintenance of approved services and facilities, reasonable direct and indirect expenses for patient care services, working capital needs and taxes, if any;

2. Financial requirements for allowable capital purposes, including price level depreciation for depreciable assets and reasonable accumulation of funds for approved capital projects;

3. For investor-owned institutions, after tax return on equity at the percentage equal to two times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for the months in a provider's reporting period, but not less, after taxes, than the rate or weighted average of rates of interest borne by the individual institution's outstanding capital indebtedness. The base to which the rate of return determined shall be applied is the total net assets, adjusted by paragraph 2 of this section, without deduction of outstanding capital indebtedness of the individual institution for assets required in providing institutional health care services;

4. For investor-owned institutions organized as proprietorships, partnerships, or S-corporations an imputed income tax, for fiscal years ending July 1, 1989, or later, at a combined federal and state income tax rate equal to the maximum tax rates for federal and state income taxes. The combined rate for 1989 is equal to 34% for individuals and 40% for corporations. Such tax computation shall be exclusive of net operating loss carryforwards prior to July 1, 1989. Operating losses incurred after July 1, 1989, may be carried forward no more than five years but may not be carried back prior years. The schedule of imputed income taxes shall be reported as a note to the financial statements or as a supplemental schedule of the certified audited financial statements submitted to the Virginia Health Services Cost Review Council by the institution.

"Certified nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

"Council" means the Virginia Health Services Cost Review Council.

"Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services (ii) who has no fiduciary obligation to a health care institution or other health

agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services.

"Health care institution" means (i) a general hospital, ordinary hospital, or outpatient surgical hospital, nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, (ii) a mental or psychiatric hospital licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 and (iii) a hospital operated by the University of Virginia or Virginia Commonwealth University. In no event shall such term be construed to include any physician's office, nursing care facility of a religious body which depends upon prayer alone for healing, independent laboratory or outpatient clinic.

"Hospital" means any facility licensed pursuant to §§ 32.1-123, et seq. or 37.1-179 et seq. of the Code of Virginia.

"Late charge" means a fee that is assessed a health care institution that files its budget, annual report, or charge schedule with the council past the due date.

"Nursing home" means any facility or any identifiable component of any facility licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1, in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

"Voluntary cost review organization" means a nonprofit association or other nonprofit entity which has as its function the review of health care institutions' costs and charges but which does not provide reimbursement to any health care institution or participate in the administration of any review process under Chapter 4 of Title 32.1 of the Code of Virginia.

"Patient day" means a unit of measure denoting lodging facilities provided and services rendered to one inpatient, between census-taking-hour on two successive days. The day of admission but not the day of discharge or death is counted a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day. For purposes of filing fees to the council, newborn patient days would be added. For a medical facility, such as an ambulatory surgery center, which does not provide inpatient services, each patient undergoing surgery during any one 24-hour period will be the equivalent to one patient day.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Health Services Cost Review Council, created by §§ 9-156 through 9-166 of the Code of Virginia, is required to collect, analyze and make public certain financial data and findings relating to hospitals which operate within the Commonwealth of Virginia. Section 9-164 of the Code of Virginia directs the council from time to time to make such rules and regulations as may be necessary to carry out its responsibilities as prescribed in the Code of Virginia.

§ 2.2. Purpose of rules and regulations.

The council has promulgated these rules and regulations to set forth an orderly administrative process by which the council may govern its own affairs and require compliance with the provisions of §§ 9-156 through 9-166 of the Code of Virginia.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the Virginia Health Services Cost Review Council.

§ 2.4. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act, codified as § 9-6.14:1, et seq. of the Code of Virginia applied to their promulgation.

§ 2.5. Effective date of rules and regulations.

These rules and regulations or any subsequent amendment, modification, or deletion in connection with these rules and regulations shall become effective 30 days after the final regulation is published in the Virginia Register.

§ 2.6. Powers and procedures of regulations not exclusive.

The council reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provision set forth herein and the provisions of § 9-156 et seq. of the Code of Virginia.

PART III. COUNCIL PURPOSE AND ORGANIZATION.

§ 3.1. Statement of mission.

The council is charged with the responsibility to promote the economic delivery of high quality and effective institutional health care services to the people of the Commonwealth and to create an assurance that the charges are reasonably related to costs.

The council recognizes that health care institutional costs are of vital concern to the people of the Commonwealth

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and that it is essential for an effective cost monitoring program to be established which will assist health care institutions in controlling their costs while assuring their financial viability. In pursuance of this policy, it is the council's purpose to provide for uniform measures on a statewide basis to assist in monitoring the costs of health care institution's without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

§ 3.2. Council chairman.

The council shall annually elect one of its consumer members to serve as chairman. The chairman shall preside at all meetings of the council and shall be responsible for convening the council.

§ 3.3. Vice-chairman.

The council shall annually elect from its membership a vice-chairman who shall assume the duties of the chairman in his absence or temporary inability to serve.

§ 3.4. Expense reimbursement.

Members of the council shall be entitled to be reimbursed in accordance with state regulations for necessary and proper expenses incurred in the performance of their duties on behalf of the council.

§ 3.5. Additional powers and duties.

The council shall exercise such additional powers and duties as may be specified in the Code of Virginia.

PART IV. VOLUNTARY COST REVIEW ORGANIZATIONS.

§ 4.1. Application.

Any organization desiring approval as a voluntary rate review organization may apply for approval by using the following procedure:

1. Open application period. A voluntary cost review organization may apply for designation as an approved voluntary cost review organization to be granted such duties as are prescribed in § 9-162 of the Code of Virginia.

2. Contents of application. An application for approval shall include:

a. Documentation sufficient to show that the applicant complies with the requirements to be a voluntary cost review organization, including evidence of its nonprofit status. Full financial reports for the one year preceding its application must also be forwarded. If no financial reports are available, a statement of the projected cost of the applicant's operation with supporting data must be

forwarded;

b. If any of the organization's directors or officers have or would have a potential conflict of interests affecting the development of an effective cost monitoring program for the council, statements must be submitted with the application to fully detail the extent of the other conflicting interest;

c. A detailed statement of the type of reports and administrative procedures proposed for use by the applicant;

d. A statement of the number of employees of the applicant including details of their classification; and

e. Any additional statements or information which is necessary to ensure that the proposed reporting and review procedures of the applicant are satisfactory to the council.

§ 4.2. Review of application.

A. Designation.

Within 45 calendar days of the receipt of an application for designation as a voluntary cost review organization, the council shall issue its decision of approval or disapproval. Approval by the council shall take effect immediately.

B. Disapproval.

The council may disapprove any application for the reason that the applicant has failed to comply with application requirements, or that the applicant fails to meet the definition of a cost review organization, or fails to meet the specifications cited in paragraph A above concerning application contents or that the cost and quality of the institutional reporting system proposed by the applicant are unsatisfactory.

C. Reapplication.

An organization whose application has been disapproved by the council may submit a new or amended application to the council within 15 calendar days after disapproval of the initial application. An organization may only reapply for approval on one occasion during any consecutive 12-month period.

§ 4.3. Annual review of applicant.

A. By March 31 of each year, any approved voluntary cost review organization for the calendar year then in progress which desires to continue its designation shall submit an annual review statement of its reporting and review procedures.

B. The annual review statement shall include:

1. Attestation by the applicant that no amendments or

modifications of practice contrary to the initially approved application have occurred; or

2. Details of any amendments or modifications to the initially approved application, which shall include justifications for these amendments or modifications.

C. The council may require additional information from the applicant supporting that the applicant's reports and procedures are satisfactory to the council.

§ 4.4. Revocation of approval.

The council may revoke its approval of any cost review organization's approval when the review procedures of that organization are no longer satisfactory to the council or for the reason that the voluntary cost review organization could be disapproved under § 4.2.B of these regulations.

§ 4.5. Confidentiality.

A voluntary cost review organization approved as such by the council shall maintain the total confidentiality of all filings made with it required by these regulations or law. The contents of filings or reports summaries and recommendations generated in consequence of the council's regulations may be disseminated only to members of the council, the council's staff and the individual health care institution which has made the filings or which is the subject of a particular report.

PART V. CONTRACT WITH VOLUNTARY COST REVIEW ORGANIZATION.

§ 5.1. Purpose.

It is the intention of the council to exercise the authority and directive of § 9-163 of the Code of Virginia whereby the council is required to contract with any voluntary cost review organization for services necessary to carry out the council's activities where this will promote economy and efficiency, avoid duplication of effort, and make best use of available expertise.

§ 5.2. Eligibility.

In order for a voluntary cost review organization to be eligible to contract with the council, it shall have met all other requirements of §§ 4.1 and 4.5 of these regulations relating to voluntary cost review organization and have been approved as such an organization.

§ 5.3. Contents of contract.

The written agreement between the council and any voluntary cost review organization shall contain such provisions which are not inconsistent with these regulations or law as may be agreed to by the parties. Any such contract shall be for a period not to exceed five years.

PART VI. FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. Each *individual* health care institution shall file an annual report of revenues, expenses, other income, other outlays, assets and liabilities, units of service, and related statistics as prescribed in § 9-158 of the Code of Virginia on forms provided by the council together with the certified audited financial statements (or equivalents) as prescribed in § 9-159 of the Code of Virginia; ~~which~~. *The annual report and the certified audited financial statement shall be received by the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. Extensions of filing times for the annual report or the certified audited financial statement may be granted for extenuating circumstances upon a health care institution's written application for a 30-day extension. Such request for extension shall be filed no later than 120 days after the end of a health care institution's fiscal year. The requirement for the filing of an annual report and a certified audited financial statement may be waived if a health care institution can show that an extenuating circumstance exists. Examples of an extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, or the institution is a new facility that has recently opened.*

Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the annual report filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare for cost reports submitted to it shall be utilized for findings submitted to the council.

§ 6.2. Each *individual* health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-161 B of the Code of Virginia on forms provided by the council. The institution's projection (budget) shall be received by the council no later than 60 days before the beginning of its respective applicable fiscal year. *An institution's budget for a given fiscal year will not be accepted for review unless the institution has already filed its annual report and certified audited financial statement for the previous fiscal year.* This regulation shall be applicable to nursing homes or certified nursing facilities for each fiscal year starting on or after June 30, 1990. Each health care institution with licensed nursing home beds or certified nursing facility beds shall exclude all revenues, expenses, other income, other outlays, assets and liabilities, units of service and related statistics directly associated with a hospital, continuing care retirement community, or with home for adult beds in the budget filed with the council. The cost allocation methodology required by the Virginia Department of Medical Assistance Services and Medicare

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for cost reports submitted to it shall be utilized for findings submitted to the council.

§ 6.3. Each health care institution shall file annually a schedule of charges to be in effect on the first day of such fiscal year, as prescribed in § 9-161 D of the Code of Virginia. The institution's schedule of charges shall be received by the council within 10 days after the beginning of its respective applicable fiscal year or within 15 days of being notified by the council of its approval of the charges, whichever is later.

Any subsequent amendment or modification to the annually filed schedule of charges shall be filed at least 60 days in advance of its effective date, together with supporting data justifying the need for the amendment. *An institution's proposed amendment or modification to its annually filed schedule of charges shall not be accepted for review unless the institution has complied with all prior filing requirements contained in §§ 6.1 and 6.2 for previous fiscal years.* Changes in charges which will have a minimal impact on revenues are exempt from this requirement.

§ 6.3:1. Each health care institution shall file annually a survey of rates charged. For hospitals, the survey shall consist of up to 30 select charges, including semi-private and private room rates. The survey shall also consist of charges of the most frequently occurring diagnoses or procedures for inpatient and outpatient treatment. The charges shall be calculated by taking an average for one month of all patient bills where the requested CPT or ICD-9 code numbers are indicated as the principal diagnosis or procedure. This information shall be received by the council from each hospital no later than April 30 of each year.

The annual charge survey for nursing homes shall include up to 30 select charges, including semi-private and private room rates. The select charges shall reflect the rates in effect as of the first day of a sample month to be chosen by the council. This information shall be provided to the council no later than March 31 of each year.

§ 6.3:2. Each hospital or any corporation that controls a hospital shall respond to a survey conducted by the council to determine the extent of commercial diversification by such hospitals in the Commonwealth. The survey shall be in a form and manner prescribed by the council and shall request the information specified in subdivision a, f, g, h and i below on each hospital or such corporation and, with respect to any tax-exempt hospital or controlling corporation thereof, the information specified in subdivision a through i below for each affiliate of such hospital or corporation, if any:

- a. The name and principal activity;
- b. The date of the affiliation;
- c. The nature of the affiliation;

d. The method by which each affiliate was acquired or created;

e. The tax status of each affiliate and, if tax-exempt, its Internal Revenue tax exemption code number;

f. The total assets;

g. The total revenues;

h. The net profit after taxes, or if not-for-profit, its excess revenues; and

i. The net quality, or if not-for-profit, its fund balance.

§ 6.3:3. The information specified in § 6.3:2 shall relate to any legal controls that exist as of the 1st of July of each calendar year in which the survey is required to be submitted.

§ 6.3:4. Each hospital or any corporation that controls a hospital and that is required to respond to the survey specified in § 6.3:2 shall complete and return the survey to the council by the 31st day of August of each calendar year or 120 days after the hospital's fiscal year end, whichever is later, in which the survey is required to be submitted.

§ 6.3:5. Each hospital that reports to the council or any corporation which controls a hospital that reports to the council shall submit an audited consolidated financial statement to the council which includes a balance sheet detailing its total assets, liabilities and net worth and a statement of income and expenses and includes information on all such corporation's affiliates.

§ 6.4. All filings prescribed in § 6.1, § 6.2 and § 6.3:2 of these regulations will be made to the council for its transmittal to any approved voluntary cost review organization described in Part IV of these regulations.

§ 6.5. A filing fee based on an adjusted patient days rate shall be set by the council, based on the needs to meet annual council expenses. The fee shall be established and reviewed at least annually and reviewed for its sufficiency at least annually by the council. All fees shall be paid directly to the council. The filing fee shall be no more than 11 cents per adjusted patient day for each health care institution filing. Prior to the beginning of each new fiscal year, the council shall determine a filing fee for hospitals and a filing fee for nursing homes based upon the council's proportionate costs of operation for review of hospital and nursing home filings in the current fiscal year, as well as the anticipated costs for such review in the upcoming year.

§ 6.6. Fifty percent of the filing fee shall be paid to the council at the same time that the health care institution files its budget under the provisions of § 6.2 of these regulations. The balance of the filing fee shall be paid to

the council at the same time the health care institution files its annual report under the provisions of § 6.1 of these regulations. When the council grants the health care institution an extension, the balance of the filing fee shall be paid to the council no later than 120 days after the end of the respective applicable health care institution's fiscal year. During the year of July 1, 1989, through June 30, 1990, each nursing home and certified nursing facility shall pay a fee of 7 cents per adjusted patient day when it files its annual report in order to comply with subdivisions A1 and A2 of § 9-159 of the Code of Virginia. Following June 30, 1990, all nursing homes and certified nursing facilities shall submit payment of the filing fees in the amount and manner as all other health care institutions.

§ 6.7. A late charge of \$10 per working day shall be paid to the council by a health care institution that files its budget or , annual report or its certified audited financial statement past the due date. *The late charge may be waived if a health care institution can show that an extenuating circumstance exists. Examples of extenuating circumstance include, but are not limited to, involvement by the institution in a bankruptcy proceeding, closure of the institution, change of ownership of the institution, or the institution is a new facility that has recently opened.*

§ 6.8. A late charge of \$50 shall be paid to the council by the health care institution that files the charge schedule past the due date.

§ 6.9. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:2 or file the audited consolidated financial statement required by § 6.3:5 or both.

§ 6.10. A late charge of \$25 per working day shall be paid to the council by the reporting entity required to complete the survey required in § 6.3:1.

PART VII. WORK FLOW AND ANALYSIS.

§ 7.1. The annual report data filed by health care institutions as prescribed in § 6.1 of these regulations shall be analyzed as directed by the council. *Hospitals that are part of a hospital system will be analyzed on a systemwide basis.* Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations, may be published and disseminated as determined by the council. The health care institution which is the subject of any summary, report, recommendation or comment shall receive a copy of same at least 10 days prior to the meeting at which the same is to be considered by the council.

§ 7.2. The annual schedule of charges and projections

(budget) of revenues and expenditures filed by health care institutions as prescribed in § 6.2 of these regulations shall be analyzed as directed by the council. *Hospitals that are part of a hospital chain may have their filings reviewed on a consolidated basis.* Summarized analyses and comments shall be reviewed by the council at a scheduled council meeting within approximately 75 days after receipt of properly filed data, after which these summaries and comments, including council recommendations will be published and disseminated by the council. Amendments or modifications to the annually filed schedule of charges shall be processed in a like manner and reviewed by the council no later than 50 days after receipt of properly filed amendments or modifications. Any health care institution which is the subject of summaries and findings of the council shall be given upon request an opportunity to be heard before the council.

PART VIII. PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 8.1. The staff findings and recommendations and related council decisions on individual health care institutions' annual historical data findings will be kept on file at the council office for public inspection. However, the detailed annual historical data filed by the individual health care institutions will be excluded from public inspection in accordance with § 9-159 B, of the Code of Virginia.

§ 8.2. Periodically, but at least annually, the council will publish the rates charged by each health care institution in Virginia for up to 30 of the most frequently used services in Virginia, including each institution's average semiprivate and private room rates. The data will be summarized by geographic area in Virginia, and will be kept on file at the council office for public inspection and made available to the news media. In addition, annual charge schedules and subsequent amendments to these schedules filed under the provisions of § 6.3 of these rules and regulations will be kept on file at the council office for public inspection. Staff findings and recommendations and related council decisions on changes to health care institutions' rates and charges will also be kept on file at the council office for public inspection and available to the news media.

§ 8.3. Periodically, but at least annually, the council will publish an annual report which will include, but not be limited to the following: cost per admission comparison, cost per patient day comparison, percentage increase in cost per patient day, budget and historical reports reviewed, interim rate changes, excess operating expenses, revenue reduction recommendations, operating profits and losses, deductions from revenue (contractuals, bad debts, and charity care) and hospital utilization.

§ 8.3:1. The council will also periodically publish and disseminate information which will allow consumers to compare costs and services of hospitals, nursing homes

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and certified nursing facilities.

§ 8.4. The staff findings and recommendations and related council decisions on individual health care institutions' annual budget and related rate filings will be kept on file at the council office for public inspection. However, the detailed annual budget data filed by the individual health care institutions will be excluded from public inspection.

§ 8.5. The council may release historical financial and statistical data reported by health care institutions to state or federal commissions or agencies based on individual, specific requests, and the merit of such requests. Requests must list the purpose for which the requested data is to be used to permit the council to reach a valid decision on whether or not the data requested will fit the need and should, therefore, be made available. Under no circumstances will data be released which contains "personal information" as defined in § 2.1-379(2) of the Code of Virginia.

§ 8.6. The council shall not release prospective (budgeted) financial and statistical data reported by health care institutions to anyone, except for the staff findings and recommendations as provided for in § 8.4 of these regulations.

§ 8.7. No data, beyond that specified in §§ 8.1 through 8.4 of these regulations will be released to other nongovernmental organizations and entities, except that data deemed pertinent by the council in negotiations with third-party payors such as Blue Cross/Blue Shield, commercial insurers, etc. Such pertinent data may be released and used on an exception, as needed, basis.

§ 8.8. Except for data specified in §§ 8.1 through 8.4 of these regulations available to anyone, the council shall have a right to furnish data, or refuse to furnish data, based on merit of the request and ability to furnish data based on data and staff time availability. The council may levy a reasonable charge to cover costs incurred in furnishing any of the data described in this section of the rules and regulations.

NOTICE: The forms used in administering the Virginia Health Services Cost Review Council Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Virginia Health Services Cost Review Council, 805 East Broad Street, 9th Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

- Historical Submission for Acute Care Facilities
- Budget Submission for Acute Care Facilities
- Historical Submission for Long Term Care Facilities
- Budget Submission for Long Term Care Facilities

Historical Submission for Outpatient Surgical Hospitals

Budget Submission for Outpatient Surgical Hospitals

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTICE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: April 23, 1992.

Summary:

The amendments to the authority's rules and regulations for single family mortgage loans to persons and families of low and moderate income: (i) redefine "originating guide" to include both Parts I and II of the rules and regulations; (ii) delete provisions relating to the Farmers Home Administration Interest Assistance Program in which the authority will not be participating; (iii) delete the reference to the specific amount of the reservation fee and continue to allow the authority to set the amount from time to time; (iv) continue to allow \$100 of the reservation fee to be applied by the originating agent to its fee and require balance to be remitted to the authority; and (v) make minor clarifications and typographical corrections.

VR 400-02-003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

PART I. GENERAL.

§ 1.1. General.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have a "gross family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation set forth in Part II

hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II hereof. The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II hereof.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these rules and regulations where deemed appropriate by him for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the originating and administration of mortgage loans under the authority's single family housing program. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

§ 1.2. Origination and servicing of mortgage loans.

A. Approval/definitions.

The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall, except as noted in subsection G of this § 1.2, be performed through commercial banks, savings and loan associations, private mortgage bankers, redevelopment and housing authorities, and agencies of local government approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall, except as noted in subsection H of this § 1.2, be performed through commercial banks, savings and loan associations and private mortgage bankers

approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a net worth equal to or in excess of \$250,000 or such other amount as the executive director shall from time to time deem appropriate, except that this qualification requirement shall not apply to redevelopment and housing authorities and agencies of local government;
3. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and
4. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each originating agent approved by the authority shall enter into an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into an originating and servicing agreement ("originating and servicing agreement") with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of mortgage loans hereunder.

For the purposes of these rules and regulations, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted *or the context indicates otherwise*. Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted *or the context indicates otherwise*. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.

Originating agents and servicing agents shall maintain

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adequate books and records with respect to mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and
5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the

proposed construction or rehabilitation; and

3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. Originating guide and servicing guide.

~~The originating guide attached hereto as Part II is incorporated into and made a part of these rules and regulations. These rules and regulations constitute the originating guide of the authority.~~ All exhibits and other documents referenced in the originating guide herein are not included in, and shall not be deemed to be a part of, these rules and regulations. The executive director is authorized to prepare and from time to time revise a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the servicing of mortgage loans under the applicable originating agreements and servicing agreements. Copies of the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide and the servicing guide.

D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing

agreement, the originating guide, the servicing guide, the Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and

documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more originating agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the ~~processing~~ *originating* guide, the applicable originating agreement, the Act or these rules and regulations, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

G. Field originators.

The authority may utilize financial institutions, mortgage brokers and other private firms and individuals and governmental entities ("field originators") approved by the authority for the purpose of receiving applications for mortgage loans. To be approved as a field originator, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have made any necessary filings or registrations and have received any and all necessary approvals or licenses in order to receive applications for mortgage loans in the Commonwealth of Virginia;
3. Have the demonstrated ability and experience in the receipt and processing of mortgage loan applications; and
4. Have such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each field originator approved by the authority shall enter into such agreement as the executive director shall require with respect to the receipt of applications for mortgage loans. Field originators shall perform such of the duties and responsibilities of originating agents under these rules and regulations as the authority may require in such

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agreement.

Field originators shall maintain adequate books and records with respect to mortgage loans for which they accept applications, shall permit the authority to examine such books and records, and shall submit to the authority such reports and information as the authority may require. The fees to the field originators for accepting applications shall be payable in such amount and at such time as the executive director shall determine.

In the case of mortgage loans for which applications are received by field originators, the authority may process and originate the mortgage loans; accordingly, unless otherwise expressly provided, the provisions of these rules and regulations requiring the performance of any action by originating agents shall not be applicable to the origination and processing by the authority of such mortgage loans, and any or all of such actions may be performed by the authority on its own behalf.

H. Servicing by the authority.

The authority may service mortgage loans for which the applications were received by field originators or any mortgage loan which, in the determination of the authority, originating agents and servicing agents will not service on terms and conditions acceptable to the authority or for which the originating agent or servicing agent has agreed to terminate the servicing thereof.

PART II. VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING GUIDE.

Article I. Eligibility Requirements. PROCESSING GUIDELINES.

§ 2.1. Eligible persons and families.

A. Person.

A one-person household is eligible.

B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping unit.

C. Citizenship.

Each applicant for an authority mortgage loan must either be a United States citizen or have a valid and current alien registration card (U.S. Department of Immigration Form 1-551 or U.S. Department of Immigration Form 1-151).

§ 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the originating agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The originating agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing and signing the "Originating Agent's Checklist for Certain Requirements of the Tax Code" (Exhibit A(1)) prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this *originating* guide.

§ 2.2.1. Eligible borrowers.

A. General.

In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1 B Three-year requirement);
2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See § 2.2.1 C Principal residence requirement);
3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1 D New mortgage requirement);
4. Must have contracted to purchase an eligible dwelling. (See § 2.2.2 Eligible dwellings);
5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;
6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 Income requirements);
7. Must agree not to sell, lease or otherwise transfer

an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § 2.10 Loan assumptions); and

8. Must be over the age of 18 years or have been declared emancipated by order or decree of a court having jurisdiction.

B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3 Targeted areas); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

- a. A fee simple interest,
- b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,
- c. The interest of a tenant shareholder in a cooperative,
- d. A life estate,
- e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and
- f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a present ownership interest include:

- a. A remainder interest,
- b. An ordinary lease with or without an option to purchase,
- c. A mere expectancy to inherit an interest in a principal residence,
- d. The interest that a purchaser of a residence

acquires on the execution of an accepted offer to purchase real estate, and

e. An interest in other than a principal residence during the previous three years.

2. Persons covered. This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. Prior tax returns. To verify that the eligible borrower meets the three-year requirement, the originating agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The originating agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. Review by originating agent. The originating agent must, with due diligence, verify the representations in the affidavit of borrower (Exhibit E) regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to the authority that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

C. Principal residence requirement.

1. General. An eligible borrower must intend at the time of closing to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the

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authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower (to be updated by the verification and update of information form) and as part of the attachment to the deed of trust.

2. Definition of principal residence. A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. Land not to be used to produce income. The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

- a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);
- b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and
- c. He does not intend to subdivide the property.

4. Lot size. Only such land as is reasonably necessary to maintain the basic liveability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres, even in rural areas. However, exceptions may be made to permit lots larger than two acres, but in no event in excess of five acres: (i) if the land is owned free and clear and is not being financed by the loan, (ii) if difficulty is encountered locating a well or septic field, the lot may include the additional acreage needed, and (iii) local city and county zoning ordinances which require more acreage will be taken into consideration.

5. Review by originating agent. The affidavit of borrower (Exhibit E) must be reviewed by the originating agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the originating agent shall review the appraiser report (Exhibit H) of an

authority approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the originating agent shall certify to the authority its findings and certain opinions in the checklist for certain requirements of the tax code (Exhibit A(1)) at the time the loan application is submitted to the authority for approval.

6. Post-closing procedures. The originating agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with this requirement.

D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by originating agent. Prior to closing the mortgage loan, the originating agent must examine the affidavit of borrower (Exhibit E), the affidavit of seller (Exhibit F), and related submissions, including (i) the eligible borrower's federal income tax returns

for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the originating agent shall certify to the authority that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. Multiple loans.

Any eligible borrower may not have more than one outstanding authority mortgage loan.

§ 2.2.2. Eligible dwellings.

A. In general.

In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling.

2. Acquisition cost requirements for assumptions. To determine if the acquisition cost is at or below the federal limits for assumptions, the originating agent or, if applicable, the servicing agent must in all cases contact the authority (see § 2.10 below).

3. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

- (1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the

benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

- (2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Exhibit G, Item 4 and Appraiser Report, Exhibit H).

- (3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

- (1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

- (2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

4. Acquisition cost worksheet (Exhibit G) and Appraiser Report (Exhibit H). The originating agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this subsection B. The originating agent shall assist the

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eligible borrower in the correct completion of the worksheet. The originating agent must also obtain from the appraiser a completed appraiser's report which may also be relied upon in completing the acquisition cost worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the affidavit of borrower required to be submitted with the loan submission. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

5. Review by originating agent. The originating agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the originating agent or, if applicable, the servicing agent must contact the authority for this determination in all cases - see section 2.10 below). Also, as part of its review, the originating agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to the authority that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the originating agent must compare the information contained in the acquisition cost worksheet with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

6. Independent appraisal. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

§ 2.2.3. Targeted areas.

A. In general.

In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising originating agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to an originating agent exclusively for targeted areas will be specified in a forward commitment agreement between the originating agent and the authority.

B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in this § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in § 2.2.1 B. Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.

1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in b below, or an area of chronic economic distress, as described in c below.

b. A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

c. An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury informed by the authority as to the location of areas so designated.

§ 2.3. Sales price limits.

A. The authority's maximum allowable sales price for loans which are closed on or after December 1, 1991, shall be as follows:

Area	New Construction	Existing and Substantial Rehab.
1. Washington DC-MD-VA MSA ¹		
"inner areas"	\$131,790	\$131,790
2. "outer areas"	\$124,875	\$124,875
3. Norfolk-Va. Beach- Newport News MSA ²	\$ 81,500	\$ 81,500
4. Richmond- Petersburg MSA ³	\$ 79,500	\$ 79,500
5. Charlottesville MSA ⁴	\$ 95,450	\$ 79,530
6. Clarke County	\$ 90,250	\$ 79,530
7. Culpeper County	\$ 84,050	\$ 79,530
8. Fauquier County	\$101,670	\$ 79,530
9. Frederick County and Winchester City	\$ 92,150	\$ 79,530
10. Isle of Wight County	\$ 81,500	\$ 79,530
11. King George County	\$ 89,300	\$ 79,530
12. Madison County	\$ 76,000	\$ 76,000
13. Orange County	\$ 77,900	\$ 77,900
14. Spotsylvania County and Fredericksburg City	\$102,700	\$ 79,530
15. Warren County	\$ 83,600	\$ 79,530
16. Balance of State ⁵	\$ 75,500	\$ 75,500

Washington DC-Maryland-Virginia MSA . Virginia Portion: "Inner Areas" - Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City; "Outer Areas" - Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

² Norfolk-Virginia Beach-Newport News MSA . Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

³ Richmond-Petersburg MSA . Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

⁴ Charlottesville MSA . Albemarle County, Charlottesville City, Fluvanna County, Greene County.

⁵ Balance of State . All areas not listed above.

The executive director may from time to time waive the foregoing maximum allowable sales prices with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and policies, provided that, in the event of any such waiver, the sales price of the residences to be financed by any mortgage loans so designated shall not exceed the applicable limits imposed by the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.

B. Effect of solar grant.

The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

§ 2.4. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of income over \$20,000. (The value of furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining whether this net worth limitation has been violated.

§ 2.5. Income requirements.

A. Maximum gross income.

As provided in § 2.2.1 A 6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this subsection A apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1 A 6 are automatically met if an applicant's gross family income does not exceed the applicable limits set forth in this subsection.

For the purposes hereof, the term "gross family income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of monthly gross pay plus any additional dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

For reservations made on or after March 1, 1989, the maximum gross family incomes for eligible borrowers shall be determined or set forth as follows:

(1) MAXIMUM GROSS FAMILY INCOME

Applicable only to loans for which reservations are taken by the authority on or after March 1, 1989, except loans to be guaranteed by the Farmers Home Administration ("FmHA").

The maximum gross family income for each borrower shall be a percentage (based on family size) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended (the "Median Family Income"), with respect to the residence of such borrower, which percentages shall be as follows:

Family Size	Percentage of applicable Median Family Income (regardless of whether residence is new construction, existing or substantially rehabilitated)
1 person	70%
2 persons	85%
3 or more persons	100%

The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the foregoing maximum gross family

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income limits expressed in dollar amounts for each area of the state, as established by the executive director, and each family size. Any adjustments to such income limits shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such adjustments on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

The executive director may from time to time waive the foregoing income limits with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and policies, provided that, in the event of any such waiver, the income of the borrowers to receive any mortgage loans so designated shall not exceed the applicable limits imposed by the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.

(2) FmHA MAXIMUM GROSS FAMILY INCOME

Applicable only to loans to be guaranteed by FmHA.

The maximum gross family income for each borrower shall be the lesser of the amount determined in accordance with § 2.5 A (1) or FmHA income limits in effect at the time of the application.

B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration, the Veterans Administration or FmHA (hereinafter referred to as "FHA, VA or FmHA loans").

An applicant satisfies the authority's minimum income requirement for financing if the monthly principal and interest, tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the PITI figure), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements.

§ 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) Maximum of 95% (or, in the case of a *an* FHA, VA or FmHA loan, such other percentage as may be permitted by FHA, VA or FmHA) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of a *an* FHA, VA or FmHA loan, such other percentage as may

be permitted by FHA, VA or FmHA) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value. (See Appraiser Report, Exhibit H)

In the case of a *an* FHA, VA or FmHA loan, the FHA, VA or FmHA insurance fees or guarantee fees charged in connection with such loan (and, if a *an* FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA, VA or FmHA requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

§ 2.7. Mortgage insurance requirements.

Unless the loan is an FHA, VA or FmHA loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance. If the authority requires FHA, VA or FmHA insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance, VA Guaranty or FmHA Guarantee has been obtained. In the event that the authority purchases an FHA or, VA or FmHA loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA, VA or FmHA loans), full private mortgage insurance as described above is required unless waived by the authority.

§ 2.8. Underwriting.

A. Conventional loans.

The following requirements must be met in order to satisfy the authority's underwriting requirements. However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.

1. Employment and income.

a. Length of employment. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Self-employed applicants. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1 C Principal residence requirement.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. Income derived from sources other than primary employment.

(1) Alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) Social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) Part-time employment. Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) Overtime, commission and bonus. Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. Credit.

a. Credit experience. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain an authority loan.

b. Bankruptcies. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years and has a poor credit history. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy and poor credit history. The authority has complete discretion to decline a loan when a bankruptcy and poor credit is involved.

c. Judgments. An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for an authority loan.

3. Appraisals. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

B. FHA loans only.

1. In general. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. Closing fees. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

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4. Appraisals. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

C. VA loans only.

1. In general. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.

2. VA funding fee. 1.0% funding fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

3. Appraisals. VA certificates of reasonable value (CRV's) are acceptable.

D. FmHA loans only.

1. In general. The authority will normally accept FmHA underwriting requirements and property standards for FmHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Guarantee fee. 1.0% FmHA guarantee fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

E. FmHA Interest Assistance Program.

Borrowers with low income, as determined by FmHA, are eligible for interest assistance payments. FmHA will make monthly payments to the authority to reduce the effective interest rate, depending on the borrower's income. However, no borrower will pay less than 20% of adjusted income, as determined by FmHA, for principal, interest, taxes, and insurance. Interest assistance payments will be recalculated by the authority at such times as are required by FmHA. All interest assistance by FmHA is subject to recapture by FmHA at the time the property is sold. In the event the authority intends to sell the FmHA Interest Assistance Program loans to the Federal National Mortgage Association ("FNMA"), each such loan must satisfy all of the applicable guidelines, requirements, terms and conditions imposed by FNMA.

F. E. FHA and VA buydown program.

With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for

buydown mortgage loans (see Exhibit V) executed at closing (see § 2.15 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection B or C above, as applicable).

G. F. Interest rate buydown program.

Unlike the program described in subsection F E above which permits a direct buydown of the borrower's monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

§ 2.9. Funds necessary to close.

A. Cash (Not applicable to FHA, VA or FmHA loans).

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose, except where (i) the loan amount is less than or equal to 80% of the lesser of the sales price or the appraised value, or (ii) the loan amount exceeds 80% of the lesser of the sales price or the appraised value and the applicant borrows a portion of the funds from their employer with the approval of the private mortgage insurer and the applicant pays in cash from their own funds an amount equal to at least 3.0% of the lesser of the sales price or the appraised value. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

§ 2.10. Loan assumptions.

A. Requirements for assumptions.

VHDA currently permits assumptions of all of its single family mortgage loans provided that certain requirements are met. For all loans closed prior to January 1, 1991, except FHA loans which were closed during calendar year 1990, the maximum gross family income for those assuming a loan shall be 100% of the applicable Median Family Income. For such FHA loans closed during 1990, if assumed by a household of three or more persons, the maximum gross family income shall be 115% of the applicable Median Family Income (140% for a residence in a targeted area) and if assumed by a household of less than three persons, the maximum gross family income shall be 100% of the applicable Median Family Income (120% for a residence in a targeted area). For all loans closed after January 1, 1991, the maximum gross family income for those assuming loans shall be as set forth in § 2.5 A of these regulations. The requirements for each of the two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

1. Assumptions of conventional loans.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

- (1) Maximum gross family income requirement in this § 2.10 A
- (2) § 2.2.1 C (Principal residence requirement)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.2.1 B (Three-year requirement)
- (5) § 2.2.2 B (Acquisition cost requirements)
- (6) § 2.7 (Mortgage insurance requirements).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

- (1) Maximum gross family income requirement in this § 2.10 A
- (2) § 2.2.1 C (Principal residence requirements)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.7 (Mortgage insurance requirements).

2. Assumptions of FHA, VA or FmHA loans.

a. For assumptions of FHA, VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981, the following conditions must be met:

- (1) Maximum gross family income requirement in this § 2.10 A

§ 2.2.1 C (Principal residence requirement)

- (3) § 2.2.1 B (Three-year requirement)

- (4) § 2.2.2 B (Acquisition cost requirements).

In addition, all applicable FHA, VA or FmHA underwriting requirements, if any, must be met.

b. For assumptions of FHA, VA or FmHA loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA, VA or FmHA underwriting requirements, if any, must be met.

B. Authorization to process assumptions/requirement that the authority to contacted.

Although the requirements listed in subsection A above are generally those that only originating agents are responsible for determining compliance with, in the case of assumptions, servicing agents are also authorized to make such determinations. More generally, for the purposes of this § 2.10, servicing agents may process assumption requests provided that they do so in accordance with all the requirements hereof, including those otherwise the exclusive responsibility of originating agents. Accordingly, references are made within this section to "originating agents or servicing agents" in order to reflect this additional role of servicing agents.

The originating agent or servicing agent must in each case of a request for assumption of a mortgage loan contact the authority in order to determine which category of loans described in subsection A above applies to the loan and whether or not the requirements of the applicable category are satisfied. (For example, in cases of assumptions, the originating agent or servicing agent may not rely - as it may for new loans - on the fact that the acquisition cost of the dwelling is less than the authority's sales price limits to satisfy the acquisition cost requirement. It is therefore essential that the authority be contacted in each case.)

C. Application package for assumptions.

Once the originating agent or servicing agent has contacted the authority and it has been determined which of the categories described in subsection A above applies to the loan, the originating agent or servicing agent must submit to the authority the information and documents listed below for the applicable category:

1. Assumption package for conventional loans:

- a. Conventional loans financed by the proceeds of bonds issued on or after December 17, 1981:

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- (1) Affidavit of borrower (Exhibit E).
 - (2) Affidavit of seller (Exhibit F).
 - (3) Acquisition cost worksheet (Exhibit G).
 - (4) Appraiser's report (Exhibit H).
 - (5) Three year's tax returns.
 - (6) Originating agent's checklist (Exhibit A(1)).
 - (7) 4506 form (Exhibit Q).
 - (8) Originating agent's loan submission cover letter (Exhibit O(1)).
 - (9) ~~Authority's completed application (Exhibit D).~~ *Uniform Residential Loan Application - must include the Authority's Addendum (Exhibit D(1)).*
 - (10) Verification of employment (VOE's) (and other income related information).
 - (11) Verification of deposit (VOD's).
 - (12) Credit report.
 - (13) Sales contract.
 - (14) Truth-in-Lending (Exhibit K) and estimate of charges.
 - (15) Equal Credit Opportunity Act (ECOA)/Recapture Tax/RESPA notice (Exhibit I).
 - (16) Authority underwriting qualification sheet (Exhibit B(1)).
 - (17) All other requirements of state and federal law must be met.
- b. Conventional loans financed by the proceeds of bonds issued prior to December 17, 1981:
- (1) ~~Authority's completed application (Exhibit D).~~ *Uniform Residential Loan Application - must include the Authority's Addendum (Exhibit D(1)).*
 - (2) Verification of employment (VOE's) (and other income related information).
 - (3) Verification of deposit (VOD's).
 - (4) Credit report.
 - (5) Sales contract.
 - (6) Truth-in-Lending (Exhibit K) and estimate of charges.

(7) Equal Credit Opportunity Act (ECOA)/Recapture Tax/RESPA notice (Exhibit I).

(8) Authority underwriting qualification sheet (Exhibit B(2 I)).

(9) All other requirements of state and federal law must be met.

2. Assumption package for FHA, VA or FmHA loans.

a. FHA, VA or FmHA loans financed by the proceeds of bonds issued on or after December 17, 1981:

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

(4) Appraiser's Report (Exhibit H).

(5) Three years' tax returns.

(6) Originating agent's checklist (Exhibit A(1)).

(7) 4506 form (Exhibit Q).

(8) Originating agent's loan submission cover letter (Exhibit O(2) or (3)).

(9) ~~Authority's completed application (Exhibit D).~~ *Uniform Residential Loan Application - must include the Authority's Addendum (Exhibit D(1)).*

(10) Sales contract.

(11) Copy of the executed FHA mortgage credit analysis worksheet if the original borrowers are to be released from liability.

(12) Equal Credit Opportunity Act (ECOA)/Recapture Tax/RESPA notice (Exhibit I).

(13) Truth-in-Lending (Exhibit K) and estimate of charges if original borrowers are to be released from liability.

(14) A copy of the FHA Notice to Homeowner, if the original borrowers will not be released from liability.

(15) In addition, all applicable requirements, if any, of FHA, VA or FmHA and those under state and federal law must be met.

b. FHA, VA or FmHA loans financed by the proceeds of bonds issued prior to December 17, 1981: The applicable requirements, if any, of FHA, VA or FmHA and those under state and federal law

must be met.

D. Review by the authority/additional requirements.

Upon receipt from an originating agent or servicing agent of an application package for an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the originating agent or servicing agent of such determination in writing. The authority will further advise the originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty including, if applicable, pool insurance, submission of an escrow transfer letter and execution of a Recapture Requirement Notice (VHDA Doc. R-1).

§ 2.11. Leasing, loan term, and owner occupancy.

A. Leasing.

The owner may not lease the property without first contacting the authority.

B. Loan term.

Loan terms may not exceed 30 years.

C. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

§ 2.12. Reservations/fees.

A. Making a reservation.

The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents or field originators with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates (see subdivision 5 below) are also nontransferable. In order to make a reservation of funds for a loan, the originating agent or field originator shall:

1. First make a determination based on the information then made available to it by the applicant or otherwise that neither the applicant nor the property appears to violate any of the authority's eligibility requirements for a new loan.
2. Collect a ~~\$100~~ nonrefundable reservation fee ~~(or in such other amount as the authority may require)~~ from time to time .
3. Determine what type of mortgage insurance or

guarantee will be required; specifically, whether the loan will be a conventional loan, an FHA loan, a VA loan or an FmHA loan.

4. Complete a reservation sheet (Exhibit C(1)).

5. Call the authority (after completing the four preceding requirements) between 9 a.m. and 5 p.m. Monday through Friday for the assignment of a reservation number for the loan, the interest rate which shall be locked in for the reserved funds and an expiration date for the reservation, all of which will be assigned after the originating agent or field originator gives to the authority the following information:

- a. Name of primary applicant
- b. Social security number of applicant
- c. Estimated loan amount
- d. Originating agent's or field originator's servicer number
- e. Gross family income of applicant and family, if any
- f. Location of property (city or county)
- g. Verification of receipt of the reservation fee
- h. Type of mortgage insurance to be used (if conventional, the authority will assign the loan a suffix "C"; if FHA, the suffix will be "F"; if VA, it will be "V"; and if FmHA, it will be "FM").

6. Complete the reservation card by filling in the reservation number, interest rate, expiration date and by executing it (only an authorized representative of the originating agent or field originator may sign the reservation card) and, in addition, complete a lock-in disclosure (Exhibit C(2)) and have the applicant execute it prior to submitting it with the application package.

7. Submit the complete application package to the authority (see § 2.13) along with evidence of receipt of the reservation fee within 60 days after the authority assigns the reservation number to the loan (i.e., takes the reservation), provided that in the case of an application received by a field originator, the field originator will submit to the authority the reservation fee and such portion of the application package as the authority may require. Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-day deadline.

B. More than one reservation.

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An applicant may request a second reservation if the first has expired, but in no case may the interest rate be reduced without the authority's prior approval. In addition, a second reservation fee must be collected for a second reservation.

C. The reservation fee.

Under no circumstances is this fee refundable. Reservation fees paid to field originators shall be submitted to and retained by the authority. ~~Reservation fee~~ *One hundred dollars of each reservation fee* paid to any originating ~~agents~~ *agent* will, if the loan closes, be retained by the originating agent as part of its 1.0% origination fee. If (i) the application is not submitted prior to the expiration of the reservation, or (ii) the authority determines at any time that the loan will not close, any ~~such~~ reservation fee paid to an originating agent must be submitted to the authority within 30 days after such expiration or such determination by the authority, as applicable. If, in such cases, the fee is not received by the authority within such 30-day period, the originating agent shall be charged a penalty fee of \$50 in addition to the reservation fee (see subsection D for other fees). No substitutions of applicants or properties are permitted.

D. Other fees.

1. Commitment fee. The originating agent must collect at the time of the issuance of a commitment by the authority an amount equal to 1.0% of the loan amount, less the amount \$100 of the reservation fee already collected (~~such that the total amount received by the originating agent at that point equals 1.0% of the loan amount~~ - please also note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan closes, the originating agent retains such 1.0% *commitment* fee as its original fee and *forwards the balance of the reservation fee to the authority*. If the loan does not close, the ~~origination~~ *commitment* fee (which includes the reservation fee), plus the balance of the reservation fee, must be submitted to the authority when the failure to close is due to the fault of the applicant. On the other hand, if the failure to close is not due to the fault of the applicant, then the collected commitment fee less the *entire* reservation fee may at the option of the authority be refunded to the applicant. (The *total* reservation fee, as required in subsection C above is always submitted to the authority when a loan fails to close.)

2. Discount point. The originating agent must collect at the time of closing an amount equal to 1.0% of the loan amount from the seller. This fee is to be remitted to the authority by the originating agent.

§ 2.13. Preparation of application package for new loans.

A. Conventional loans.

The application package submitted to the authority for approval of a conventional loan must contain the following original documents:

1. Reservation sheet . (Exhibit C(1)) and lock-in disclosure . (Exhibit C(2)) -
2. *Uniform Residential Loan* Application - the application must be ~~made on~~ *include* the authority's ~~approved application form~~ *Addendum* . (Exhibit D (1))
3. Preliminary Underwriting Form. (Exhibit B (1))
4. Credit report issued by local credit bureau and miscellaneous information as applicable explanation of bankruptcies, etc., (and any additional documentation).
5. Verification of employment (and any additional documentation).
6. Verification of other income.
7. Verification of deposits (and any additional documentation).
8. Gift letters (and verification).
9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.
10. Appraisal (FHLMC No. 70) should be the Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC") form and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to the authority or who has a certification from a trade organization approved by the authority (photos and required supporting documentation).
11. Loan submission cover letter. (Exhibit O(1))
12. Appraiser's report. (Exhibit H)
13. Acquisition cost worksheet. (Exhibit G)
14. Affidavit of seller. (Exhibit F)
15. Affidavit of borrower. (Exhibit E)
16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1 B 3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1 B 3 hereof, such letter must be enclosed instead).

17. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

18. Signed request for copy of tax returns. (Exhibit Q)

19. U.S. Department of Housing and Urban Development ("HUD") information booklet acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulations Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

20. Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

21. Truth-in-Lending Disclosure. (Exhibit K)

22. RESPA Disclosure Statement (Exhibit AA).

23. Quality Control Disclosure and Authorization (Exhibit Y).

B. FHA loans.

The application package submitted to the authority for approval of an FHA loan must contain the following items (please note that items 13 through 18, and 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).

2. *Uniform Residential Loan Application* - must be ~~or~~ include the authority's form *Addendum (Exhibit D(1))* and can be handwritten if legible ~~(Exhibit D)~~.

3. Copy the HUD application (FHA form 92900).

4. Copy of the Mortgage Credit Analysis Worksheet (HUD form 92900-ws).

5. Copy of the credit report.

6. Copy of verification of employment and current pay stubs.

7. Copy of verification of other income.

8. Copy of verification of deposits.

9. Copy of gift letters (and verification).

10. Copy of sales contract.

11. Assignment letter - this must reference the case number, name of applicant.

12. Copy of appraisal - this must be on a form acceptable to FHA and must contain all supporting documentation necessary for valuation.

13. FHA Notice to Buyers . (Document F-9)

14. Loan submission cover letter. (Exhibit O(2))

15. Appraiser's report. (Exhibit H)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1 B 3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1 B 3 hereof, such letter must be enclosed instead).

20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. RESPA Disclosure Statement. (Exhibit AA)

26. Quality Control Disclosure and Authorization. (Exhibit Y)

C. VA loans.

The application package submitted to the authority for

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approval of a VA loan must contain the following items (please note that items ~~15~~ 14 through ~~18~~ and 17, 20 and 21 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).
 2. *Uniform Residential Loan Application* - must be on include the authority's ~~form~~ *Addendum (Exhibit D(1))* and can be handwritten if legible. (~~Exhibit D~~) .
 3. Copy the VA application (VA form 26-1802A).
 4. Copy of the Loan Analysis Worksheet (VA form 6393).
 5. Copy of VA certificate of eligibility.
 6. Copy of VA benefits and related indebtedness letter.
 7. Copy of the credit report.
 8. Copy of verification of employment (if active duty, include current LES form).
 9. Copy of verification of other income.
 10. Copy of verification of deposits.
 11. Copy of gift letters (and verification).
 12. Copy of sales contract.
 13. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting documentation necessary for valuation.
 14. Loan submission cover letter. (Exhibit O(3))
 15. Appraiser's report. (Exhibit H)
 16. Acquisition cost worksheet. (Exhibit G)
 17. Affidavit of seller. (Exhibit F)
 18. Affidavit of borrower. (Exhibit E)
 19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1 B 3 hereof.
- (NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1 B 3 hereof, such letter must be enclosed instead).
20. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))
 21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-Lending Disclosure. (Exhibit K)

25. RESPA Disclosure Statement. (Exhibit AA)

26. Quality Control Disclosure and Authorization. (Exhibit Y)

D. FmHA loans.

The application package submitted to the authority for approval of an FmHA loan must contain *the original credit package and one photocopy thereof, as well as the following items* (please note that items 13 through ~~18~~ and ~~20~~ and ~~21~~ 17, 19 and 20 are authority forms and must be submitted as originals, not copies):

1. Reservation sheet (Exhibit C(1)) and lock-in disclosure (Exhibit C(2)).
2. *Uniform Residential Loan Application* - must be on include the authority's ~~form~~ *Addendum (Exhibit D(1))* and can be handwritten if legible. (~~Exhibit D~~)
3. Copy of the HUD application (FHA form 92900).
4. *Preliminary Underwriting Form. (Exhibit B(2))*
- ~~4~~ 5. Copy of the credit report.
- ~~5~~ 6. Copy of verification of employment and current pay stubs.
- ~~6~~ 7. Copy of verification of other income.
- ~~7~~ 8. Copy of verification of deposits.
- ~~8~~ 9. Copy of gift letters (and verification).
- ~~9~~ 10. Copy of sales contract.
- ~~10~~ 11. Copy of appraisal - this must be on a form acceptable to FmHA and must contain all supporting documentation necessary for valuation.

- ~~11.~~ 12. Privacy Act Statement (Form FmHA 410-9).
- ~~12.~~ 13. Loan submission cover letter. (Exhibit O(2))
- ~~13.~~ 14. Appraiser's report. (Exhibit H)
- ~~14.~~ 15. Acquisition cost worksheet. (Exhibit G)
- ~~15.~~ 16. Affidavit of seller. (Exhibit F)
- ~~16.~~ 17. Affidavit of borrower. (Exhibit E)
- 17. 18. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1 B 3 hereof. (NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to § 2.2.1 B 3 hereof, such letter must be enclosed instead).
- ~~18.~~ 19. Originating agent's checklist for certain requirements of the tax code. (Exhibit A(1))
- ~~19.~~ 20. Signed request for copy of tax returns. (Exhibit Q)
- ~~20.~~ 21. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-in-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.
- ~~21.~~ 22. Equal Credit Opportunity Act ("ECOA")/Recapture Tax/RESPA notice, with borrower's acknowledgement of receipt. (Exhibit I)
- ~~22.~~ 23. Truth-in-Lending Disclosure. (Exhibit K)
- ~~23.~~ 24. RESPA Disclosure Statement. (Exhibit AA)
- ~~24.~~ 25. Quality Control Disclosure and Authorization. (Exhibit Y)
- ~~25.~~ 26. Other items which FmHA requires. The authority will advise the originating agent of such additional requirements, if any.

E. Delivery of package to the authority.

After the application package has been completed, it should be forwarded to:

Single Family Division
Originations Department

Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 5206
Richmond, VA. 23220-8206

§ 2.14. Commitment. (Exhibit J)

A. In general.

Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the originating agent. *(For FmHA loans, upon approval of the applicant, the authority will submit the credit package to FmHA and upon receipt of the FmHA conditional commitment, will send the mortgage loan commitment.)* Also enclosed in this the commitment package will be other documents necessary for closing. The originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the originating agent, along with the 1.0% commitment fee, within 15 days after the date of the commitment. If the borrower does so indicate his acceptance of the commitment, the originating agent shall retain the fee in accordance with § 2.1.2 D 1 above. If the borrower fails to so indicate his acceptance of the commitment, either by failing to return an executed original thereof or by failing to submit the fee, or both, the originating agent shall, within 20 days after the date of the commitment, notify the authority in writing of such failure. If the originating agent does not do so, the authority shall deem that commitment to have been duly accepted, and the originating agent shall be liable to the authority for the uncollected commitment fee based on the loan's failure to close as described in § 2.1.2 D 1 above.

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. Generally, no more than one commitment will be issued to an applicant in any calendar year. However, if an applicant who received a commitment fails to close the mortgage loan transaction through no fault of his own, that borrower may be considered for one additional commitment upon proper reapplication to the authority within the one year period from the cancellation or expiration of the original commitment; provided, however, that the interest rate offered in the additional commitment, if issued, may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan

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rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

§ 2.15. Loan settlement.

A. Loan closing.

1. In general. Upon the borrower's acceptance of the mortgage loan commitment, the originating agent will send the authority's letter and closing instructions (see Exhibits M and N) and the closing papers to the closing attorney. The originating agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. The authority will provide the originating agent with the documents which the closing attorney is required to complete.

Once the attorney completes the preclosing package, it should be mailed to:

Single Family Division
Pre-Closing Section
Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 4593
Richmond, VA 23220-8593

After the authority reviews the closing attorney's preliminary work and has been advised by the originating agent in the case of an FHA, VA or FmHA loan that all applicable FHA, VA or FmHA requirements have been met, it will approve closing and, a loan proceeds check will be sent to the closing attorney or firm named in the title insurance commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions. The closing attorney may disburse loan proceeds only after he has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the loan to the authority, and in all other respects is in a position to disburse proceeds in accordance with the authority's letter authorizing the closing, the commitment and the instructions previously issued by the originating agent. It is the originating agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with the authority's requirements, Regulation Z and ECOA.

2. Special note regarding checks for buy-down points (this applies to both the monthly payment buydown program described in § 2.8 D above and the interest rate buydown program described in § 2.8 E). A certified or cashier's check made payable to the

authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay debt service rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down funds may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

B. Post-closing requirements.

All post-closing documents, including the post-closing cover letter (Exhibit P), should be forwarded as follows to:

Single Family Division
Post-Closing Section
Virginia Housing Development Authority
601 South Belvidere Street
Post Office Box 5427
Richmond, VA 23220-8427

Within 10 days after the closing of the loan, the originating agent must forward *to the authority* the fees interest and any other money due the authority, a repayment of the authority's outstanding construction loan, if any, private mortgage insurance affidavit and all closing documents except the original recorded deed of trust and title insurance policy and hazard insurance policy. *For FmHA loans, the authority will apply to FmHA for its certificate of guarantee.*

Within 90 days after loan closing, the originating agent shall forward to the authority the original recorded deed of trust, "final mortgage title insurance policy and FHA certification of insurance, VA guaranty or FmHA guarantee. Within 55 days after loan closing the originating agent shall forward to the *authority servicing agent* the original hazard insurance policy *and forward a photocopy thereof to the authority* .

During the 120-day period following the loan closing the originating agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify the authority if such addresses are not the same or if there is any such change of address. Subject to the authority's approval, the originating agency may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event that the originating agent receives information at any time that any item noted on the originating agent's

checklist for certain requirements of the tax code may not be correct or proper, the originating agent shall immediately notify the authority. *All time limits set forth in this subsection B may be modified by the authority by letter or memorandum mailed by the authority to the originating agents. In addition, the authority may waive such time limits on a case-by-case basis, by letter to the appropriate originating agent.*

§ 2.16. Property guidelines.

A. In general.

For each application the authority must make the determination that the property will constitute adequate security for the loan. That determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing (mobile homes) may be financed only if it is new construction and insured 100% by FHA (see subsection C). Existing manufactured housing is not eligible for authority financing.

B. Conventional loans.

1. Existing housing and new construction. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road (easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority.

2. Additional requirements for new construction. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

C. FHA, VA or FmHA loans.

1. Existing housing and new construction. Both new construction and existing housing financed by an FHA, VA or FmHA loan must meet all applicable requirements imposed by FHA, VA or FmHA.

2. Additional requirements for new construction. If such homes being financed by FHA loans are new manufactured housing they must meet federal manufactured home construction and safety standards,

satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

§ 2.17. Substantially rehabilitated.

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1 D (New mortgage requirement). The authority will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a

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substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

§ 2.18. Condominium requirements.

A. Conventional loans.

The originating agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The originating agent must submit evidence at the time the borrower's application is submitted to the authority for approval.

B. FHA, VA or FmHA loans.

The authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, by VA, in the case of a VA loan or by FmHA, in the case of an FmHA loan.

NOTE: Documents and forms referred to herein as Exhibits have not been adopted by the authority as a part of the rules and regulations for single family mortgage loans to persons and families of low and moderate income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the foregoing rules and regulations for single family mortgage loans to persons and families of low and moderate income. Copies of such documents and forms are available upon request at the offices of the authority.

DEPARTMENT OF LABOR AND INDUSTRY

Title of Regulation: VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens and in Orchards.

Statutory Authority: §§ 40.1-6(3), 40.1-100 A 9, and 40.1-114 of the Code of Virginia.

Effective Date: July 1, 1992

Summary:

The purpose of this regulation is to protect minors working on farms in Virginia. Minors under 16 years of age and under 18 years of age are each prohibited from working in certain groups of hazardous occupations.

Exemptions are provided for minors at least 14 years of age to operate tractors or machines if they are enrolled in recognized training programs.

The regulation also prohibits such child labor during the hours that school is in session except on farms, gardens or orchards owned or operated by the child's parent or guardian.

VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens and in Orchards.

§ 1. Definitions.

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

"Employ" means to put to work, use or service, or to engage the services of, and shall include to permit or suffer to work. "To permit or suffer to work" means to knowingly allow by failure to stop or to protest, as well as to employ by oral or written contract, by any person having authority over a minor in connection with the services being performed. As used in this regulation the term "employ" is broader than the common-law concept of employment and must be interpreted broadly [in the light of the mischief to be corrected] . Neither the technical relationship between the parties nor the fact that the minor is unsupervised or receives no compensation is controlling in determining whether an employer-employee relationship exists for the purpose of this regulation.

"Employer" means an individual, partnership, association, corporation, legal representative, receiver, trustee, or trustee in bankruptcy doing business in or operating within this Commonwealth who employs another to work for wages, salaries, or on commission and shall include any similar entity acting directly or indirectly in the interest of an employer in relation to an employee. For purposes of this regulation, it shall not include the Government of the United States, the Commonwealth of Virginia or any of its agencies, institutions, or political subdivisions or any public body.

"Farms, gardens, and orchards" means farming in all its branches and includes the cultivation and tillage of soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticulture commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. The child labor provisions shall apply in any of these areas of agriculture regardless of farm size or the number of man-days of farm labor used on that farm.

"School hours" means those periods when the school attended by a minor is in regular session, and does not include hours before and after school, Saturdays and Sundays, holidays, or school vacations, including summer vacations. If the minor does not attend school, "school hours" shall mean the school hours of the school district in which the minor is currently living.

[§ 2. Scope and application.

¹ This regulation is promulgated pursuant to § 40.1-6(3) and § 40.1-100 A (9) of the Code of Virginia, and supplements existing Child Labor Laws (Chapter 5 (§ 40.1-78 et seq.) of Title 40.1 of the Code of Virginia) relating to the employment of minors on farms, in gardens and in orchards.

§ 3. Other applicable law.

A. Under § 40.1-78 of the Code of Virginia, no child under age 14 is permitted to work on farms, in gardens or in orchards, with the following exceptions:

1. Any child may be employed by his parent or a person standing in place of his parent on farms, in gardens or in orchards owned or operated by such parent or person.

2. A child 12 or 13 years of age may be employed outside school hours on farms, in gardens or in orchards with the consent of his parent or a person standing in place of his parent.

B. Children employed on farms, in gardens or in orchards are not required to obtain employment certificates (work permits).

C. No person shall employ, suffer, or permit a child to work in any gainful occupation that exposes such child to a recognized hazard capable of causing serious physical harm or death to such child.

D. Any person who employs, procures, or permits a child under his control to be employed in violation of the Child Labor Laws is subject to a civil monetary penalty not to exceed \$1000 per violation.

E. Section 40.1-103 of the Code of Virginia, pertaining to cruelty and injuries to children, and § 40.1-100.2 of the Code of Virginia, pertaining to sexually explicit visual material, provide for criminal penalties and are applicable to the employment of minors on farms, in gardens and in orchards.

§ 4. Hazardous occupations.

This section identifies the occupations on farms, in gardens, and in orchards which are particularly hazardous for minors under 16 years of age. No employer shall employ, suffer, or permit a minor under 16 years of age to work in any of the following occupations, deemed to be particularly hazardous, except as provided in § 5 of this regulation:

1. Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

2. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the

operation) any of the following machines:

a. Corn picker, cotton picker, grain combine, hay mover, forage harvester, hay baler, potato digger, or mobile pea viner;

b. Feed grinder, crop dryer, forage blower, sugar conveyor, or the unloading mechanism of a nongravity self-unloading wagon or trailer; or

c. Power post-hole digger, power post driver, or nonwalking type rotary tiller.

3. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any on the following machines:

a. Trencher or earth moving equipment;

b. Forklift;

c. Potato combine; or

d. Power-driven circular, band, or chain saw.

4. Working on a farm in a yard, pen, or stall occupied by the following:

a. Bull, boar, or stud horse maintained for breeding purposes; or

b. Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

5. Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.

6. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

7. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

8. Working inside the following:

a. A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

b. An upright silo within two weeks after silage has been added or when a top unloading device is in operating position;

c. A manure pit; or

d. A horizontal silo while operating a tractor for packing purposes.

9. Handling or applying (including cleaning or

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decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals identified by the word "poison" and the "skull and crossbones" on the label; or identified by the word "warning" on the label.

10. Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

11. Transporting, transferring, or applying anhydrous ammonia.

§ 2. Hazardous occupations - minimum age 18.

The occupations or activities on farms, in gardens, and in orchards listed in this section are hereby declared to be particularly hazardous for minors under 18 years of age. No employer shall employ, suffer, or permit a minor under 18 years of age to work in any of the following occupations or activities, except as provided in § 4 of this regulation:

1. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

a. Corn picker, cotton picker, grain or peanut combine, hay mower or conditioner, forage harvester, hay baler, potato digger, mobile pea viner, or tobacco picker or harvester;

b. Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity self-unloading wagon or trailer;

c. Rotary brush and weed cutter (brush hog), or nonwalking type rotary tiller; or

d. Manually held power post-hole digger or power post driver. A minor under 18 years of age also may not work in physical proximity to the power take-off shaft of a tractor or to the auger or driver of a tractor-mounted power post-hole digger or driver. A minor 16 years of age may, however, operate a tractor on which such a post-hole digger or driver is mounted.

2. Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

a. Trencher or earth moving equipment;

b. Forklift;

c. Potato combine; or

d. Power-driven circular, band, or chain saw.

3. Felling, limbing, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.

4. Working inside the following:

a. A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

b. An upright silo within two weeks after silage has been added or when a top unloading device is in operating position;

c. A manure pit; or

d. An above-ground horizontal silo while operating a tractor or other vehicle for packing purposes.

5. Working with agricultural and nonagricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I or Category II of toxicity including:

a. Handling, mixing, loading, or unloading or applying such chemicals;

b. Cleaning or decontaminating equipment;

c. Disposal or return of empty containers; or

d. Serving as a flagman for vehicles or aircraft carrying or applying such chemicals.

Such Category I chemicals are identified by labels containing the terms "poison" or "danger" or a "skull and crossbones" symbol. Category II chemicals are identified by the term "warning" on the label.

6. Handling or using a blasting agent including, but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

7. Transporting, transferring, or applying anhydrous ammonia.

8. Riding on a tractor or other vehicle as a passenger or helper, except where the minor is sitting in a seat designed for a passenger.

9. Driving or helping on a truck of more than two axles.

§ 3. Hazardous occupations - minimum age 16.

The occupations or activities on farms, in gardens, and in orchards listed in this section are hereby declared to be hazardous for minors under 16 years of age. No employer shall employ, suffer, or permit a minor under 16 years of age to work in any of the following occupations or activities, except as provided in § 4 of this regulation:

1. Operating a tractor or skid-steer loader of over 45 PTO horsepower or connecting or disconnecting an implement or any of its parts to or from such a tractor or skid-steer loader; however, no minor of any age may drive a tractor or skid-steer loader of over 20 engine horsepower unless such vehicle is equipped with a roll-over protective structure ("ROPS") which meets the standards set out in 29 Code of Federal Regulations ("C.F.R.") §§ 1928.52, 1928.53, or 1926.1002 for wheeled vehicles, and 29 C.F.R. § 1926.1001 for track vehicles. Further, no such minor may drive a tractor or skid-steer loader of more than 20 engine horsepower unless such vehicle is equipped with seatbelts which meet the standards set out in 29 C.F.R. § 1928.51(b)(2)(ii). The employer shall ensure that the employee uses such seat belt while the tractor is moving, and shall ensure that each employee tightens the seat belt sufficiently to confine the employee to the area protected by the ROPS.

2. Working on a farm in a yard, pen, or staff occupied by the following:

a. Bull, ram, boar, or stud horse maintained for breeding purposes, or

b. Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

3. Driving a bus, truck with no more than two axles, or automobile when transporting passengers.

4. Working in a trench silo at ground level or below while operating a tractor or other vehicle for packing purposes.

5. Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, and similar activities).]

§ [5: 4.] Exemptions to hazardous occupations.

This section provides exemptions to the restrictions on hazardous occupations on farms, in gardens and in orchards set forth in [§ 4 §§ 2 and 3] of this regulation.

A. A minor employed by a parent or a person standing in place of a parent on farms, in gardens or in orchards owned or operated by such parent or person is exempt from [§ 4 §§ 2 and 3] of this regulation.

B. Minors 14 and 15 years of age are exempted from the occupations listed in [subsections A through F of § 4 subdivisions 1 through 3 of § 2 and subdivisions 1, 2, and 5 of § 3] provided the minor is enrolled in a regular school work-training program pursuant to a written agreement which provides:

1. That the work of the child is incidental to his training, will be intermittent and for short periods of time, and will be under the direct and close

supervision of a competent and experienced person;

2. That safety instruction will be given by the school and correlated with on-the-job training given by the employer;

3. That a schedule of organized and progressive work processes to be performed has been prepared.

The written agreement shall state the name of the minor to be employed and must be signed by the employer and the coordinator of schools having jurisdiction. Copies of such agreement must be retained by the school and the employer, and a copy must be filed with the Department of Labor and Industry. The written agreement may be revoked by the Commissioner of Labor and Industry at any time that it shall appear that reasonable precautions for the safety of the minor have not been observed.

C. Minors 14 and 15 years of age who are enrolled in the 4-H Federal Extension Service Training Program, and who hold certificates of completion of either the tractor operation or machine operation program, may work in the occupations for which they have been trained. These certificates are valid for hazardous occupations covered by [subsections A and B of § 4 subdivision 1 of § 2 and subdivision 1 of § 3] of this regulation. Farmers employing minors who have completed this program must keep a copy of the certificates of completion on file with the minor's records.

D. Minors 14 and 15 years of age who hold certificates of completion of either the tractor operation or machine operation program of the U.S. Office of Education Vocational Agricultural Training Program may work in the occupations for which they have been trained. These certificates are valid for hazardous occupations covered by [subsections A and B of § 4 subdivision 1 of § 2 and subdivision 1 of § 3] of this regulation. Farmers employing minors who have completed this program must keep a copy of the certificate of completion on file with the minor's records.

§ [6: 5.] Hours of work.

A. No minor under 16 years of age shall be employed, permitted or suffered to work in any occupation on farms, in gardens or in orchards during the hours that school is in session, except as provided in subsection B of this section.

B. No hours of work restrictions shall apply to a child employed by his parent or a person standing in place of his parent on farms, in gardens or in orchards owned or operated by such parent or person.

C. No child under 16 years of age shall be employed or permitted to work on farms, in gardens or in orchards for more than 5 hours continuously without an interval of at least 30 minutes for a lunch period, and no period of less

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than 30 minutes shall be deemed to interrupt a continuous period of work.

§ [7. 6.] Record-keeping requirements.

A. Every employer who employs any minor under 16 years of age on farms, in gardens or in orchards shall maintain records containing the following information about each such minor:

1. Full legal name.

2. Date of birth. [The employer is solely responsible if he improperly employs an underage minor, and is advised to require documentary proof if he is not certain of the minor's age. To verify age, an employer may request a minor to obtain an age certificate from a Department of Labor and Industry issuing officer; these officers are located in most public schools.]

3. The minor's residence while employed. If the minor's permanent address is elsewhere, both addresses shall be maintained.

[4. A time book or time cards or other appropriate records for such minor employees which shall show the beginning and ending time of work each day together with the amount designated as a free-from-duty meal period.]

B. Every employer who employs a minor 12 or 13 years of age outside of school hours on farms, in gardens or in orchards with the consent of the child's parent or person standing in place of a parent must obtain such consent in writing and retain such documentation on the premises.

C. All records required to be maintained by this section shall be kept on the premises for a period of 36 months from the employee's most recent date of employment.

[D. Whenever information required to be maintained by these regulations is already maintained by the employer on a Department of Justice Form I-9, "Employment Eligibility Verification," no separate documentation shall be required. If the Form I-9 does not contain all information required by these regulations, such as date of birth, separate documentation of the additional information shall be maintained.]

[~~E.~~ E.] This section shall not apply to a parent, or a person standing in place of a parent, employing his child on farms, in gardens or in orchards owned and operated by such parent or person.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: The amendments to these regulations are excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14.4.1

C 4(a) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of Virginia statutory law where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

* * * * *

Due to the length of VR 460-02-2.2100, only the amended page of the regulation and a summary are being published. The full text of VR 460-03-2.6101 is being published and the full text of VR 460-02-2.2100 is available for public inspection at the Office of the Registrar of Regulations and the Department of Medical Assistance Services.

Title of Regulations: State Plan for Medical Assistance Relating to Income Scales for Indigent Children. VR 460-02-2.2100. Groups Covered and Agencies Responsible for Eligibility Determination. VR 460-03-2.6101. Income Eligibility Levels.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

The purpose of this action is to amend the Plan for Medical Assistance concerning income levels for certain children consistent with actions of the 1992 General Assembly.

This action amends the State Plan for Medical Assistance Services in Attachment 2.2 A and Supplement 1 of Attachment 2.6 A for conformance with the 1992 Appropriations Act.

The 1992 Appropriations Act § 1-88 Item 313(M) directs the Department of Medical Assistance Services to amend the State Plan for Medical Assistance to establish an income level equal to 100% of the official income poverty line as defined in Title XIX of the Social Security Act, § 1902(1)(2)(A) for qualified children described in § 1902(a)(10)(A)(i)(IX) who have attained age six but have not attained age 13.

Title XIX of the Social Security Act requires states to use an income criteria equal to 100% of the federal poverty income guideline when determining the Medicaid eligibility of children born after September 30, 1983, who have attained age six but who have not attained age 19. This requirement results in the expansion of Medicaid eligibility on a year basis until by the year 2002 all poor children up to 19 years old will be eligible for Medicaid.

Title XIX § 1905(n)(2) also permits states at their option to cover poor children born before September 30, 1983. The 1992 General Assembly directed that

this option be exercised in Fiscal Year 1993 to expand Medicaid coverage by setting the eligibility income level for children who have attained the age of six but have not attained the age of 13 to 100% of the federal poverty income level. This raises the upper age limit of the category of indigent children from age nine to 13.

7	482	512	590
8	541	572	650
9	591	623	701
10	647	678	755

VR 460-02-2.2100. Groups Covered and Agencies Responsible for Eligibility Determination.

Agency* Citation Groups Covered

F. Optional Groups Other Than the Medically Needy.

1902(a)(10)(A) □ 1. The following individuals (ii)(IX) and 902(1)(1)(D) have of the Act exceed 1905(n)(2) (established poverty family after who

who are not mandatory categorically needy, who income that does not the income level at an amount up to 100 percent of the Federal level) specified in Supplement 1 of ATTACHMENT 2.6-A for a of the same size. Children who are born September 30, 1979, and have attained 6 years of age but have not attained age 13.

Each person above 10 56 56 56

2. For aged, blind, disabled groups: the SSI income levels.

3. For individuals meeting the requirements of §§ 435.231 and 435.232, the income level is 300% of the SSI payment level for an individual.

B. Income eligibility levels—optional categorically needy groups with incomes up to federal poverty line.

1. Pregnant women, infants, and children. The levels for determining income eligibility for groups of pregnant women, infants, and children under the provisions of § 1902(1)(2) of the Act are as follows:

Based on 133%, and updated annually, of the official federal nonfarm income poverty line:

Size of Family	Unit Poverty Guideline
1	\$ 8,805
2	11,811
3	14,816
4	17,822
5	20,828
6	23,834
7	26,840
8	29,846

VR 460-03.2.6101. Income Eligibility Levels.

A. Income eligibility levels—categorically needy.

1. For AFDC related groups:

No. of Persons	Group I	Group II	Group III
1	\$131	\$157	\$220
2	207	231	294
3	265	291	354
4	322	347	410
5	380	410	488
6	427	458	534

Each additional person 3,006

2. Aged and disabled individuals. The levels for determining income eligibility for groups of aged disabled individuals under the provisions of § 1902(m)(4) of the Act are as follows:

Based on...% of the official federal nonfarm income poverty line:

Not covered.

B1. Income eligibility levels—categorically needy groups with incomes up to federal poverty line.

1. Children who have attained age 6 but have not attained age 19 born after September 30, 1983. The

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levels for determining income eligibility for groups of children under the provisions of § 1902(1)(1)(D) of the Act are as follows:

Based on 100 percent of the official federal nonfarm income poverty line:

Size of Family Unit	Poverty Guideline
1	\$6,620
2	8,880
3	11,140
4	13,400
5	15,660
6	17,920
7	20,160
8	22,440

B2. Optional categorically needy groups with income related to federal poverty level.

Children between ages 6 and 13. The levels for determining income eligibility for groups of children who are born after September 30, 1979, and who have attained 6 years of age but are under 13 years of age under the provisions of § 1902(1)(2) and § 1905(n)(2) of the act are as follows:

Based on 100% (no more than 100%) of the official federal income poverty line.

Family Size	Income Level
1	\$6,810
2	\$9,180
3	\$11,570
4	\$13,950
5	\$16,330
6	\$18,710
7	\$21,090
8	\$23,470
9	\$25,850
10	\$28,230

C. Income eligibility levels—optional group of qualified Medicare beneficiaries with incomes up to federal poverty line.

The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(p)(2)(A) of the Act are as follows:

Size of Family Unit	Poverty Guideline
1	\$6,620
2	\$8,880

Based on 100%, and updated annually, of the office federal nonfarm income poverty line:

D. Income eligibility levels—mandatory group of qualified disabled and working individuals with incomes up to federal poverty line.

The levels for determining income eligibility for groups of qualified disabled and working individuals under the provisions of § 1905(s) of the Act are as follows:

Based on 200%, and updated annually, of the official federal nonfarm income poverty level:

Size of Family Unit	Poverty Guideline
1	\$ 13,240
2	17,760

E. Income levels—medically needy.

Applicable to all groups

Applicable to:

1. Family size.
2. Net income level protected for maintenance.
3. Net income level for persons living in rural areas.

urban only

urban and rural

	Group I	Group II	Group III
1	\$2,600	\$3,000	\$3,900
2	3,400	3,700	4,800
3	3,900	4,300	5,300
4	4,400	4,800	5,800
5	4,900	5,300	6,300
6	5,400	5,800	6,800
7	5,900	6,300	7,300
8	6,500	6,900	7,800
9	7,100	7,500	8,500
10	7,800	8,200	9,100

For each additional person,
add: 600 600 600

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Grouping of Localities

Group I	Counties	Counties	Cities
Accomack	Highland	Sussex	Lynchburg
Alleghany	Isle of Wight	Tazewell	Martinsville
Amelia	James City	Washington	Newport News
Amherst	King George	Westmoreland	Norfolk
Appomattox	King and Queen	Wise	Petersburg
Bath	King William	Wythe	Portsmouth
Bedford	Lancaster	York	Radford
Bland	Lee		Richmond
Botetourt	Louisa	Cities	Roanoke
Brunswick	Lunenburg		Salem
Buchanan	Madison	Bristol	Staunton
Buckingham	Matthews	Buena Vista	Virginia Beach
Campbell	Mecklenburg	Clifton Forge	Williamsburg
Caroline	Middlesex	Danville	Winchester
Carroll	Nelson	Emporia	***
Charles City	New Kent	Franklin	Group III
Charlotte	Northhampton	Galax	
Clarke	Northumberland	Norton	Cities
Craig	Nottoway	Poquoson	
Culpeper	Orange	Suffolk	Arlington
Cumberland	Page	***	Fairfax
Dickenson	Patrick	Group II	Montgomery
Dinwiddie	Pittsylvania		Prince William
Essex	Powhatan	Albemarle	
Fauquier	Prince Edward	Augusta	Cities
Floyd	Prince George	Chesterfield	Alexandria
Fluvanna	Pulaski	Henrico	Charlottesville
Franklin	Rappahannock	Loudoun	Colonial Heights
Frederick	Richmond	Roanoke	Fairfax
Giles	Rockbridge	Rockingham	Falls Church
Gloucester	Russell	Warren	Fredericksburg
Goochland	Scott		Hampton
Grayson	Shenandoah	Cities	Manassas
Greene	Smyth	Chesapeake	Manassas Park
Greensville	Southampton	Covington	Waynesboro

Halifax Spotsylvania Harrisonburg
 Hanover Stafford Hopewell
 Henry Surry Lexington

REGISTRAR'S NOTICE: The amendments to these regulations are 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 Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: State Plan for Medical Assistance Relating to Physicians Visits in Nursing Facilities. **VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality Care.**
~~VR 460-03-3.1310.~~ **VR 460-03-3.1301. Nursing Facility and MR Criteria.**

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Date: June 17, 1992.

Summary:

The purpose of this action is to amend the Plan for Medical Assistance concerning physician visits and patient order renewals in nursing facilities due to action taken by the Health Care Financing Administration in the Code of Federal Regulations.

The section of the State Plan for Medical Assistance affected by this action is Attachment 3.1-C, Standards Established and Methods Used to Assure High Quality of Care.

Final rules for long-term care, as published by the Health Care Financing Administration in the Federal Register on September 26, 1991, revise and consolidate the final interim rules published on February 2, 1989, and add changes made by the Omnibus Budget Reconciliation Act of 1990. Included in the final rules is the requirement that, effective April 1, 1992, all residents must be seen by a physician and orders must be renewed at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. Current regulations require that a physician visit nursing facility residents at least once every 30 days for the first 90 days after admission, and at least once every 90 days thereafter.

At each visit, the resident's total plan of care, including medications and treatments, must be

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reviewed. In addition, the physician must write, sign, and date progress notes at each visit and sign and date all orders. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a nurse practitioner or physician assistant.

In addition, the Omnibus Budget Reconciliation Act of 1987 required that nursing facilities complete the state-specified resident assessment instrument within four days of an individual's admission. The number of days was subsequently changed by the interim final rules to allow 14 days after an individual's admission for the resident assessment instrument to be completed.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

The following is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality:

§ 1. Institutional care will be provided by facilities qualified to participate in Title XVIII and/or Title XIX.

§ 2. Utilization control.

A. Hospitals.

1. The Commonwealth of Virginia is required by state law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, discuss patient care, and discharge planning.

2. In each case for which payment for inpatient hospital services, or inpatient mental hospital services is made under the State Plan:

a. A physician must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires inpatient hospital or mental hospital care.

b. The physician, or physician assistant under the

supervision of a physician, must recertify, at least every 60 days, that patients continue to require inpatient hospital or mental hospital care.

c. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician for inpatient hospital or mental hospital services.

B. Long-stay acute care hospitals (nonmental hospitals).

1. Services for adults in long-stay acute care hospitals. The population to be served includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services and individuals with communicable diseases requiring universal or respiratory precautions.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care hospital placement, and any additional information that justifies the need for intensive services. Physician certification must accompany the request. Periods of care not authorized by DMAS shall not be approved for payment.

b. These individuals must have long-term health conditions requiring close medical supervision, the need for 24-hour licensed nursing care, and the need for specialized services or equipment needs.

c. At a minimum, these individuals must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit 24 hours a day on which the resident resides), and coordinated multidisciplinary team approach to meet needs that must include daily therapeutic leisure activities.

d. In addition, the individual must meet at least one of the following requirements:

(1) Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of one hour each day; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

(3) The individual must require at least one of the

following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(c) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns covering more than 10% of the body); or

(f) Ongoing management of multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.).

e. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the individuals' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

f. When the individual no longer meets long-stay acute care hospital criteria or requires services that the facility is unable to provide, then the individual must be discharged.

2. Services to pediatric/adolescent patients in long-stay acute care hospitals. The population to be served shall include children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device-based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and those children having communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.) and with terminal illnesses.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed comprehensive assessment instrument, a physician certification of the need for long-stay acute care,

and any additional information that justifies the need for intensive services. Periods of care not authorized by DMAS shall not be approved for payment.

b. The child must have ongoing health conditions requiring close medical supervision, the need for 24-hour licensed nursing supervision, and the need for specialized services or equipment. The recipient must be age 21 or under.

c. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit 24 hours a day on which the child is residing), and a coordinated multidisciplinary team approach to meet needs.

d. In addition, the child must meet one of the following requirements:

(1) Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services; each required therapy must be provided daily, five days per week, for a minimum of 45 minutes per day; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

(3) Must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(c) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third-degree burns

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covering more than 10% of the body);

(f) Ostomy care requiring services by a licensed nurse;

(g) Services required for terminal care.

e. In addition, the long-stay acute care hospital must provide for the educational and habilitative needs of the child. These services must be age appropriate, must meet state educational requirements, and must be appropriate to the child's cognitive level. Services must also be individualized to meet the child's specific needs and must be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. Therapeutic leisure activities must be provided daily.

f. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. 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.

g. When the resident no longer meets long-stay hospital criteria or requires services that the facility is unable to provide, the resident must be discharged.

C. Nursing facilities.

1. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements.

2. Nursing facilities must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly, and a complete assessment conducted at least annually.

3. The Department of Medical Assistance Services shall conduct at least annually a validation survey of the assessments completed by nursing facilities to determine that services provided to the residents are medically necessary and that needed services are provided. The survey will be composed of a sample of Medicaid residents and will include review of both current and closed medical records.

4. Nursing facilities must submit to the Department of

Medical Assistance Services resident assessment information at least every six months for utilization review. If an assessment completed by the nursing facility does not reflect accurately a resident's capability to perform activities of daily living and significant impairments in functional capacity, then reimbursement to nursing facilities may be adjusted during the next quarter's reimbursement review. Any individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment is subject to civil money penalties.

5. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in Supplement 1 to Attachment 3.1-C, Part 1 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in Supplement 1 to Attachment 3.1-C, Part 2 (Adult Specialized Care Criteria) or Part 3 (Pediatric/Adolescent Specialized Care Criteria). Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services. In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. Further specialized care services requirements are set forth below.

In each case for which payment for nursing facility services is made under the State Plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan that the individual requires nursing facility care.

6. For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every ~~90~~ 60 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

7. When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged.

8. Specialized care services.

a. Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department

of Medical Assistance Services to provide nursing facility care. Providers must agree to provide care to at least four residents who meet the specialized care criteria for children/adolescents or adults.

b. Providers must be able to provide the following specialized services to Medicaid specialized care recipients:

- (1) Physician visits at least once weekly;
- (2) Skilled nursing services by a registered nurse available 24 hours a day;
- (3) Coordinated multidisciplinary team approach to meet the needs of the resident;
- (4) For residents under age 21, provision for the educational and habilitative needs of the child;
- (5) For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of six sessions each day, 15 minutes per session, five days per week;
- (6) For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of four sessions per day, 30 minutes per session, five days a week;
- (7) Ancillary services related to a plan of care;
- (8) Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day);
- (9) Psychology services by a board-certified psychologist related to a plan of care;
- (10) Necessary durable medical equipment and supplies as required by the plan of care;
- (11) Nutritional elements as required;
- (12) A plan to assure that specialized care residents have the same opportunity to participate in integrated nursing facility activities as other residents;
- (13) Nonemergency transportation;
- (14) Discharge planning;
- (15) Family or caregiver training; and
- (16) Infection control.

D. Facilities for the Mentally Retarded (FMR) and Institutions for Mental Disease (IMD).

1. With respect to each Medicaid-eligible resident in an FMR or IMD in Virginia, a written plan of care must be developed prior to admission to or authorization of benefits in such facility, and a regular program of independent professional review (including a medical evaluation) shall be completed periodically for such services. The purpose of the review is to determine: the adequacy of the services available to meet his current health needs and promote his maximum physical well being; the necessity and desirability of his continued placement in the facility; and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Long-term care of residents in such facilities will be provided in accordance with federal law that is based on the resident's medical and social needs and requirements.

2. With respect to each intermediate care FMR or IMD, periodic on-site inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), shall be conducted. The review shall include, with respect to each recipient, a determination of the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, the necessity and desirability of continued placement in the facility, and the feasibility of meeting his health care needs through alternative institutional or noninstitutional services. Full reports shall be made to the state agency by the review team of the findings of each inspection, together with any recommendations.

3. In order for reimbursement to be made to a facility for the mentally retarded, the resident must meet criteria for placement in such facility as described in Supplement 1, Part 4, to Attachment 3.1-C and the facility must provide active treatment for mental retardation.

4. In each case for which payment for nursing facility services for the mentally retarded or institution for mental disease services is made under the State Plan:

a. A physician must certify for each applicant or recipient that inpatient care is needed in a facility for the mentally retarded or an institution for mental disease. The certification must be made at the time of admission or, if an individual applies for assistance while in the facility, before the Medicaid agency authorizes payment; and

b. A physician, or physician assistant or nurse practitioner acting within the scope of the practice as defined by state law and under the supervision of

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a physician, must recertify for each applicant at least every 365 days that services are needed in a facility for the mentally retarded or institution for mental disease.

5. When a resident no longer meets criteria for facilities for the mentally retarded or an institution for mental disease or no longer requires active treatment in a facility for the mentally retarded, then the resident must be discharged.

E. Home health services.

1. Home health services which meet the standards prescribed for participation under Title XVIII will be supplied.

2. Home health services shall be provided by a licensed home health agency on a part-time or intermittent basis to a homebound recipient in his place of residence. The place of residence shall not include a hospital or nursing facility. Home health services must be prescribed by a physician and be part of a written plan of care utilizing the Home Health Certification and Plan of Treatment forms which the physician shall review at least every 62 days.

3. Except in limited circumstances described in subdivision 4 below, to be eligible for home health services, the patient must be essentially homebound. The patient does not have to be bedridden. Essentially homebound shall mean:

- a. The patient is unable to leave home without the assistance of others or the use of special equipment;
- b. The patient has a mental or emotional problem which is manifested in part by refusal to leave the home environment or is of such a nature that it would not be considered safe for him to leave home unattended;
- c. The patient is ordered by the physician to restrict activity due to a weakened condition following surgery or heart disease of such severity that stress and physical activity must be avoided;
- d. The patient has an active communicable disease and the physician quarantines the patient.

4. Under the following conditions, Medicaid will reimburse for home health services when a patient is not essentially homebound. When home health services are provided because of one of the following reasons, an explanation must be included on the Home Health Certification and Plan of Treatment forms:

- a. When the combined cost of transportation and medical treatment exceeds the cost of a home health services visit;

b. When the patient cannot be depended upon to go to a physician or clinic for required treatment, and, as a result, the patient would in all probability have to be admitted to a hospital or nursing facility because of complications arising from the lack of treatment;

c. When the visits are for a type of instruction to the patient which can better be accomplished in the home setting;

d. When the duration of the treatment is such that rendering it outside the home is not practical.

5. Covered services. Any one of the following services may be offered as the sole home health service and shall not be contingent upon the provision of another service.

- a. Nursing services,
- b. Home health aide services,
- c. Physical therapy services,
- d. Occupational therapy services,
- e. Speech-language pathology services, or
- f. Medical supplies, equipment, and appliances suitable for use in the home.

6. General conditions. The following general conditions apply to reimbursable home health services.

a. The patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his or her license. The physician may be the patient's private physician or a physician on the staff of the home health agency or a physician working under an arrangement with the institution which is the patient's residence or, if the agency is hospital-based, a physician on the hospital or agency staff.

b. Services shall be furnished under a written plan of care and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of care and must be related to the patient's condition. The written plan of care shall appear on the Home Health Certification and Plan of Treatment forms.

c. A physician recertification shall be required at intervals of at least once every 62 days, must be signed and dated by the physician who reviews the plan of care, and should be obtained when the plan of care is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long home health

services will be needed. Recertifications must appear on the Home Health Certification and Plan of Treatment forms.

d. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

e. The physician orders for durable medical equipment and supplies shall include the specific item identification including all modifications, the number of supplies needed monthly, and an estimate of how long the recipient will require the use of the equipment or supplies. All durable medical equipment or supplies requested must be directly related to the physician's plan of care and to the patient's condition.

f. A written physician's statement located in the medical record must certify that:

(1) The home health services are required because the individual is confined to his or her home (except when receiving outpatient services);

(2) The patient needs licensed nursing care, home health aide services, physical or occupational therapy, speech-language pathology services, or durable medical equipment and/or supplies;

(3) A plan for furnishing such services to the individual has been established and is periodically reviewed by a physician; and

(4) These services were furnished while the individual was under the care of a physician.

g. The plan of care shall contain at least the following information:

(1) Diagnosis and prognosis,

(2) Functional limitations,

(3) Orders for nursing or other therapeutic services,

(4) Orders for medical supplies and equipment, when applicable

(5) Orders for home health aide services, when applicable,

(6) Orders for medications and treatments, when applicable,

(7) Orders for special dietary or nutritional needs, when applicable, and

(8) Orders for medical tests, when applicable,

including laboratory tests and x-rays

6. Utilization review shall be performed by DMAS to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in patients' medical records as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

7. All services furnished by a home health agency, whether provided directly by the agency or under arrangements with others, must be performed by appropriately qualified personnel. The following criteria shall apply to the provision of home health services:

a. Nursing services. Nursing services must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

b. Home health aide services. Home health aides must meet the qualifications specified for home health aides by 42 CFR 484.36. Home health aide services may include assisting with personal hygiene, meal preparation and feeding, walking, and taking and recording blood pressure, pulse, and respiration. Home health aide services must be provided under the general supervision of a registered nurse. A recipient may not receive duplicative home health aide and personal care aide services.

c. Rehabilitation services. Services shall be specific and provide effective treatment for patients' conditions in accordance with accepted standards of medical practice. The amount, frequency, and duration of the services shall be reasonable. Rehabilitative services shall be provided with the expectation, based on the assessment made by physicians of patients' rehabilitation potential, that the condition of patients will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with the specific diagnosis.

(1) Physical therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a physical therapist licensed by the Board of Medicine. 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 is under the direct supervision of a physical therapist licensed by the Board of

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Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

(2) Occupational therapy services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board. 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 who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

(3) Speech-language pathology services shall be directly and specifically related to an active written care plan designed by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech Pathology. 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.

d. Durable medical equipment and supplies. Durable medical equipment, supplies, or appliances must be ordered by the physician, be related to the needs of the patient, and included on the plan of care. Treatment supplies used for treatment during the visit are included in the visit rate. Treatment supplies left in the home to maintain treatment after the visits shall be charged separately.

e. A visit shall be defined as the duration of time that a nurse, home health aide, or rehabilitation therapist is with a client to provide services prescribed by a physician and that are covered home health services. Visits shall not be defined in measurements or increments of time.

F. Optometrists' services are limited to examinations (refractions) after preauthorization by the state agency except for eyeglasses as a result of an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT).

G. In the broad category of Special Services which includes nonemergency transportation, all such services for recipients will require preauthorization by a local health department.

H. Standards in other specialized high quality programs such as the program of Crippled Children's Services will be incorporated as appropriate.

I. Provisions will be made for obtaining recommended medical care and services regardless of geographic boundaries.

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PART I. INTENSIVE PHYSICAL REHABILITATIVE SERVICES.

§ 1.1. A patient qualifies for intensive inpatient or outpatient rehabilitation if:

A. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of a multi-disciplinary coordinated team approach to improve his ability to function as independently as possible; and

B. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.

§ 1.2. In addition to the initial disability requirement participants shall meet the following criteria:

A. Require at least two of the listed therapies in addition to rehabilitative nursing:

1. Occupational Therapy
2. Physical Therapy
3. Cognitive Rehabilitation
4. Speech-Language Therapy

B. Medical condition stable and compatible with an active rehabilitation program.

PART II. INPATIENT ADMISSION AUTHORIZATION.

§ 2.1. Within 72 hours of a patient's admission to an intensive rehabilitation program, or within 72 hours of notification to the facility of the patient's Medicaid eligibility, the facility shall notify the Department of Medical Assistance Services in writing of the patient's admission. This notification shall include a description of the admitting diagnoses, plan of treatment, expected progress and a physician's certification that the patient meets the admission criteria. The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment.

and notify the facility of its decision. If payment is approved, the Department will establish and notify the facility of an approved length of stay. Additional lengths of stay shall be requested in writing and approved by the Department. Admissions or lengths of stay not authorized by the Department of Medical Assistance Services will not be approved for payment.

PART III. DOCUMENTATION REQUIREMENTS.

§ 3.1. Documentation of rehabilitation services shall, at a minimum:

A. Describe the clinical signs and symptoms of the patient necessitating admission to the rehabilitation program;

B. Describe any prior treatment and attempts to rehabilitate the patient;

C. Document an accurate and complete chronological picture of the patient's clinical course and progress in treatment;

D. Document that a multi-disciplinary coordinated treatment plan specifically designed for the patient has been developed;

E. Document in detail all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response to treatment, and identify who provided such treatment;

F. Document each change in each of the patient's conditions;

G. Describe responses to and the outcome of treatment; and

H. Describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

§ 3.2. Services not specifically documented in the patient's medical record as having been rendered will be deemed not to have been rendered and no reimbursement will be provided.

PART IV. INPATIENT REHABILITATION EVALUATION.

§ 4.1. For a patient with a potential for physical rehabilitation for which an outpatient assessment cannot be adequately performed, an intensive evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting

rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated goals.

§ 4.2. If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a re-evaluation.

§ 4.3. Admissions for evaluation and/or training for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.

PART V. CONTINUING EVALUATION.

§ 5.1. Team conferences shall be held as needed but at least every two weeks to assess and document the patient's progress or problems impeding progress. The team shall periodically assess the validity of the rehabilitation goals established at the time of the initial evaluation, and make appropriate adjustments in the rehabilitation goals and the prescribed treatment program. A review by the various team members of each others' notes does not constitute a team conference. A summary of the conferences, noting the team members present, shall be recorded in the clinical record and reflect the reassessments of the various contributors.

§ 5.2. Rehabilitation care is to be terminated, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.

§ 5.3. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

PART VI. THERAPEUTIC FURLOUGH DAYS.

§ 6.1. Properly documented medical reasons for furlough may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough will not be reimbursed by the Department of Medical Assistance Services.

PART VII. DISCHARGE PLANNING.

§ 7.1. Discharge planning shall be an integral part of the overall treatment plan which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the

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probable discharge destination. The patient, unless unable to do so, or the responsible party shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the team conference.

PART VIII. REHABILITATION SERVICES TO PATIENTS.

§ 8.1. Rehabilitation services are medically prescribed treatment for improving or restoring functions which have been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning. The rules pertaining to them are:

A. Rehabilitative nursing.

Rehabilitative nursing requires education, training, or experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in cognitive and functional ability.

Rehabilitative nursing are 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 approved by a physician after any needed consultation with a registered nurse who is experienced in rehabilitation;
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 registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in rehabilitation;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.

B. Physical therapy.

Physical therapy services are 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 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 qualified physical therapist licensed by the Board of Medicine;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. 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. Occupational therapy.

Occupational therapy services are 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 Certification Board under the direct supervision of a qualified occupational therapist as defined above;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. 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. Speech-Language therapy.

Speech-Language therapy services are 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;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. 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.

E. Cognitive rehabilitation.

Cognitive rehabilitation services are 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 a clinical psychologist experienced in working with the neurologically impaired and 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 rendered after a neuropsychological evaluation administered by a clinical psychologist or physician experienced in the administration of neuropsychological assessments and licensed by the Board of Medicine and in accordance with a plan of care based on the findings of the neuropsychological evaluation;

3. Cognitive rehabilitation therapy services may be provided by occupational therapists, speech-language pathologists, and psychologists who have experience in working with the neurologically impaired when provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine;

4. The cognitive rehabilitation services shall be an integrated part of the total patient care plan and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

5. The services include activities to improve a variety of cognitive functions such as orientation, attention/concentration, reasoning, memory, discrimination and behavior; and

6. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis.

F. Psychology.

Psychology services are 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 ordered by a physician;
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 qualified psychologist as required by state law;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. 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.

G. Social work.

Social work services are those services furnished a patient which meet all of the following conditions:

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1. The services shall be directly and specifically related to an active written treatment plan ordered by a physician;
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 qualified social worker as required by state law;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

H. Recreational therapy.

Recreational therapy are 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 ordered by a physician;
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 are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;
3. The services shall be provided with the expectation, based on the assessment made by the physician of the patient's rehabilitation potential, that the condition of the patient will improve significantly in a reasonable and generally predictable period of time, or shall be necessary to the establishment of a safe and effective maintenance program required in connection with a specific diagnosis; and
4. The services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of practice; this includes the requirement that the amount, frequency and duration of the services shall be reasonable.

I. Prosthetic/orthotic services.

1. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to

design the device, including measuring, fitting, and instructing the patient in its use;

2. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use; and

3. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

4. The services shall be directly and specifically related to an active written treatment plan approved by a physician after consultation with a prosthetist, orthotist, or a licensed, board eligible prosthodontist, certified in Maxillofacial prosthetics.

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. Medically necessary medical supplies, equipment and appliances shall be covered. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost-effective by DMAS, payment may be made for rental of the equipment in lieu of purchase. Payment shall not be made for additional equipment or supplies unless the extended provision of services has been authorized by DMAS. 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.

2. Supplies, equipment, or appliances that are not covered for recipients of intensive physical rehabilitative services include, but are not limited to, the following:

a. Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners;

b. Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies for nursing facility residents that have been approved by DMAS central office;

c. Furniture or appliance not defined as medical equipment (such as blenders, bedside tables, mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales);

d. Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface; mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience, for example, an electric wheelchair plus a manual chair; cleansing wipes);

e. Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (for example, over-the-counter drugs; dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; support stockings; and non-legend drugs);

f. Home or vehicle modifications;

g. Items not suitable for or used primarily in the home setting (i.e., but not limited to, car seats, equipment to be used while at school);

h. Equipment that the primary function is vocationally or educationally related (i.e., but not limited to, computers, environmental control devices, speech devices) environmental control devices, speech devices).

PART IX. HOSPICE SERVICES.

§ 9.1. Admission criteria.

To be eligible for hospice coverage under Medicare or

Medicaid, the and elect to receive hospice services rather than active treatment for the illness. Both the attending physician (if the individual has an attending physician) and the hospice medical director must certify the life expectancy.

§ 9.2. Utilization review.

Authorization for hospice services requires an initial preauthorization by DMAS and physician certification of life expectancy. 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:

1. Nursing care. Nursing care must be provided by a registered nurse or by a licensed practical nurse under the supervision of a graduate of an approved school of professional nursing and who is licensed as a registered nurse.

2. 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.

3. Physician services. Physician services must be performed by a professional who is licensed to practice, who is acting within the scope of his 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.

4. 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 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.

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5. 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.

6. 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.

7. 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.

8. Home health aide and homemaker services. Home health aides providing services to hospice recipients must meet the qualifications specified for home health aides by 42 CFR 484.36. 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.

9. 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.

§ 10. RESERVED for Community Mental Health Services.

PART XI. GENERAL OUTPATIENT PHYSICAL REHABILITATION SERVICES.

§ 11.1. Scope.

A. Medicaid covers general outpatient physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation agencies which have a provider agreement with the Department of Medical Assistance Services (DMAS).

B. Outpatient rehabilitative services shall be prescribed by a physician and be part of a written plan of care.

§ 11.2. Covered outpatient rehabilitative services.

Covered outpatient rehabilitative services shall include physical therapy, occupational therapy, and speech-language pathology services. Any one of these services may be offered as the sole rehabilitative service and shall not be contingent upon the provision of another service.

§ 11.3. Eligibility criteria for outpatient rehabilitative services.

To be eligible for general outpatient rehabilitative services, the patient must require at least one of the following services: physical therapy, occupational therapy, speech-language pathology services, and respiratory therapy. All rehabilitative services must be prescribed by a physician.

§ 11.4. Criteria for the provision of outpatient rehabilitative services.

All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements.

A. Physical therapy services meeting all of the following conditions shall be furnished to patients:

1. Physical therapy services shall be directly and specifically related to an active written care 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 is under the direct supervision of a physical therapist licensed by the Board of Medicine. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

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. Occupational therapy services shall be those services furnished a patient which meet all of the following conditions:

1. Occupational therapy services shall be directly and specifically related to an active written care plan

designed by a 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, a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association when under the supervision of an occupational therapist defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate engaged in supplemental clinical experience required before registration, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This visit shall not be reimbursable.

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 pathology 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, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440 110(c);

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 or under the direction of a speech-language pathologist who meets the qualifications in Subdivision B1 above. The program must meet the requirements of 42 CFR 405.1719(c). At least one qualified speech-language pathologist must be present at all times when speech-language pathology services are rendered; 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.

§ 11.5. Authorization for services.

A. General physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals and by rehabilitation agencies shall include authorization for up to 24 visits by each ordered rehabilitative service within a 60-day period. A recipient may receive a maximum of 48 visits annually without authorization. The provider shall maintain documentation to justify the need for services. A visit shall be defined as the duration of time that a rehabilitative therapist is with a client to provide services prescribed by the physician. Visits shall not be defined in measurements or increments of time.

B. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized by using the Rehabilitation Treatment Authorization form (DMAS-125). This request must be signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS. Periods of care beyond those allowed which have not been authorized by DMAS shall not be approved for payment.

§ 11.6. Documentation requirements.

A. Documentation of general outpatient rehabilitative services provided by a hospital-based outpatient setting or a rehabilitation agency shall, at a minimum:

1. describe the clinical signs and symptoms of the patient's condition;
2. include an accurate and complete chronological picture of the patient's clinical course and treatments;
3. document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;
4. include a copy of the physician's orders and plan of care;
5. include 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);
6. describe changes in each patient's condition and response to the rehabilitative treatment plan; and
7. describe a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet these goals, and the patient's discharge destination.

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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.

§ 11.7. Service limitations.

The following general conditions shall apply to reimbursable physical rehabilitative services:

A. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

B. Services shall be furnished under a written plan of treatment and must be established and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

C. A physician recertification shall be required periodically, must be signed and dated by the physician who reviews the plan of treatment, and may be obtained when the plan of treatment is reviewed. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.

D. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration for services.

E. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. 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.

F. Rehabilitation care is to be terminated regardless of the approved length of stay when further progress toward the established rehabilitation goal is unlikely or when the services can be provided.

VR 460-03-3.1301. Nursing Facility and MR Criteria.

§ 1. Nursing facility criteria introduction.

A. Traditionally, the model for nursing facility care has been facility or institutionally based; however, it is important to recognize that nursing facility care services can be delivered outside a nursing home. Nursing facility care is the provision of services regardless of the specific setting. It is the care rather than the setting in which it is rendered that is significant. The criteria for assessing nursing facility care are divided into two areas: (i) functional capacity (the degree of assistance an individual requires to complete activities of daily living) and (ii) nursing needs.

B. The preadmission screening process marks the beginning of a continuum of long-term care services available to an individual under the Virginia Medical Assistance Program. Nursing facility care services are covered by the program for individuals whose needs meet the criteria established by program regulations.

C. Nursing facilities must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than ~~four~~ 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. The Department of Medical Assistance Services shall conduct a validation survey of the assessments completed by nursing facilities to determine that services provided to the residents are medically necessary and that needed services are provided.

D. The criteria for nursing facility care under the Virginia Medical Assistance Program are contained herein. An individual's need for care must meet this criteria before any authorization for payment by Medicaid will be made for either institutional or noninstitutional long-term care services. Reimbursement to nursing facilities for residents requiring specialized care shall only be made on a contractual basis.

§ 2. Criteria for nursing facility care.

A. Nursing facility care shall be the provision of services for persons whose health needs require medical and nursing supervision or care. These services may be provided in various settings, institutional and noninstitutional. Both the functional capacity of the individual and his nursing needs must be considered in determining the appropriateness of care.

B. Individuals may be considered appropriate for nursing facility care when one of the following describes their functional capacity:

1. Rated dependent in two to four of the Activities of Daily Living (Items 1-7), and also rated semi-dependent or dependent in Behavior Pattern and Orientation (Item 8), and semi-dependent in Medication Administration (Item 10).

2. Rated dependent in two to four of the Activities of Daily Living (Items 1-7), and also rated semi-dependent or dependent in Behavior Pattern and Orientation (Item 8), and semi-dependent in Joint Motion (Item 11).

3. Rated dependent in five to seven of the Activities of Daily Living (Items 1-7), and also rated dependent in Mobility (Item 9).

4. Rated semi-dependent in two to seven of the Activities of Daily Living (Items 1-7) and also rated dependent in Mobility (Item 9), and Behavior Pattern

and Orientation (Item 8). An individual in this category will not be appropriate for nursing facility care unless he also has a medical condition requiring treatment or observation by a nurse.

C. Placement in a noninstitutional setting should be considered before nursing home placement is sought.

§ 3. Functional status.

The following abbreviations shall mean:

I = independent; d = semi-dependent; D = dependent;
MH = mechanical help; HH = human help.

A. Bathing

1. Without help (I)
2. MH only (d)
3. HH only (D)
4. MH and HH (D)
5. Is bathed (D)

B. Dressing

1. Without help (I)
2. MH only (d)
3. HH only (D)
4. MH and HH (D)
5. Is dressed (D)
6. Is not dressed (D)

C. Toileting

1. Without help day and night (I)
2. MH only (d)
3. HH only (D)
4. MH and HH (D)
5. Does not use toilet room (D)

D. Transferring

1. Without help (I)
2. MH only (d)
3. HH only (D)

4. MH and HH (D)

5. Is transferred (D)

6. Is not transferred (D)

E. Bowel Function

1. Continent (I)
2. Incontinent less than weekly (d)
3. Ostomy - self care (d)
4. Incontinent weekly or more (D)
5. Ostomy - not self care (D)

F. Bladder Function

1. Continent (I)
2. Incontinent less than weekly (d)
3. External device - self care (d)
4. Indwelling catheter - self care (d)
5. Ostomy - self care (d)
6. Incontinent weekly or more (D)
7. External device - not self care (D)
8. Indwelling catheter - not self care (D)
9. Ostomy - not self care (D)

G. Eating/Feeding

1. Without help (I)
2. MH only (d)
3. HH only (D)
4. MH and HH (D)
5. Spoon fed (D)
6. Syringe or tube fed (D)
7. Fed by IV or clysis (D)

H. Behavior Pattern and Orientation

1. Appropriate or Wandering/
Passive less than weekly + Oriented (I)
2. Appropriate or Wandering/
Passive less than weekly + Disoriented - Some

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- Spheres (I)
3. Wandering/Passive Weekly or More + Oriented (I)
 4. Appropriate or Wandering/Passive less than weekly + Disoriented - All Spheres (d)
 5. Wandering/Passive Weekly or more + Disoriented - Some or All Spheres (d)
 6. Abusive/Aggressive/Disruptive less than weekly + Oriented or Disoriented (d)
 7. Abusive/Aggressive/Disruptive weekly or more + Oriented (d)
 8. Abusive/Aggressive/Disruptive weekly or more + Disoriented (D)
 9. Mobility
 - a. Goes outside without help (I)
 - b. Goes outside MH only (d)
 - c. Goes outside HH only (D)
 - d. Goes outside MH and HH (D)
 - e. Confined - moves about (D)
 - f. Confined - does not move about (D)
 10. Medication Administration
 - a. No medications (I)
 - b. Self administered - monitored less than weekly (I)
 - c. By lay persons, monitored less than weekly (I)
 - d. By Licensed/Professional nurse and/or monitored weekly or more (D)
 - e. Some or all by Professional nurse (D)
 11. Joint Motion
 - a. Within normal limits (I)
 - b. Limited motion (d)
 - c. Instability - corrected (I)
 - d. Instability - uncorrected (D)
 - e. Immobility (D)

§ 4. Nursing needs.

A. Following are examples of services provided or supervised by licensed nursing and professional personnel; however, no single service necessarily indicates a need for nursing facility care:

1. Application of aseptic dressings;
2. Routine catheter care;
3. Inhalation therapy after the regimen has been established;
4. Supervision for adequate nutrition and hydration for patients who, due to physical or mental impairments, are subject to malnourishment or dehydration;
5. Routine care in connection with plaster casts, braces, or similar devices;
6. Physical, occupational, speech, or other therapy;
7. Therapies, exercise and positioning to maintain or strengthen muscle tone, to prevent contractures, decubiti, and deterioration;
8. Routine care of colostomy or ileostomy;
9. Use of restraints including bedrails, soft binders, and wheelchair supports;
10. Routine skin care to prevent decubiti;
11. Care of small uncomplicated decubiti, and local skin rashes; or
12. Observation of those with sensory, metabolic, and circulatory impairment for potential medical complications.

B. Services requiring more intensive nursing care, such as wounds or lesions requiring daily care, nutritional deficiencies leading to specialized feeding, and paralysis or paresis benefitting from rehabilitation, shall be reimbursed at a higher rate.

C. The final determination for nursing facility care shall be based on the individual's need for medical and nursing management. Nursing facility care criteria are intended only as guidelines. Professional judgment must always be used to assure appropriateness of care.

§ 5. Specific services which do not meet the criteria for nursing facility care.

A. Care needs that do not meet the criteria for nursing facility care include, but are not limited to, the following:

1. Minimal assistance with activities of daily living;

2. Independent use of mechanical devices such as a wheelchair, walker, crutch, or cane;
3. Limited diets such as mechanically altered, low salt, low residue, diabetic, reducing, and other restrictive diets;
4. Medications that can be independently self-administered or administered by the individual with minimal supervision;
5. The protection of the patient to prevent him from obtaining alcohol or drugs, or from confronting an unpleasant situation;
6. Minimal observation or assistance by staff for confusion, memory impairment, or poor judgment.

B. Special attention shall be given to individuals who receive psychiatric treatment. These individuals must also have care needs that meet the criteria for nursing facility care.

§ 6. Summary.

In patient placement, all available resources must be explored, i.e., the immediate family, other relatives, home health services, and other community resources. When applying the criteria, primary consideration is to be given to the utilization of available community/family resources.

§ 7. Adult specialized care criteria.

A. General description.

The resident must have long-term health conditions requiring close medical supervision, 24 hours licensed nursing care, and specialized services or equipment.

B. Targeted population.

1. Individuals requiring mechanical ventilation;
2. Individuals with communicable diseases requiring universal or respiratory precautions;
3. Individuals requiring ongoing intravenous medication or nutrition administration; or
4. Individuals requiring comprehensive rehabilitative therapy services.

C. Criteria.

1. The individual must require at a minimum:
 - a. Physician visits at least once weekly;
 - b. Skilled nursing services 24 hours a day (a registered nurse must be on the nursing unit on which the resident resides, 24 hours a day, whose

sole responsibility is the designated unit); and

c. Coordinated multidisciplinary team approach to meet needs.

2. In addition, the individual must meet one of the following requirements:

a. Must require two out of three of the following rehabilitative services: Physical Therapy, Occupational Therapy, Speech-pathology services; therapy must be provided at a minimum of 4 therapy sessions (minimum of 30 minutes per session) per day, 5 days per week; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

b. Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

c. Individuals that require at least one of the following special services:

(1) Ongoing administration of intravenous medications or nutrition (i.e., TPN, antibiotic therapy, narcotic administration, etc.);

(2) Special infection control precautions (universal or respiratory precaution; this does not include handwashing precautions only);

(3) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(4) Daily respiratory therapy treatments that must be provided by a skilled nurse or a respiratory therapist;

(5) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti; large surgical wounds that cannot be closed, second or third degree burns covering more than 10% of the body);

(6) Multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.).

§ 8. Pediatric/adolescent specialized care criteria.

A. General description.

The child must have ongoing health conditions requiring close medical supervision, 24 hours licensed nursing supervision, and specialized services or equipment. The recipient must be age 21 or under.

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B. Targeted population.

1. Children requiring mechanical ventilation;
2. Children with communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.);
3. Children requiring ongoing intravenous medication or nutrition administration;
4. Children requiring daily dependence on device based respiratory or nutritional support (tracheostomy, gastrostomy, etc.);
5. Children requiring comprehensive rehabilitative therapy services;
6. Children with terminal illness.

B. Criteria.

1. The child must require at a minimum:
 - a. Physician visits at least once weekly;
 - b. Skilled nursing services 24 hours a day (a registered nurse must be on the nursing unit on which the child is residing, 24 hours a day, whose sole responsibility is that nursing unit);
 - c. Coordinated multidisciplinary team approach to meet needs;
 - d. The nursing facility must provide for the educational and habilitative needs of the child. These services must be age appropriate and appropriate to the cognitive level of the child. Services must also be individualized to meet the specific needs of the child and must be provided in an organized and proactive manner. Services may include but are not limited to school, active treatment for mental retardation, habilitative therapies, social skills and leisure activities. The services must be provided for a total of 2 hours per day, minimum.
2. In addition, the child must meet one of the following requirements:
 - a. Must require two out of three of the following physical rehabilitative services: Physical therapy, Occupational therapy, Speech-pathology services; therapy must be provided at a minimum of six therapy sessions (minimum of 15 minutes per session) per day, five days per week; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or
 - b. Must require special equipment such as

mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc.; or

c. Children that require at least one of the following special services:

(1) Ongoing administration of intravenous medications or nutrition (i.e., TPN, antibiotic therapy, narcotic administration, etc.);

(2) Special infection control precautions (universal or respiratory precaution; this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(3) Dialysis treatment that is provided within the facility (i.e., peritoneal dialysis);

(4) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(5) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti; large surgical wounds that cannot be closed; second or third degree burns covering more than 10% of the body);

(6) Ostomy care requiring services by a licensed nurse;

(7) Care for terminal illness.

§ 9. Criteria for care in facilities for mentally retarded persons.

A. Definitions.

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

“No assistance” means no help is needed.

“Prompting/structuring” means prior to the functioning, some verbal direction or some rearrangement of the environment is needed.

“Supervision” means that a helper must be present during the function and provide only verbal direction, gestural prompts, or guidance.

“Some direct assistance” means that a helper must be present and provide some physical guidance/support (with or without verbal direction).

“Total care” means that a helper must perform all or nearly all of the functions.

"Rarely" means that a behavior occurs quarterly or less.

"Sometimes" means that a behavior occurs once a month or less.

"Often" means that a behavior occurs two to three times a month.

"Regularly" means that a behavior occurs weekly or more.

B. Utilization control regulations require that criteria be formulated for guidance for appropriate levels of services. Traditionally, care for the mentally retarded has been institutionally based; however, this level of care need not be confined to a specific setting. The habilitative and health needs of the client are the determining issues.

C. The purpose of these regulations is to establish standard criteria to measure eligibility for Medicaid payment. Medicaid can pay for care only when the client is receiving appropriate services and when "active treatment" is being provided. An individual's need for care must meet these criteria before any authorization for payment by Medicaid will be made for either institutional or waived rehabilitative services for the mentally retarded.

D. Care in facilities for the mentally retarded requires planned programs for habilitative needs or health related services which exceed the level of room, board, and supervision of daily activities.

Such care shall be a combination of habilitative, rehabilitative, and health services directed toward increasing the functional capacity of the retarded person. Examples of services shall include training in the activities of daily living, task-learning skills, socially acceptable behaviors, basic community living programming, or health care and health maintenance. The overall objective of programming shall be the attainment of the optimal physical, intellectual, social, or task learning level which the person can presently or potentially achieve.

E. The evaluation and re-evaluation for care in a facility for the mentally retarded shall be based on the needs of the person, the reasonable expectations of the resident's capabilities, the appropriateness of programming, and whether progress is demonstrated from the training and, in an institution, whether the services could reasonably be provided in a less restrictive environment.

§ 10. Patient assessment criteria.

A. The patient assessment criteria are divided into broad categories of needs, or services provided. These must be evaluated in detail to determine the abilities/skills which will be the basis for the development of a plan of care. The evaluation process will demonstrate a need for programming an array of skills and abilities or health care services. These have been organized into seven major

categories. Level of functioning in each category is graded from the most dependent to the least dependent. In some categories, the dependency status is rated by the degree of assistance required. In other categories, the dependency is established by the frequency of a behavior or ability to perform a given task.

B. The resident must meet the indicated dependency level in two or more of categories 1 through 7.

1. Health Status - To meet this category:

- a. Two or more questions must be answered with a 4, or
- b. Question "j" must be answered "yes."

2. Communication Skills - To meet this category:

Three or more questions must be answered with a 3 or a 4.

3. Task Learning Skills - To meet this category:

Three or more questions must be answered with a 3 or a 4.

4. Personal Care - To meet this category:

- a. Question "a" must be answered with a 4 or a 5, or
- b. Question "b" must be answered with a 4 or a 5, or
- c. Questions "c" and "d" must be answered with a 4 or a 5.

5. Mobility - To meet this category:

Any one question must be answered with a 4 or a 5.

6. Behavior - To meet this category:

Any one question must be answered with a 3 or a 4.

7. Community Living - To meet this category:

- a. Any two of the questions "b," "e," or "g" must be answered with a 4 or a 5, or
- b. Three or more questions must be answered with a 4 or a 5.

LEVEL OF FUNCTIONING SURVEY

1. Health status.

How often is nursing care or nursing supervision by a

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licensed nurse required for the following? (Key: 1=Rarely, 2=Sometimes, 3=Often, and 4=Regularly)

- a. Medication administration and/or evaluation for effectiveness of a medication regimen?1...2...3...4
- b. Direct services: i.e. care for lesions, dressings, treatments (other than shampoos, foot power, etc.)1...2...3...4
- c. Seizures control1...2...3...4
- d. Teaching diagnosed disease control and care, including diabetes1...2...3...4
- e. Management of care of diagnosed circulatory or respiratory problems1...2...3...4
- f. Motor disabilities which interfere with all activities of Daily Living - Bathing, Dressing, Mobility, Toileting, etc.1...2...3...4
- g. Observation for choking/aspiration while eating, drinking?1...2...3...4
- h. Supervision of use of adaptive equipment, i.e., special spoon, braces, etc.1...2...3...4
- i. Observation for nutritional problems (i.e., undernourishment, swallowing difficulties)1...2...3...4
- j. Is age 55 or older, has a diagnosis of a chronic disease and has been in an institution 20 years or more1...2...3...4

2. Communication.

Using the key 1=regularly, 2=often, 3=sometimes, 4=rarely, how often does this person

- a. Indicate wants by pointing, vocal noises, or signs?1...2...3...4
- b. Use simple words, phrases, short sentences?1...2...3...4
- c. Ask for at least ten things using appropriate names?1...2...3...4
- d. Understand simple words, phrases or instructions containing prepositions: i.e., "on" "in" "behind"?1...2...3...4
- e. Speak in an easily understood manner? ...1...2...3...4
- f. Identify self, place of residence, and significant others?1...2...3...4

3. Task learning skills.

How often does this person perform the following activities (Key: 1=regularly, 2=often, 3=sometimes, 4=rarely)

- a. Pay attention to purposeful activities for 5 minutes?1...2...3...4
- b. Stay with a 3 step task for more than 15 minutes? 1...2...3...4
- c. Tell time to the hour and understand time intervals?1...2...3...4
- d. Count more than 10 objects?1...2...3...4
- e. Do simple addition, subtraction?1...2...3...4
- f. Write or print ten words?1...2...3...4
- g. Discriminate shapes, sizes, or colors?1...2...3...4
- h. Name people or objects when describing pictures?1...2...3...4
- i. Discriminate between "one," "many," "lot"?1...2...3...4

4. Personal/self care.

With what type of assistance can this person currently (Key: 1=No Assistance, 2=Prompting/Structuring, 3=Supervision, 4=Some Direct Assistance, 5=Total Care)

- a. Perform toileting functions: i.e., maintain bladder and bowel continence, clean self, etc.?1...2...3...4...5
- b. Perform eating/feeding functions: i.e., drinks liquids and eats with spoon or fork, etc.?1...2...3...4...5
- c. Perform bathing function (i.e., bathe, runs bath, dry self, etc.)?1...2...3...4...5

5. Mobility.

With what type of assistance can this person currently (Key: 1=No Assistance, 2=Prompting/Structuring, 3=Supervision, 4=Some Direct Assistance, 5=Total Care)

- a. Move (walking, wheeling) around environment?1...2...3...4...5
- b. Rise from lying down to sitting positions, sits without support?1...2...3...4...5
- c. Turn and position in bed, roll over?1...2...3...4...5

6. Behavior.

How often does this person (Key: 1=Rarely, 2=Sometimes, 3=Often, 4=Regularly)

- a. Engage in self destructive behavior?1...2...3...4
- b. Threaten or do physical violence to others?
.....1...2...3...4
- c. Throw things, damage property, have temper outbursts?1...2...3...4
- d. Respond to others in a socially unacceptable manner - (without undue anger, frustration or hostility)1...2...3...4

7. Community living skills.

With what type of assistance would this person currently be able to (Key: 1=No Assistance, 2=Prompting/Structuring, 3=Supervision, 4=Some Direct Assistance, 5=Total Care)

- a. Prepare simple foods requiring no mixing or cooking?1...2...3...4...5
- b. Take care of personal belongings, room (excluding vacuuming, ironing, clothes washing/drying, wet mopping)?1...2...3...4...5
- c. Add coins of various denominations up to one dollar?1...2...3...4...5
- d. Use the telephone to call home, doctor, fire, police?1...2...3...4...5
- e. Recognize survival signs/words: i.e., stop, go, traffic lights, police, men, women, restrooms, danger, etc.?1...2...3...4...5
- f. Refrain from exhibiting unacceptable sexual behavior in public?1...2...3...4...5
- g. Go around cottage, ward, building, without running away, wandering off, or becoming lost? ...1...2...3...4...5
- h. Make minor purchases i.e., candy, soft drink, etc.?1...2...3...4...5



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

April 29, 1992

Mr. Bruce Kozlowski, Commissioner
Department of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia 23219

RE: VR 460-02-3.1300 and VR 460-03-3.1301
Standards Established and Methods Used to Assure
High Quality of Care: Nursing Facility Criteria.

Dear Mr. Kozlowski:

This will acknowledge receipt of the above-referenced regulations from the Department of Medical Assistance 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.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:jbc

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DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes 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 Board 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 615-01-39. Food Stamp Program Administrative Disqualification Hearings.

Statutory Authority: §§ 63.1-25 and 63.1-124.2 of the Code of Virginia.

Effective Date: June 17, 1992.

Summary:

Pursuant to § 63.1-12.2 of the Code of Virginia, the State Board of Social Services has been authorized to establish regulations governing conduct of administrative disqualifications hearings and denial of benefits.

Federal regulations in Volume 7 of the Code of Federal Regulation, Part 273.16, promulgated by the U.S. Department of Agriculture (USDA) to implement the Food Stamp Act of 1977, as amended, require states to implement administrative disqualification hearings to determine whether acts of intentional program violation have occurred. These regulations exempt states which have a state law which require that such cases be referred to a court of appropriate jurisdiction for prosecution, from conducting the administrative hearings. Virginia had been exempted under this provision. The Code of Virginia, at § 63.1-124, was changed to allow the state to determine whether an intentional program violation had been committed either through an administrative disqualification hearing or by referral for prosecution to a court of appropriate jurisdiction.

VR 615-01-39. Food Stamp Program Administrative Disqualification Hearings.

PART I. DEFINITIONS.

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

"Administrative Disqualification Hearing (ADH)" means an impartial review by a hearings officer of a household member's actions involving an alleged intentional program violation for the purpose of rendering a decision of guilty

or not guilty of committing an intentional program violation (IPV).

"Authorization to Participate (ATP)" means a document authorizing a household to receive a food stamp allotment in a specific amount for a specific entitlement period from an authorized food coupon issuance agent.

"Hearings officer" means an impartial representative of the state to whom requests for administrative disqualification hearings are assigned by whom they are heard. The hearings officer is given the authority to conduct and control hearings and to render decisions.

"Intentional Program Violations (IPV)" means any action by an individual who intentionally made a false or misleading statement to the local agency, either orally or in writing, to obtain benefits to which the household is not entitled; concealed information or withheld facts to obtain benefits to which the household is not entitled; or committed any act that constitutes a violation of the Food Stamp Act, Food Stamp Regulations, or any state statutes relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or authorization to participate (ATP) cards.

PART II. REFERRAL OF ALLEGED INTENTIONAL PROGRAM VIOLATIONS.

§ 2.1. The local agency shall be responsible for investigating any case of alleged intentional program violation and ensuring that appropriate cases are acted upon either through referral for an administrative disqualification hearing or for prosecution by a court of appropriate jurisdiction.

PART III. INITIATION OF AN ADMINISTRATIVE DISQUALIFICATIONS HEARING.

§ 3.1. In order for a local agency to request an ADH, there must be clear and convincing evidence which demonstrates the household member committed or intended to commit an IPV.

§ 3.2. The local agency shall ensure that the evidence against the household member alleged to commit an IPV is reviewed by either an eligibility supervisor or the agency superintendent for purposes of certifying that such evidence warrants referral for an ADH.

§ 3.3. Prior to submitting the referral for an ADH to the state hearing authority, the local agency shall provide written notification to the household member suspected of IPV that the member can waive his right to an ADH by signing a waiver request and returning it to the local agency within 10 days from the date notification is sent to the household in order to avoid submission of the referral for an ADH.

§ 3.4. If a signed waiver is received, no ADH is conducted and the disqualification period is imposed in accordance with federal regulations.

PART IV. ADVANCE NOTICE OF AN ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 4.1. The hearings officer will schedule a date for the ADH and provide written notice to the household member suspected of an IPV, by certified mail - return receipt requested, at least 30 days in advance of the date the ADH has been scheduled.

§ 4.2. If proof of receipt of the advance notification of the ADH or refusal to accept the notice have been received, the requirement to notify the individual alleged to have committed the IPV has been met.

§ 4.3. Without sufficient evidence that the advance notification was received or refused, the ADH is not to be held.

PART V. TIME AND PLACE OF THE ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 5.1. The time and place of the ADH shall be arranged so that the hearing is accessible to the household member suspected of an IPV.

§ 5.2. The member or member's representative may request a postponement of the ADH if the request for postponement is made at least 10 days in advance of the date of the scheduled hearing.

PART VI. FAILURE OF THE HOUSEHOLD MEMBER TO APPEAR AT THE ADH.

§ 6.1. The ADH can be held even if the member or member's representative subsequently cannot be located or fails to appear without good cause.

§ 6.2. Even though the household member is not represented, the hearings officer must carefully consider the evidence and determine if an IPV was committed, based on clear and convincing evidence.

§ 6.1. If the household member is found to have committed an IPV, but a hearings officer later determines there was good cause for not appearing, the previous decision is no longer valid and a new ADH shall be conducted.

PART VII. PARTICIPATION WHILE AWAITING A HEARING.

§ 7.1. A pending ADH shall not affect the household's right to be certified and participate in the Food Stamp Program.

PART VIII. CONDUCT OF THE ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 8.1. The ADH is attended by persons directly concerned with the issue at hand.

§ 8.2. The hearing officer shall:

1. Identify those present for the record.
2. Advise the household member or representative that he may refuse to answer questions during the hearing.
3. Explain the purpose of the ADH, the procedure, how and by whom a decision will be reached and communicated, and the option of either the local agency or the household to request State Board review of the hearing officer's decision.
4. Consider all relevant issues. Even if the household is not present, the hearings officer is to carefully consider the evidence and determine if an IPV was committed based on clear and convincing evidence.
5. Request, receive and make part of the record all evidence determined necessary to render a decision.
6. Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing.

§ 8.3. The household member alleged to have committed an IPV and the representative shall be given adequate opportunity to:

1. Examine all documents and records to be used at the ADH at a reasonable time prior to the ADH as well as during the ADH.
2. Present its case or have it presented by legal counsel or another person.
3. Bring witnesses.
4. Advance arguments without undue interference.
5. Question or refute any testimony or evidence, including the opportunity to confront and cross-examine witnesses.
6. Submit evidence to establish all pertinent facts and circumstances in the case.

PART IX. NOTIFICATION OF DECISION OF THE ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 9.1. The hearings officer is responsible for rendering a decision based on clear and convincing evidence from the

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hearing record which can be substantiated by supporting evidence and applicable regulations.

§ 9.2. The hearings officer shall prepare a written report of the substance of the findings, conclusions, decisions, and appropriate recommendations.

§ 9.3. The hearings officer shall notify the household member of the decision in writing and of the household's right to request a State Board review of the decision.

§ 9.4. If the hearings decision is that the household member has been found guilty of an IPV, the written decision shall advise the household that disqualification shall occur.

§ 9.5. The determination of IPV by the hearings officer cannot be reversed by a subsequent fair hearing decision.

**PART X.
IMPLEMENTATION OF THE ADMINISTRATIVE
DISQUALIFICATION HEARING.**

§ 10.1. Upon receipt of the notice of a decision from the hearings officer finding the household member guilty of an IPV, the local agency shall inform the household of the reason for the disqualification and the date the disqualification will take effect.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION

General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 788-3591

May 5, 1992

Mr. Larry D. Jackson, Commissioner
Department of Social Services
8007 Discovery Drive
Richmond, Virginia 23229

Re: VR 615-01-39 - Food Stamp Program - Administrative
Disqualification Hearings.

Dear Mr. Jackson:

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.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:jbc

Title of Regulation: VR 615-30-01, VR 175-03-01. General Procedures and Information for Licensure.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

This regulation contains the requirements and procedures that licensees and staff of the Department of Social Services must follow during the licensing process. The licensed facilities affected by this regulation are as follows: (i) adult day care centers; (ii) homes for adults; (iii) child placing agencies; (iv) child caring institutions; (v) independent foster homes; (vi) child day care homes; (vii) family day care homes; and (viii) family day care systems.

The following areas are addressed in the regulation: (i) licensing standards; (ii) the license; (iii) the licensing process; (iv) allowable variance; (v) informal appeal process; (vi) complaint investigation; and (vii) sanctions.

Several changes for clarity were made to the regulation. It was not necessary to make substantial changes as a result of public comments.

VR 615-30-01, VR 175-03-01. General Procedures and Information for Licensure.

PART I.
INTRODUCTION.

§ 1.1. Definitions.

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

["Adult care facility" means a licensed home for adults or adult day care center.]

"Allegation" means an accusation that a facility which is subject to licensure is operating without a license.

"Allowable variance" means (i) permission to meet the intent of a standard by some means other than as specified by the standard, or (ii) the suspension of enforcement of a particular standard or portion of the standard for a stated time period.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license.

"Board" means the State Board of Social Services.

"Commissioner" means the Commissioner of the Department of Social Services.

"Complaint" means an accusation that a licensed facility is not in compliance with licensing standards or law.

"Conditional license" means a license which may be issued to a new facility to operate in order to permit the applicant to demonstrate compliance with specified standards.

"Council" means the Child Day-Care Council.

"Denial" means the act of refusing to grant a license after receipt of an original or renewal application.

"Department" means the Department of Social Services.

"Early compliance" means replacement of a provisional or conditional license with a regular license.

"Functional design" means the design features of building and grounds not regulated by the Building Code, necessary for particular activities and operations of a facility subject to licensure by the Department of Social Services.

"Licensee" means the person, corporation, partnership, association or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements related to the facility.

"Provisional license" means a license which may be issued upon expiration of a regular license when the licensee is temporarily unable to [substantially] comply with [~~the~~] the requirements of the standards.

"Regular license" means a license which is issued for 12 months or more as provided in Chapters 9 and 10 of Title 63.1 of the Code of Virginia to a facility determined to be in substantial compliance with applicable standards and regulations. The actual duration of the licensure period is stated on the license.

["Revocation" means the act of terminating a license during its effective dates because of findings of serious noncompliance.]

PART I- PART II.
LICENSING STANDARDS.

§ ~~1.1~~ § 2.1 Through the administration of the licensing program, the Department of Social Services assumes responsibility to ensure that licensed facilities and agencies provide children and adults with at least a minimum level of care in accordance with standards prescribed by the State Board of Social Services and Child Day-Care Council. The department also has the responsibility to investigate [~~accusations that a facility/agency subject to licensure is~~]

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operating without a license allegations] . The Virginia Code requires the State Board of Social Services to adopt standards and regulations for the licensure of the following categories of facilities/agencies:

1. Adult day care centers
2. Homes for adults
3. Child placing agencies
4. Child caring institutions
5. Independent foster homes
6. [*Group*] Family day care homes
7. Family day care systems.

The Virginia Code requires the Child Day-Care Council to adopt standards and regulations for the licensure of child care centers [; *including those centers operating as child day-care camps, preschools and nursery schools, and before and after school day-care programs*] .

~~§ 1-2.~~ § 2.2. The State Board of Social Services or the Child Day-Care Council has adopted a set of standards for each category listed above except for child care centers for which the Child Day-Care Council has adopted the standards . The definition of each category and requirements for licensure are contained in each set of standards.

~~§ 1-3.~~ § 2.3. Standards development/revision process.

A. In developing or revising standards for licensed facilities/agencies, the Department of Social Services, acting as agent for the State Board of Social Services and Child Day-Care Council, adheres to the requirements of the Administrative Process Act (§ 9-6.14:1 of the Code of Virginia) and the public participation process.

B. The department solicits input from licensees, associations of licensees, experts in related fields, and advocacy organizations , consumers and the general public in the development or revision of licensing standards through informal and formal comment periods and public hearings.

C. The department [~~is committed to conducting~~ *conducts*] periodic reviews and, when necessary, comprehensive revisions of each set of standards to assure that its standards continue to protect vulnerable children and adults in out-of-home care while considering the interests of both providers and consumers of care.

PART II. PART III. THE LICENSE.

~~§ 2-1.~~ § 3.1. A license to operate a facility or agency is issued to a specific person or organization to provide

out-of-home care to children or adults. An organization may be a partnership, association, or corporation , or public entity .

~~§ 2-2.~~ § 3.2. A license is not transferable when there is a change in the ownership or location of the facility/agency to which the license has been issued.

EXCEPTION: Licenses issued for child placing agencies and family day care systems are transferable when agencies change location.

~~§ 2-3.~~ § 3.3. The department may issue a conditional license to a new facility/agency in order to permit the applicant to demonstrate compliance with specified standards. A conditional license may be effective for any period not to exceed six consecutive months. When this period expires, the facility/agency must substantially meet the standards or be denied a license. Conditional licenses may be used only for new facilities/agencies.

EXCEPTION: With the approval of the appropriate fire marshal, a second conditional license may be issued to a licensee to permit the licensee additional time to comply with fire safety standards when the licensee has purchased an existing licensed facility for adults.

§ 2.4. An annual license is issued when the activities, services, facilities, and the applicant's financial responsibility substantially meet the requirements for a license that are set forth by standards adopted by the State Board of Social Services or the Child Day-Care Council and any additional requirements that may be specified by the Virginia Code. The annual license is effective for 12 months unless it is revoked or surrendered prior to the expiration date.

§ 3.4. [*A regular license is issued for 12 months or more as provided in Chapters 9 and 10 of Title 63.1 of the Code of Virginia to a facility determined to be in substantial compliance with applicable standards and regulations. The actual duration of the licensure period is stated on the license. A regular license is issued when the activities, services, facilities, and applicant's financial responsibility substantially meet the requirements for a license that are set forth by standards adopted by the State Board of Social Services or the Child Day-Care Council and any additional requirements that may be specified by the Code of Virginia.*]

~~§ 2-5.~~ § 3.5. When an annual a regular license expires and the applicant is temporarily unable to comply with the requirements of the standards, the department may issue a provisional license for any period not to exceed six months. A provisional license shall not be issued to a facility/agency which holds a conditional license. When a period of six consecutive months of a provisional license expires, the facility/agency must substantially meet the standards and requirements or be denied a license.

EXCEPTION: With the approval of the appropriate fire

marshal, a second provisional license may be issued to a facility for adults to permit the licensee additional time to comply with fire safety standards.

~~§ 2.6.~~ § 3.6. Terms of the license.

A. A facility/agency shall operate within the terms of its license.

B. The terms of any license include:

1. The operating name of the facility/agency;
2. The name of the individual, partnership, association, or corporation, or public entity sponsoring the facility/agency;
3. The physical location of the facility/agency;
4. The maximum number of children/adults who may be in care at any time;
5. The period of time for which the license is effective; and
6. For child care facilities/agencies, the age range of children for whom care may be provided.

C. The terms of a license may include other limitations which the department may prescribe within the context of the standards for any facility/agency.

D. The provisional license cites the standards with which the licensee is not in compliance.

E. The conditional license cites the standards with which the licensee must demonstrate compliance when operation begins, and also any standards with which the licensee is not in compliance.

F. Prior to changes in operation which would affect the terms of the license, the licensee shall secure a modification to the terms of the license from the department. (See ~~§ 3.8~~ § 4.8)

~~PART III.~~ PART IV.
THE LICENSING PROCESS.

~~§ 3.1.~~ § 4.1. Preapplication consultation.

Upon request, the department's licensing representative will provide consultation to any person(s) seeking information about obtaining a license. The purpose of such consultation is:

1. To explain standards and the licensing process;
2. To help the potential applicant explore the operational demands of a licensed facility/agency;
3. To provide assistance in locating other sources of

information;

4. To alert the potential applicant to the value of assessing the need for a facility/agency in the area to be served;

5. To review the potential applicant's proposed program plans, forms, etc., as they relate to standards; and

6. To alert the potential applicant regarding the need to meet other state and local ordinances, such as health, fire and building codes, where applicable.

~~§ 3.2.~~ § 4.2. The initial application.

A. Upon request, the Virginia Department of Social Services will provide an application form for a license to operate a facility/agency. [*There are a number of licensing offices located throughout the state.*] The location, telephone number and areas served by each office [; ~~central and regional;~~] are provided in Attachment I of this document.

B. The department shall consider an application complete when the application fee and all the required information is submitted in the form required by the department. The schedule of fees for licenses is provided in [Attachment H of this document VR 615-33-01, *Fee Requirements for Processing Applications*]. If the department finds the application incomplete, the applicant will be notified within 15 days of receipt of the incomplete application.

C. The applicant shall complete and submit the application to the department at least 60 days prior to a planned opening date to allow the department time to act on the application.

D. The applicant may at any time withdraw a request for a license.

~~§ 3.3.~~ § 4.3. Applications or prospective applications for the issuance of a new or changed Use Group certificate of occupancy. *Approval of functional design features.*

A valid certificate of occupancy is one prerequisite for licensure. When an application is for licensure of a building which has not previously been used for the type of license or Use Group being sought, or when renovations are made in the building, the department must approve functional design features of the building in accordance with applicable department regulations. ~~Functional design refers to design functions of building and grounds not regulated by the Building Code, necessary for particular activities and operations of a facility subject to licensure by the Department of Social Services. The procedures are as follows:~~

1. Prior to beginning construction or renovation, the applicant or prospective operator applicant shall

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submit to the department floor plans drawn to scale which clearly indicate the use of space and other plans for compliance with all requirements for the building, use of space, and bathroom facilities contained in the applicable regulations.

(NOTE: [Prospective Applicants and prospective operators applicants are urged to present their plans for compliance with departmental regulations to the department as early as possible and before entering into contracts in order to assure that the building can be preapproved as meeting the department's regulations. Architects, contractors, or building officials may not be thoroughly familiar with these [additional functional design] requirements, and costly errors can be avoided through early review by the department. The plan for structures must a drawing to scale but does not need to be an architectural drawing clearly indicate the use of space .)

2. The department will notify the applicant or prospective operator applicant within five 10 working days of receipt if the plans to comply are incomplete, identifying the information still needed before the request can be considered complete.

3. When a complete plan is received, the department will issue a Preliminary Approval Statement or a letter indicating disapproval of the plan and the reasons for disapproval.

a. The department's time frame for day care facilities is 20 working days from receipt of a complete plan.

b. The department's time frame for residential facilities is 30 working days from receipt of a complete plan.

(NOTE: A Preliminary Approval Statement does not imply that the department will approve the application for licensure since other factors will affect issuance decisions.)

4. All Preliminary Approval Statements are conditional upon there being no change in the proposal or the circumstances affecting them and upon approval of all required fire, health, or building officials.

5. The department will forward a copy of the Preliminary Approval Statement to the appropriate building official.

6. After construction or renovation, Department of Social Services staff will make an on-site inspection to evaluate compliance with the functional design requirements of the applicable regulations. Findings of this on-site inspection will be forwarded to the applicant and the local building official.

§ 3-4. § 4.4. The investigation.

A. [Inspections and reports of other agencies/departments. At the time of the initial application and annually thereafter, the applicant/licensee shall be responsible for obtaining inspection reports from appropriate fire and health agencies to determine compliance with applicable regulations.]

EXCEPTION: Section 3-4 4.4 A does not apply to child placing agencies or family day care systems.

1. When the initial application is received, and at least annually thereafter, the department will, as applicable, request the local health department to provide an inspection and report of the environmental health conditions of the facility. This will include a request for approval of the water supply, sewage disposal system and food service operation which serves the facility.

2. When the initial application is received, and at least annually thereafter, the department will, as applicable, request an inspection and report of the fire safety conditions of the facility from the local fire official or state fire official.

3. When applicable, a copy of or a Certificate of Occupancy is required as indication of the approval of the local building official.

1. All buildings shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy indicating that the building is classified for its proposed licensed purpose.

2. At the time of the initial application and at least annually thereafter, [the building(s) shall be inspected by state fire officials or local fire authorities, as applicable, whose inspection shall determine compliance with the Virginia Statewide Fire Prevention Code. the applicant/licensee shall obtain an inspection report from state or local fire authorities, as applicable, to determine compliance of the building(s) with the Virginia Statewide Fire Prevention Code.]

The initial application packet and subsequent renewal packets will include the Fire Inspection Report Form and instructions.

3. At the time of the initial application and at least annually thereafter, [the building shall be inspected by state or local health authorities whose inspection and approval shall include general sanitation, water supply sewage disposal systems, food service operations, and swimming pools. the applicant/licensee shall obtain an inspection report from state or local health authorities which shall include approval of general sanitation, water supply, sewage disposal systems, and food service operations for the building(s) in which the facility is operated.]

The initial application packet and subsequent renewal packets will include the Report of Environmental Health Inspection form and instructions.

B. The department's representative shall make an on-site inspection of the proposed facility/agency and an investigation of the proposed services, as well as an investigation of the character, reputation and financial responsibility of the applicant. Compliance with all standards will be determined by the Department of Social Services.

The licensee is responsible for correcting any areas of noncompliance found during any on-site inspection.

C. The department's representative may inspect applicant/licensee shall make available to the department's representative the facility's/agency's books and records [; and . The applicant/licensee shall also allow the department's representative to] interview its the facility's/agency's agents, employees, residents/participants, and any person under its custody, control, direction, or supervision.

D. After the on-site inspection the licensing representative shall discuss the findings of the investigation with the administrator/licensee. As applicable, the applicant shall submit an acceptable plan for correcting any areas of noncompliance following these discussions.

E. During the inspection or afterwards At any time during the investigation , an applicant/licensee may request an allowable variance to any standard which creates a special hardship. (See Part IV V . Allowable Variance.)

~~§ 3-5.~~ § 4.5. Notice to the applicant of issuance or denial of a license.

A. When the investigation is completed, the department shall notify the applicant [in writing] of its decision regarding the issuance of a [*conditional or provisional*] license.

B. When the decision is to issue a *conditional or provisional* license, a letter accompanying the license shall [*either refer to*] any areas of noncompliance with standards or areas where compliance cannot be determined, as well as any limitations on the license. The letter may also contain recommendations which are optional and offered for the licensee's consideration. [*A letter will routinely not accompany the issuance of a regular license.*]

C. When the department intends to deny the license, the department shall send a letter stating the reasons for this action and the applicant's right to an administrative hearing. (See Part VIII VIII .)

~~§ 3-6.~~ § 4.6. Determination of continued compliance (*renewal and monitoring visits*).

In order to determine continued compliance with standards during the effective dates of the license, the department's licensing representative shall make announced and unannounced visits to the facility/agency during the hours of its operation. State law requires at least one unannounced visit per year (See subsection B of § 63.1-210 of the Code of Virginia). The department's representative may also make such visits to any homes/facilities that are approved by the licensee for the placement or care of children as one of the licensed services of the agency. The licensee is responsible for correcting any areas of noncompliance found during renewal or monitoring visits.

A. All licensed child care facilities [*are shall be*] inspected [*not less than twice annually at least twice a year*] . At least one unannounced inspection of each licensed facility shall be made each year.

B. At least two inspections of each licensed adult care facility shall be made each year and in every instance the annual renewal inspection made by the commissioner or his authorized agents shall be unannounced. The commissioner may authorize such other announced or unannounced inspections as he considers appropriate.

C. The department's representative may also make such visits to any homes/facilities that are approved by the licensee for the placement or care of children as one of the licensed services of the agency.

NOTE: When necessary to respond to excessive workloads or to give priority to higher risk situations, the department may use its discretion to increase or decrease the frequency of announced and unannounced visits made to licensed facilities during the year.

~~§ 3-7.~~ § 4.7. Problem-solving conferences.

Licensing staff may initiate a request for problem-solving conferences with applicants or licensees when the need arises.

~~§ 3-8.~~ § 4.8. Modification.

A. The licensee may request a modification of the terms of a license at any time during the period of the license. The request must be submitted in writing to the department's representative.

The department will evaluate written information about any planned changes in operation which would affect either the terms of the license or the continuing eligibility for a license. A licensing representative may visit the facility during the process of evaluating a proposed modification.

Examples of such changes are: changes in the number of children/adults to be served, staff responsibilities, availability and use of the physical plant, and changes in program focus or needs of the population to be served.

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B. If a modification can be granted under the standards, the department shall respond ~~with a transmittal letter and in writing with~~ the modified license. In the event that a new application is needed, the licensee shall receive written notification of such. When the modification cannot be granted, the licensee shall also be advised by letter.

~~§ 3.9.~~ § 4.9. Early compliance ~~(replacement of a provisional or conditional license with an annual license)~~.

A. A provisional or conditional license may be voided and ~~an annual~~ a regular license issued when all of the following conditions exist:

1. The facility/agency complies with all standards listed on the face of the provisional or conditional license well in advance of the expiration date of the provisional or conditional license, and the facility/agency is in substantial compliance with all other standards.

2. Compliance has been verified by an on-site observation by the department's licensing representative or, when applicable, by written evidence provided by the licensee.

3. All other terms of the license remain the same.

B. The licensee shall make a written request to the licensing representative for replacement of a provisional or conditional license with ~~an annual~~ a regular license.

C. When the request is approved by the department, the effective date of the new [~~annual~~ regular] license shall be the same as the beginning date of the voided license.

When the request is not approved, the reasons for this action shall be confirmed to the licensee in writing.

D. Early compliance shall not be considered once a renewal application has been filed by the facility/agency.

~~§ 3.10.~~ § 4.10. Renewal process.

A. The Department of Social Services shall send an application for renewal of the license to the licensee [~~120 days~~] prior to the expiration date of the *current* license.

B. The licensee shall submit the completed application form along with any required attachments and the application fee ~~60 days~~ prior to the expiration of the current license. It is the applicant's responsibility to complete and return the application ~~60 days~~ prior to the expiration of the current license to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided that the completed application was filed ~~within the aforementioned 60 days~~ and a decision for licensure is pending.

C. The department shall follow the procedure for

investigation and notice to the applicant previously outlined in §§ ~~3.4 and 3.5~~ 4.4, 4.5, and 4.6 .

PART IV: PART V. ALLOWABLE VARIANCE.

§ 4.1. An allowable variance may be: (i) permission to meet the intent of a standard by some means other than as specified by the standard; (ii) the suspension of enforcement of a particular standard or portion of the standard for a stated time period.

§ 4.2. § 5.1. Allowable variances are used for one or more of the following:

1. To allow the department some degree of flexibility in the enforcement of requirements, given the rapid and ever changing nature of programs and their unique settings;

2. To allow for greater development of innovative and pilot programs, which were not anticipated in the regulations; and

3. To promote equity across all programs by allowing for variable compliance methods when a regulation places special hardship on a particular facility.

§ 4.3. § 5.2 Conditions for initiating a request.

A licensee/applicant may request an allowable variance when he believes that the existing regulations pose a special hardship and when he believes that either an alternative method of compliance with the intent of the regulation which is causing the hardship, or the actual suspension of all or part of that regulation, would neither endanger the safety or well-being of persons in care nor create a violation of statutes or of the requirements of another regulatory agency.

§ 4.4. § 5.3. Process.

A. Consideration of an allowable variance is initiated when a written request to the issuing office is received from the applicant/licensee. The department's licensing representative may provide consultation to the applicant/licensee in the development of the written request and throughout the allowable variance process.

1. The licensee/applicant shall make a written request for an allowable variance which describes the special hardship(s) to the existing program or to a planned innovative/pilot program caused by the enforcement of the requirement(s).

2. When possible, the licensee/applicant shall propose alternatives to meet the purpose of the requirement which will ensure the protection and well-being of persons in care.

3. The licensee/applicant should obtain, when

requested by the department, the opinions of professionals in the field or documented research, or both, that the proposed activities, facilities, or equipment are not injurious to persons in care.

4. The department can authorize allowable variances only to its own licensing standards, not to regulations of another agency or to any requirement in federal, state, or local laws.

B. The department's representative shall notify the petitioning applicant/licensee of the receipt of his request for an allowable variance and send a recommendation to the person delegated decision-making authority by the department.

~~C. Decision authority for approval or denial of a request for an allowable variance shall be defined by the commissioner through a formal delegation of authority for licensing actions. The decision is transmitted in writing to the petitioning applicant/licensee with a copy to the department's licensing representative.~~

~~D. C. Approval.~~

1. The designated authority may attach conditions to the granting of the allowable variance in order to protect persons in care.

2. Allowable variances are conditional upon there being no change in the circumstances which were the basis for the approval. Any allowable variance may be rescinded or modified if conditions change; additional information becomes known which alters the basis for the original decision; the applicant/licensee fails to meet any conditions attached to the allowable variance; or results of the allowable variance jeopardize the safety, comfort, or well-being of persons in care.

3. Allowable variances expire automatically when there is a change in the facility's location or a change in the sponsorship of the facility/agency.

EXCEPTION: Allowable variances issued to child placing agencies and family day care systems are transferable when agencies change location.

4. The department's licensing representative shall review each allowable variance at least annually. At minimum, this review shall address the impact if the allowable variance on persons in care, adherence to any conditions attached, and the continuing need for the allowable variance.

~~E. D. Denial.~~

1. When the decision is to deny a request for an allowable variance, the reason(s) shall be provided in writing to the applicant/licensee.

2. When a request for an allowable variance is denied, it may be reconsidered if the applicant/licensee submits another written request and provides new or additional supporting information.

3. When a request for an allowable variance is denied by the designated decision-maker and if the petitioner believes that decision was unreasonable, arbitrary, or capricious, the petitioner may request a desk review of that decision. The following shall apply when a desk review is requested:

a. The petitioner shall request this desk review, in writing, within 15 days of the denial's issuance of *the denial* and shall include such information as necessary to explain the belief that the decision was unreasonable, arbitrary or capricious.

b. The desk review shall be conducted by the person who supervises the designated decision-maker, unless a different person has been assigned desk review responsibility in accordance with the commissioner's formal delegation of authority.

c. The decision of the reviewer shall be reported in writing to the petitioner within 30 days of receiving a complete request for a desk review.

d. The reviewer's decision shall be final and not appealable.

~~F. E. When an allowable variance is denied, expires, or is rescinded, routine enforcement of the standard or portion of the standard shall be resumed.~~

~~G. F. The applicant/licensee may at any time withdraw a request for an allowable variance.~~

PART V. PART VI. INFORMAL APPEAL PROCESS.

~~§ 5.1. § 6.1.~~ When an applicant/licensee has concerns about licensing procedures, interpretation of standards, or the actions of licensing personnel that cannot be resolved satisfactorily in discussion with the assigned licensing representative, the informal appeal steps outlined in Part V below are available.

~~§ 5.2. § 6.2.~~ The applicant/licensee may request either a desk review by, or a meeting with, the assigned licensing representative's immediate supervisor.

A. If the request stems from a desire to contest the findings or conclusions of an inspection, the following procedures shall apply:

1. The applicant/licensee shall make the request within 15 days of receiving the compliance plan.

2. The request shall specify the contested finding or

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conclusion and shall specify whether a desk review or conference is being requested.

3. The request shall include the applicant's/licensee's reasons or other evidence supporting the request for a review or a conference.

B. The first step informal desk review or conference will be held at the supervisor's office unless the supervisor designates a different location. The following procedures shall apply:

1. The supervisor shall report the findings of a desk review in writing within 10 days of receiving the request and supporting materials or shall hold the requested conference within 30 days of receipt of such request and materials.

2. When the request ~~was~~ *is* for a conference, the supervisor shall, within 10 days following the conference, confirm to the applicant/licensee in writing the results of the conference and any subsequent decisions made by the supervisor.

~~§ 5.3. § 6.3.~~ If after the first step review, the applicant/licensee believes that the laws, regulations, or departmental policies have been applied or interpreted in a manner that was unreasonable, arbitrary or capricious, he may request a second step review by program supervisory personnel as assigned by the Director of Licensing Programs according to the provisions of this article.

A. A second step informal review shall not be requested to challenge the content of an established law, regulation, or policy. However, the application of a law, regulation, or policy may be challenged.

B. When second step informal appeals are made, the request must be in writing and must specify whether the applicant/licensee is requesting a desk review or a conference. Conferences shall be held in the region ; ~~appropriate district office,~~ or in Richmond as designated by the director; the designated location shall be as close to the operation as possible.

C. The second informal step appeal request shall:

1. Be made within 15 days of the date of the first step response;

2. Specify the reason for requesting the second step informal review and include such information, explanation, or additional materials as necessary to support the applicant's/licensee's belief that the decision reached at the first step was unreasonable, arbitrary or capricious; and

3. Include a copy of relevant materials and correspondence developed at the first step of the informal appeal process.

D. Within 30 days of receipt of this request, the director's office shall respond in writing or schedule the conference.

E. When the request [~~was~~ *is*] for a conference, the designated program management staff shall, within 10 days following the conference, confirm to the applicant/licensee in writing the results of the conference and any subsequent decisions made by program management staff.

~~§ 5.4. § 6.4.~~ Nothing in this article shall prohibit the Department of Social Services from exercising its responsibility and authority to enforce the disputed regulation during the informal appeal process, including proceeding directly to denial or revocation of a license, or recommending petitions for injunction when, in the judgment of the Director, Division of Licensing Programs, there is sufficient risk to persons in care to do so whether or not the steps available in the informal appeal process have been exhausted.

PART VI. ~~PART VII.~~ COMPLAINT INVESTIGATION.

~~§ 6.1. § 7.1.~~ A complaint is an accusation that a licensed facility/agency is not in compliance with the licensing standards or statute or an accusation that the children/adults in the care of a licensed facility/agency are being abused, neglected, or exploited. Complaints may be received in written or oral form and may be anonymous. *The department maintains a parental hot line to respond to complaints regarding child care facilities.*

~~§ 6.2. § 7.2.~~ The department has the responsibility to investigate any complaints regarding alleged violations of the standards or [~~statute~~ *statutes*] and complaints of the abuse and neglect of persons in care.

[*NOTE: In an investigation of adult/child abuse, neglect, or exploitation in a licensed facility, the investigation shall be conducted jointly with the local department of social services whenever possible in accordance with departmental policy.*]

~~§ 6.3.~~ Whenever licensing staff become aware of or suspect adult/child abuse, neglect, or exploitation in a facility/agency, the local department of social services, in the locality of the licensed facility/agency, shall be notified immediately.

When staff of the local department of social services receive a complaint of adult/child abuse, neglect, or exploitation in a licensed facility, the appropriate licensing unit shall be notified immediately.

Through separate or joint investigations, the local department of social services worker determines whether or not abuse, neglect or exploitation has occurred within applicable law and policies while the licensing representative determines whether or not the facility/agency has violated the licensing standard(s) or

statute.

§ 6.4. § 7.3. When the investigation is completed, the licensee shall be notified of the findings of the investigation. Any necessary corrective action will be identified.

§ 7.4. *The licensee is responsible for correcting any areas of noncompliance found during a complaint investigation.*

PART VII. REVOCAION AND DENIAL.

§ 7.1. Revocation is the act of withdrawing permission to operate during the effective dates of the license. Denial is the act of refusing to grant a license after receipt of an original or renewal application. The process for revocation or denial is the same.

§ 7.2. The following reasons may be considered by the department for revocation or denial:

1. Failure to demonstrate or maintain compliance with the applicable standards or for violations of the provisions of the Code of Virginia;
2. Permitting, aiding, or abetting the commission of any illegal act in the licensed facility/agency;
3. Engaging in conduct or practices which are in violation of statutes and standards related to abuse, neglect, or exploitation of children/adults; or
4. Deviating significantly from the program or services for which a license was issued without obtaining prior written approval from the department, or failure to correct such deviations within a specified time, or both.

§ 7.3. Process.

A. The applicant/licensee will receive a notice of the department's intent to deny or revoke a license. This notice shall describe the reasons for the revocation or denial.

B. Upon receipt of the notice of intent to revoke or deny, the applicant/licensee has the right to appeal the decision in accordance with the Administrative Process Act (§ 9-6.14.1 of the Code of Virginia). The procedure for requesting an administrative hearing shall be outlined in the notice.

C. In the event the applicant/licensee does not request an administrative hearing, the facility/agency shall cease to operate or shall modify the operation such that it is no longer subject to licensure.

D. If a facility/agency continues to operate in violation of the statute after the date the revocation/denial is final, the department shall initiate appropriate legal action.

§ 7.4. Appeals.

A. If an administrative hearing is requested, the applicant/licensee has the right to be represented by counsel at the hearing.

B. The hearing shall be conducted by an individual appointed from a roster of attorneys, approved to serve as hearing officers, which is maintained by the Supreme Court of Virginia.

C. Once the hearing is completed, the hearing officer shall submit written findings of fact and conclusions of law and recommendations to the Commissioner of the Department of Social Services.

D. The commissioner may authorize continued licensure in the final order.

If the commissioner authorizes revocation or denial of the license, the time frame in which operation is to cease shall be included in the final order. The licensee may appeal this decision to the appropriate Circuit Court under the provisions of §§ 63.1-180 and 63.1-213 of the Code of Virginia.

PART VIII. SANCTIONS.

§ 8.1. *The commissioner of the Department of Social Services may impose such sanctions or take such actions as are appropriate for violation of any of the standards or [statute statutes] or [for] abuse/neglect of persons in care. Such sanctions include administrative sanctions and the imposition of [a] civil penalty or appointment of receivership.*

§ 8.2. *Administrative sanctions.*

The following are administrative sanctions which may be imposed against a licensed facility:

1. *Reducing the capacity of any adult care facility;*
2. *Restricting or prohibiting new admissions to any adult care facility;*
3. *Denying renewal of the license of any licensed facility; and*
4. *Revoking the current license of any licensed facility.*

§ 8.3. *Civil penalty or appointment or receivership.*

In addition to the administrative sanctions listed in § 8.2 of these regulations the commissioner may:

1. *Petition the circuit court or the city or county in which the facility is located to impose a civil penalty against any adult care facility; or*

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2. Petition the circuit court for the city or county in which the facility is located to appoint a receiver for any adult care facility.

§ 8.4. The following reasons may be considered by the department for the imposition of administrative sanctions or the imposition of civil penalties.

1. Failure to demonstrate or maintain compliance with [~~the~~] applicable standards or for [~~the~~] violations of the provisions of the Code of Virginia;

2. Permitting, aiding, or abetting the commission of any illegal act in the licensed facility/agency;

3. Engaging in conduct or practices which are in violation of statutes and standards relating to abuse, neglect, or exploitation of children/adults; or

4. Deviating significantly from the program or services for which a license was issued without obtaining prior written approval from the department, or failure to correct such deviations within a specified time.

§ 8.5. Process.

A. The applicant/licensee will receive a notice of the department's intent to impose an administrative sanction. This notice shall describe the reasons for the imposition of the administrative sanction.

B. Upon receipt of the notice to impose an administrative sanction, the applicant/licensee has the right to appeal the decision in accordance with the Administrative Process Act (§ 9-6.14:1 of the Code of Virginia). The procedures for requesting an administrative hearing shall be outlined in the notice. All appeals from notice of imposition of administrative sanctions shall be received in writing from the applicant/licensee within 15 days of the date of receipt of the notice.

C. In the event the applicant/licensee does not request an administrative hearing within 15 days, the facility/agency must modify the operation such that it meets the requirements of the imposed sanction(s).

D. If the facility/agency continues to operate in violation of the imposed sanction(s) after the date the sanction(s) was to have been met, the department shall initiate appropriate administrative/legal action.

E. In requesting the imposition of a civil penalty for any violation, the department will recommend that the penalty not exceed the lesser of \$5.00 per licensed capacity or \$250 per day for each day the adult care facility is in violation, beginning on the date the facility was first notified of the violation. The date of notification under this sanction shall be deemed to be the date of receipt by the facility of written notice of the alleged violation. This notice shall include specifics of the

violation charged and it shall be hand delivered or sent by overnight express mail or by registered or certified mail, return receipt requested.

F. Upon filing of a petition for appointment of a receiver, the court shall hold a hearing, at which time the department and the licensee of the adult care facility may participate and present evidence.

§ 8.6. Appeals.

A. If an administrative hearing is requested, the applicant/licensee has the right to be represented by counsel at the hearing.

B. The hearing shall be conducted by an individual appointed from a roster of attorneys, approved to serve as hearing officers, which is maintained by the Supreme Court of Virginia.

C. Once the hearing is completed, the hearing officer shall submit written findings of fact and conclusion of law and recommendations to the commissioner of the Department of Social Services.

D. The commissioner may (i) authorize the imposition of the sanction(s); (ii) authorize the imposition of a less severe sanction(s); or (iii) [~~authorize the negation of~~ may deny] the intent to impose a sanction(s) in the final order.

If the commissioner [~~authorized~~ authorizes] the imposition of the sanction(s), the time frame in which the facility must conform to the requirements of the sanction(s) shall be included in the final order. The applicant/licensee may appeal this decision to the appropriate circuit court under the provisions of § 63.1-312 of the Code of Virginia.

E. If the applicant/licensee wishes to appeal the imposition of a civil penalty or the appointment of a receiver, such appeal must be made to the appropriate court in the city or county where the facility is located.

ATTACHMENT I.

An application form to operate a child placing agency may be obtained from the following office:

Division of Licensing Programs
Department of Social Services
8007 Discovery Drive
Richmond, Virginia 23229
Telephone: (804) 662-9025

An application form to operate a licensed facility, excluding a child placing agency, may be obtained from the following offices:

OFFICE

Abingdon Out Station
190 Patton Street
Abingdon, VA 24210
Telephone: (703) 628-5171

AREA SERVED

Serving Counties of: Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Patrick, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe

Serving Cities of: Bristol, Galax, Norton

OFFICE

Central Regional Office
Wythe Building, Suite 300
1604 Santa Rosa Road
Richmond, VA 23229-5008
Telephone: (804) 662-9743

AREA SERVED

Serving Counties of: Amelia, Brunswick, Buckingham, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Essex, Fluvanna, Goochland, Halifax, Hanover, Henrico, King and Queen, King William, Lancaster, Louisa, Lunenburg, Mecklenburg, New Kent, Northumberland, Nottoway, Powhatan, Prince Edward, Prince George, Richmond, Westmoreland

Serving Cities of: Colonial Heights, Hopewell, Petersburg, Richmond, South Boston

OFFICE

Eastern Regional Office
Pembroke Office Park
Pembroke IV Office Building
Suite 300
Virginia Beach, VA 23462-5496
Telephone: (804) 473-2100

Serving Counties of: Accomack, Gloucester, Greenville, Isle of Wight, James City, Mathews, Middlesex, Northampton, Southampton, Surry, Sussex, York

Serving Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg

OFFICE

Fairfax Out Station

Serving Counties of: Arlington, Loudoun, Fairfax

Serving Cities of: Alexandria, Fairfax, Falls Church

OFFICE

Northern Regional Office

Serving Counties of: Caroline, Culpeper, Fauquier, King George, Prince William, Rappahannock, Spotsylvania, Stafford

Serving Cities of: Fredericksburg, Manassas, Manassas Park

OFFICE

Piedmont Regional Office
Commonwealth of Virginia Building
210 Church Avenue, S.W., Suite 100
Roanoke, VA 24011-1779
Telephone: (703) 982-7920

Serving Counties of: Alleghany, Amherst, Appomattox, Bath, Bedford, Botetourt, Campbell, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Nelson, Pittsylvania, Pulaski, Roanoke, Rockbridge

Serving Cities of: Bedford, Buena Vista, Clifton Forge, Covington, Danville, Lexington, Lynchburg, Martinsville, Radford, Roanoke, Salem

OFFICE

Verona Out Station
Post Office Box 350
Verona, VA 24482-0350
Telephone: (703) 332-8900

Serving Counties of: Albemarle, Augusta, Clarke, Frederick, Greene, Highland, Madison, Orange, Page, Rockingham, Shenandoah, Staunton, Warren

Serving Cities of: Charlottesville, Harrisonburg, Waynesboro, Winchester.

* * * * *

Title of Regulation: VR 615-33-01. Fee Requirements for Processing Applications.

Statutory Authority: §§ 63.1-25, 63.1-174.01, 63.1-196.5, and 63.1-202 of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

This regulation contains the requirements and procedures for licensees to follow in submitting the application processing fee that is to be submitted with all new and renewal applications. The following licensed facilities are affected by this regulation: (i) adult day care centers; (ii) homes for adults; (iii) child placing agencies; (iv) child caring institutions; (v) independent foster homes; (vi) child day care centers; (vii) family day care homes; (viii) family day care systems.

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Since the regulation was published in its proposed form, the following changes have been made:

1. The process for collecting the fee has been changed so that the fee is collected annually even though a facility might be eligible for a licensure period greater than 12 months; previously the fee was to be collected at the beginning of the licensure period. This change was made in response to comments from representatives of public agencies who felt it would be prohibitive to pay a two or three year fee all at once.

2. A new level of fees has been added for those programs (called short-term programs) that are licensed for a period of less than four months. This change was made in response to comments from representatives of these programs who felt it was unfair to be assessed the same as programs that operate year-round

VR 615-33-01. Fee Requirements for Processing Applications.

By act of the General Assembly and effective February 1, 1984, the Department of Social Services is authorized to charge fees for processing applications for licenses (§§ 63.1-174.01 and 63.1-196.5 of the Code of Virginia).

Fees will be charged to process all new or renewal applications for facilities or agencies for adults or children subject to licensure solely by the Department of Social Services; however, no fee will be charged directly following the issuance of a conditional license.

Such fees are to be used for the development and delivery of training for operators and staff of facilities or agencies for adults or children subject to licensure solely by the Department of Social Services. [Fees are collected at the time of processing all new and renewal applications. No fee will be charged directly following the issuance of a conditional license.]

[When a facility is eligible to receive a license for a period of more than 12 months, the required fee for that facility will be based upon the length of the total licensure period. (Example: A facility's application processing fee, based upon capacity, might be \$105 for 12 months. If that facility were eligible to receive a license which was valid for 24 months, the fee would be \$210.)]

[Each license and renewal thereof may be issued for a period of up to three successive years. The required fee for each licensed facility or agency will be based upon its licensed capacity and the length of the total licensure period. However, the fee will be collected annually and licensees will be billed each year by the Department of Social Services for the appropriate portion of the fee. (Example: A facility with a capacity of 55 participants is issued a license for a period of 24 months. The fee for that facility for the two-year period would be \$210. The

facility will be charged \$105 at the beginning of the licensure period and billed again for \$105 at the beginning of the second year of licensure.) No fee will be charged directly following the issuance of a conditional license.

Some programs such as, but not limited to, parks and recreation programs and summer camps, which operate for less than four months in a 12-month period, will pay a reduced fee as indicated in the fee schedule below (short-term programs).]

Applicants shall use the following schedule of fees to determine the correct fee to pay for processing all applications.

Schedule of Fees

Capacity	1 - 12	\$14
Capacity	13 - 25	\$35
Capacity	26 - 50	\$70
Capacity	51 - 75	\$105
Capacity	76 - 200	\$140
Capacity	201 & up	\$200

Family Day Care Systems	\$70 (flat fee)
Child Placing Agencies	\$70 (flat fee)

Schedule of Fees

Capacity	1 year	2 years	[3 years]
1-12	\$ 14	\$ 28	[\$42]
13-25	\$ 35	\$ 70	[\$105]
26-50	\$ 70	\$140	[\$210]
51-75	\$105	\$210	[\$315]
76-200	\$140	\$280	[\$420]
201 & up	\$200	\$400	[\$600]

[Short-term Programs

1-50	\$ 25	\$ 50	\$75
51 & up	\$ 50	\$100	\$150]

[Flat Fees]

Family Day Care Systems [(flat fee)]	\$ 70	\$140	[\$210]
Child Placing Agencies [(flat fee)]	\$ 70	\$140	[\$210]

[The fee shall be mailed with the application for a license. No application for a license will be considered complete unless it is accompanied by the correct fee. Information in the new or renewal application packet will indicate whether the applicant is eligible to receive a license for a period beyond 12 months.]

The fee shall be paid by personal check, money order, or certified check, made payable to "Treasurer of Virginia."

A fee that is incorrect in amount or is made payable other than to the Treasurer of Virginia will be returned to the applicant. Otherwise, no fee will be returned or refunded for any reason.

[Failure to submit the appropriate fee within the time frame specified by the Department of Social Services may result in negative action against a facility's or agency's license.]

A \$15 fee will be charged for checks which must be returned to the applicant because of insufficient funds.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Effective Date: July 1, 1992.

Summary:

In accordance with § 62.1-44.15(10) of the Code of Virginia, the State Water Control Board adopted a permanent regulation for the issuance of a General Permit for domestic sewage discharges less than or equal to 1,000 gallons per day. This regulation supersedes an emergency regulation adopted by the board on June 24, 1991, and which became effective on July 12, 1991.

A VPDES General Permit is issued by the state for a category of discharges instead of to an individual discharge. Anyone who fits into the category covered by the General Permit and who agrees to abide by its conditions may apply for coverage under it instead of applying for an individual VPDES permit. General permits may be issued for categories of dischargers located throughout the Commonwealth that (i) involve the same or similar types of operations; (ii) discharge the same or similar types of wastes; (iii) require the same effluent limitations or operating conditions; and (iv) require the same or similar monitoring.

The regulation establishes standard limitations and monitoring requirements for the effluents discharged by all facilities covered by the VPDES General Permit. It also sets forth the minimum information requirements for all requests for coverage under the General Permit. As with an individual VPDES permit, the effluent limits in a VPDES General Permit are set to protect the quality of the waters receiving the discharge. No discharge may be covered by the General Permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances. Also, the Department of Health must certify that there are no on-site sewage disposal options available to the lot owner.

Sewage treatment plants which are designed for 1,000

gallons per day or less of waste are a discharge category. These plants are typically installed at individual homes when central sewer is not available and the soil conditions prohibit the use of septic tanks and drainfields. They may also be installed to treat domestic sewage from duplexes, churches, gas stations, etc., where sewage flow is low and other treatment alternatives are not available.

Based on concerns raised during the public comment period on the proposed regulation, (i) a reference was added to the emergency regulation and the effective and expiration dates of the permanent regulation were clarified; (ii) the intent of § 6 D and E relative to local government and Health Department review of treatment works was clarified; (iii) a requirement that owners of new or existing treatment works must file registration statements was added; (iv) the Registration Statement to allow for more than one owner to be identified and to sign was modified; (v) the downstream distance on map to 1/2 mile was limited; (vi) language regarding local government and Health Department reviews was revised; (vii) a modification date line to the permit cover page was added; and (ix) changed the notification deadline for new or expanded discharges was changed from 180 to 60 days prior to commencing discharge or construction.

VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons.

§ 1. Definitions.

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law and VR 680-14-01 (Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this regulation:

"Domestic Sewage" means the water-carried human wastes from residences, buildings, industrial establishments or other places.

§ 2. Purpose.

This General Permit regulation governs domestic sewage discharges to surface waters from treatment works that discharge less than or equal to 1,000 gallons per day on a yearly average.

§ 3. Authority for regulation.

The authority for this regulation is pursuant to the State Water Control Law §§ 62.1-44.15 (7), (8), (9), (10), (14); 62.1-44.18; 62.1-44.19; 62.1-44.20; 62.1-44.21 of the Code of Virginia and 33 USC 1251 et seq. and § 6.2 of the Permit Regulation (VR 680-14-01).

§ 4. Delegation of authority.

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The executive director, or his designee, may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

§ 5. Effective date of the permit.

[This VPDES General Permit regulation supersedes and modifies the emergency regulation VR 680-14-09, which was effective July 12, 1991. Those permits issued under the emergency regulation VR 680-14-09 are hereby recognized as modified, valid and covered by this regulation.] This General Permit will become effective [upon filing with the Registrar of Regulations and completion of public notice on July 1, 1992, and it expires on August 1, 1996] . [This General Permit will expire five years from the effective date.] This General Permit is effective as to any covered owner upon compliance with all the provisions of § 6 and the receipt of this VPDES General Permit.

§ 6. Authorization to discharge.

Any owner of a treatment works governed by this General Permit is hereby authorized to discharge treated domestic sewage to surface waters of the Commonwealth of Virginia provided that the owner files the registration statement of § 7, complies with the effluent limitations and other requirements of § 8, and provided that the owner has complied with all the following conditions:

A. Individual permit.

The owner shall not have been required to obtain an individual VPDES permit as may be required in § 6.2 B of the Permit Regulation.

B. Prohibited discharge locations.

The owner shall not be authorized by this General Permit to discharge to surface waters where other board regulations or policies prohibit such discharges.

C. Central sewage facilities.

The owner shall not be authorized by this General Permit to discharge to surface waters where there are central sewage facilities reasonably available, as determined by the board.

D. Local government notification.

The owner [of any proposed treatment works or any treatment works which has not previously been issued a valid VPDES permit] shall obtain notification from the [local government governing] body of the county, city or town in which the discharge is to take place that the location and operation of the discharging facility is consistent with all ordinances adopted pursuant to Chapter 11 (§ 15.1-427 et seq.) of Title 15.1 of the Code of Virginia.

E. Onsite sewage disposal system.

The owner [of any proposed treatment works or any treatment works which has not previously been issued a valid VPDES permit] shall have applied to the Department of Health for an onsite sewage disposal system permit and [that system has been evaluated and found unsatisfactory by] the Department of Health [must have determined that there is no technology available to serve that parcel of land with an onsite system] .

Receipt of this VPDES General Permit does not relieve any owner of the responsibility to comply with any other statute or regulation, including applicable regulations of the Department of Health adopted pursuant to §§ 32.1-163 and 32.1-164 of the Code of Virginia.

§ 7. Registration statement.

The owner shall file a complete VPDES General Permit Registration Statement for domestic sewage discharges of less than or equal to 1,000 gallons per day. [Any owner proposing a new discharge shall file the registration statement at least 60 days prior to the date planned for commencing construction or operation of the treatment works. Any owner of an existing treatment works covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit.] The required registration statement shall be in the following form:

VIRGINIA POLLUTANT DISCHARGE ELIMINATION
SYSTEM
GENERAL PERMIT REGISTRATION STATEMENT

FOR DOMESTIC SEWAGE DISCHARGES
LESS THAN OR EQUAL TO 1,000 GALLONS PER
DAY

1. Name of Facility/Residence

2. Location of Facility (City or County)

3. Facility [Owner Owner(s)]
Last Name First Name
M.I.

[Last Name First Name
M.I.]

4. Address of Owner
Street City State
Zip

5. Phone
Home Work

6. Location of Discharge (stream into which discharge occurs)

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Attach a topographic or other map which indicates discharge point, property boundaries, wells, downstream houses, etc. [, for 1/2 mile downstream.]

7. Amount of Discharge (gallons per day)

8. Are any pollutants other than domestic sewage to be discharged?

Yes No If yes, please indicate what:

9. Attach a diagram of the existing or proposed sewage treatment system, including the location of the facility/residence and the individual sewage treatment units.

10. [Proposed facilities, additions of outfalls at existing facilities The owner of any proposed treatment works] or any [facilities treatment works] which [have has] not previously been issued a valid VPDES permit must attach to this Registration Statement notification from the [local government governing] body of the county, city or town in which the discharge is to take place that the location and operation of the discharging facility is consistent with all ordinances adopted pursuant to Chapter 11 (§ 15.1-427 et seq.) of Title 15.1 of the Code of Virginia.

11. [Attach The owner of any proposed treatment works or any treatment works which has not previously been issued a valid VPDES permit must attach] a notification from the Department of Health that an on-site sewage disposal system permit has been applied for and that the [system has been evaluated and found unsatisfactory by the] Department of Health [has determined that there is no technology available to serve that parcel of land with an onsite system] .

12. Are central sewage facilities available to this facility? Yes No If yes, please explain:

13. Does this facility currently have a VPDES permit? Yes No If yes, please provide

Permit Number:

Certification:

I hereby grant to duly authorized agents of the State Water Control Board, upon presentation of credentials, permission to enter the property for the purpose of determining the suitability of the General Permit. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false

information including the possibility of fine and imprisonment for knowing violations.

[Signature Signature(s)] : Date: [Date:]

For [agency Water Control Board] use only:

Accepted/Not Accepted [by:] Date:

[Basin Stream Class Section Special Standards]

§ 8. General Permit.

Any owner whose registration statement is accepted by the executive director or his designee will receive the following permit and shall comply with the requirements therein and be subject to all requirements of § 6.2 of the Permit Regulation (VR 680-14-01).

General Permit No.: VAG000001

Effective Date:.....

[Modification Date:.....]

Expiration Date:.....

GENERAL PERMIT FOR DOMESTIC SEWAGE DISCHARGES LESS THAN OR EQUAL TO 1,000 GALLONS PER DAY

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of domestic sewage discharges less than or equal to 1,000 gallons per day are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those where Board Regulations or Policies prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, Part II - Monitoring and Reporting Requirements, and Part III - Management Requirements, as set forth herein.

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PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 001

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)*	NA	NL	1/year	Estimate
BOD ₅	NA	30 mg/l	1/year	Grab
Suspended Solids	NA	30 mg/l	1/year	Grab
Fecal Coliform Bacteria**	NA	200/100 ml	1/year	Grab
Total Residual Chlorine	NA	Non-detectable	1/year	Grab
pH (standard units)	6.0	9.0	1/year	Grab
Dissolved Oxygen	5 mg/l	NA	1/year	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

* The design flow of this treatment facility is less than or equal to 1,000 gallons per day

** Continuous disinfection capability shall be provided in order to maintain this effluent limit.

PART II.

MONITORING AND REPORTING.

A. Sampling and Analysis Methods.

1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.

2. Unless otherwise specified in the permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act as published in the Federal Register (40 CFR 136).

3. The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.

4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Recording of Results.

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

1. The date, exact place and time of sampling or measurements;

2. The person(s) who performed the sampling or measurements;

3. The dates analyses were performed;

4. The person(s) who performed each analysis;

5. The analytical techniques or methods used; and

6. The results of such analyses and measurements.

C. Monitoring Records.

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for five (5) years from the date of the sample, measurement, report or application. Such records shall be made available to the Board upon request.

D. Reporting Requirements.

The permittee shall report any unpermitted, unusual or

extraordinary discharge which enters or could be expected to enter State waters. The permittee shall provide the following information regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours:

1. A description and cause of noncompliance;

2. The period of noncompliance, including exact dates and times and/or the anticipated time when the noncompliance will cease; and

3. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.

E. Signatory Requirements.

Any registration statement, report, or certification required by this permit shall be signed as follows:

1. Registration Statement.

a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a Municipality, State, Federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a Federal, municipal, or State agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

2. Reports. All reports required by permits and other information requested by the Board shall be signed by:

a. One of the persons described in subparagraph 1., a., b., or c. of this section; or

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b. A duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in subparagraph 1.a., b., or c. of this section; and

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the Board prior to or together with any separate information, or registration statement to be signed by an authorized representative.

3. Certification. Any person signing a document under paragraph 1. or 2. of this section shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

PART III.

MANAGEMENT REQUIREMENTS.

A. Change in Discharge or Management of Pollutants.

1. Any permittee proposing a new discharge or the management of additional pollutants shall submit a new registration statement at least [180 60] days prior to commencing erection, construction, or expansion or employment of new pollutant management activities or processes at any facility. There shall be no commencement of treatment or management of pollutants activities until a permit is received.

2. All discharges or pollutant management activities authorized by this permit shall be made in accordance with the terms and conditions of the permit. The permittee shall submit a new registration

statement [180 60] days prior to all expansions, production increases, or process modifications, that will result in new or increased pollutants. The discharge or management of any pollutant more frequently than, or at a level greater than that identified and authorized by this permit, shall constitute a violation of the terms and conditions of this permit.

B. Treatment Works Operation and Quality Control.

1. Design and operation of facilities and/or treatment works and disposal of all wastes shall be in accordance with the registration statement. If facility deficiencies, design and/or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, management of pollutant activities and disposal facilities shall be operated in a manner consistent with the following:

a. At all times, all facilities and pollutant management activities shall be operated in a prudent and workmanlike manner so as to minimize upsets and discharges of excessive pollutants to State waters.

b. Maintenance of treatment facilities or pollutant management activities shall be carried out in such a manner that the monitoring and/or limitation requirements are not violated.

c. Collected sludges shall be stored in such a manner as to prevent entry of those wastes (or runoff from the wastes) into State waters.

C. Adverse Impact.

The permittee shall take all feasible steps to minimize any adverse impact to State waters resulting from noncompliance with any limitation(s) and/or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) and/or conditions.

D. Duty to Halt, Reduce Activity or to Mitigate.

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the

environment.

E. Structural Stability.

The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Bypassing.

Any bypass ("Bypass - means intentional diversion of waste streams from any portion of a treatment works") of the treatment works herein permitted is prohibited.

G. Compliance With State and Federal Law.

Compliance with this permit during its term constitutes compliance with the State Water Control Law and the Clean Water Act.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other State law or regulation or under authority preserved by Section 510 of the Clean Water Act.

H. Property Rights.

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or Local Laws or regulations.

I. Severability.

The provisions of this permit are severable.

[J. Duty to Reregister.

If the permittee wishes to be eligible to discharge under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 60 days prior to the expiration date of this permit.]

[J K] . Right of Entry.

The permittee shall allow authorized State and Federal representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, pollutant management activities, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;

2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;

3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;

4. To sample at reasonable times any waste stream, discharge, process stream, raw material or by-product; and

5. To inspect at reasonable times any collection, treatment, pollutant management activities or discharge facilities required under this permit.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging or involved in managing pollutants. Nothing contained herein shall make an inspection time unreasonable during an emergency.

[K L] . Transferability of Permits.

This permit may be transferred to another person by a permittee if:

1. The current owner notifies the Board 30 days in advance of the proposed transfer of the title to the facility or property;

2. The notice includes a written agreement between the existing and proposed new owner containing a specific date of transfer of permit responsibility, coverage and liability between them; and

3. The Board does not within the 30-day time period notify the existing owner and the proposed owner of its intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

[L M] . Continuation of Expired General Permits.

An expired general permit continues in force and effect until a new general permit is issued. Only those facilities authorized to discharge under the expiring general permit are covered by the continued permit.

[M N] . Public Access to Information.

All information pertaining to permit processing or in reference to any source of discharge of any pollutant, shall be available to the public.

[N O] . Permit Modification.

The permit may be modified when any of the following developments occur:

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1. When a change is made in the promulgated standards or regulations on which the permit was based;

2. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of Section 307(a) of the Clean Water Act; [or]

3. When the level of discharge of or management of a pollutant not limited in the permit exceeds applicable Water Quality Standards or Water Quality Criteria, or the level which can be achieved by technology-based treatment requirements appropriate to the permittee [; .]

[O P] . Permit Termination.

After public notice and opportunity for a hearing, the general permit may be terminated for cause.

[P Q] . When an Individual Permit May Be Required.

The Board may require any owner authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

1. The discharger(s) is a significant contributor of pollution.

2. Conditions at the operating facility change altering the constituents and/or characteristics of the discharge such that the discharge no longer qualifies for a General Permit.

3. The discharge violates the terms or conditions of this permit.

4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.

5. Effluent limitation guidelines are promulgated for the point sources covered by this permit.

6. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.

This permit may be terminated as to an individual owner for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.

[Q R] . When an Individual Permit May be Requested.

Any owner operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to an owner the applicability of this general permit to the individual owner is automatically terminated on the

effective date of the individual permit. When a General Permit is issued which applies to an owner already covered by an individual permit, such owner may request exclusion from the provisions of the General Permit and subsequent coverage under an individual permit.

[R S] . Civil and Criminal Liability.

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

[S T] . Oil and Hazardous Substance Liability.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act or Sections 62.1-44.34:14 through 62.1-44.34:23 of the Law.

[F U] . Unauthorized Discharge of Pollutants.

Except in compliance with this permit, it shall be unlawful for any permittee to:

1. Discharge into State waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such State waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-2.6101. Income Eligibility Levels.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Effective Dates: April 22, 1992, through April 21, 1993.

Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled 1992 Federal Poverty Income Guidelines. This policy will incorporate the most current Guidelines, as published by the Health Care Financing Administration, into the State Plan for Medical Assistance as federally mandated.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding 1992 Federal Poverty Income Guidelines. The Department intends to complete the promulgation requirements applicable to this regulatory issue which are specified in the Code of Virginia § 9-6.14:1 et seq.

/s/ Bruce U. Kozlowski, Director
Date: March 11, 1992

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: March 17, 1992

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: April 20, 1992

5. FILED WITH:

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: April 22, 1992

DISCUSSION

6. **BACKGROUND:** This amendment incorporates into the Plan the 1992 Federal Poverty Income Guidelines, as published by the Department of Health and Human Services (DHHS) in the February 14, 1992, Federal Register. The Plan currently contains the 1991 Federal Poverty Income Guidelines.

The Federal Register notice provided updated guidelines which are effective on the date of the Register publication. Section 1902(1), 1902(1)(1)(D),

1902(m), and 1905(s) of the Social Security Act require states to base Medicaid eligibility on percentages of the Federal Poverty Income Guidelines for certain categories of eligible individuals.

§ 1902(1) Pregnant Women and children under Age 6133%

§ 1902(1)(1)(D) Children born after 9/30/83 who have attained age 6 but have not attained age 19100%

§ 1902(m) Qualified Medicare Beneficiaries100%

§ 1905(s) Qualified Disabled and Working Individuals200%

Each year when the annual Federal Poverty Income Guidelines are published, states must revise the financial eligibility income standards for the affected categories by incorporating the new income levels into the State Plan for Medical Assistance.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services 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) § 9-6.14:4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Department intends to complete the promulgation requirements applicable to this regulatory issue which are specified in the Code of Virginia § 9-6.14:1 et seq.

The Code of Federal Regulations, 42 CFR 430.12, requires that State Plans for Medical Assistance be kept up to date with federal requirements, as in the new Federal Poverty Income Guidelines.

Without an emergency regulation, this amendment to the State Plan cannot become effective until the APA Article 2 requirements which are applicable to this issue are met. Therefore, an emergency regulation is required to meet the needed April 1, 1992, effective date.

8. **FISCAL/BUDGETARY IMPACT:** The fiscal impact of increasing the Federal Poverty Income Guidelines is accounted for in the Utilization and Inflation Amendment to the Appropriations Act.

9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective on April 1, 1992. 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

Emergency Regulations

authority to implement the 1992 Federal Poverty Income Guidelines.

10. Approval Sought for VR 460-03-2.6101.

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 460-03-2.6101. Income Eligibility Levels.

B. Income eligibility levels—optional categorically needy groups with incomes up to federal poverty line.

1. Pregnant women, infants, and children. The levels for determining income eligibility for groups of pregnant women, infants, and children under the provisions of § 1902(1)(2) of the Act are as follows:

Based on 133%, and updated annually, of the official federal nonfarm income poverty line:

Size of Family Unit	Poverty Guideline	
1	\$ 8,805	9,057
2	11,811	12,223
3	14,816	15,388
4	17,822	18,554
5	20,828	21,719
6	23,834	24,884
7	26,840	28,050
8	29,846	31,215
Each additional person	3,006	3,165

Bl. Income eligibility levels—categorically needy groups with incomes up to federal poverty line.

1. Children who have attained age 6 but have not attained age 19 born after September 30, 1983. The levels for determining income eligibility for groups of children under the provisions of § 1902(1)(1)(D) of the Act are as follows:

Based on 100 percent of the official federal nonfarm income poverty line:

Size of Family Unit	Poverty Guideline	
1	\$ 6,620	6,810
2	8,880	9,190
3	11,140	11,570
4	13,400	13,950

5	15,660	16,330
6	17,920	18,710
7	20,180	21,090
8	22,440	23,470
Each additional person		2,380

C. Income eligibility levels—optional group of qualified Medicare beneficiaries with incomes up to federal poverty line.

The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(p)(2)(A) of the Act are as follows:

Based on 100%, and updated annually, of the office federal nonfarm income poverty line:

Size of Family Unit	Poverty Guideline	
1	\$ 6,620	6,810
2	8,880	9,190

D. Income eligibility levels—mandatory group of qualified disabled and working individuals with incomes up to federal poverty line.

The levels for determining income eligibility for groups of qualified disabled and working individuals under the provisions of § 1905(s) of the Act are as follows:

Based on 200%, and updated annually, of the official federal nonfarm income poverty level:

Size of Family Unit	Poverty Guideline	
1	\$ 13,240	13,620
2	17,760	18,380

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

April 21, 1992

IMMEDIATE ATTENTION REQUIRED

Administrative Letter 1992-9

TO: All Insurers Licensed to Market Credit Accident and Sickness Insurance in Virginia

RE: Credit Accident and Sickness Insurance Rates

The 1992 General Assembly passed House Bill 722, which has been signed by Governor Wilder and will be effective January 1, 1993. This bill amends Title 38.2 of the Code of Virginia by adding Chapter 37.1 relating to credit life and accident and sickness insurance. Section 38.2-3727.A. of Chapter 37.1 provides for the State Corporation Commission to promulgate seven (7), fourteen (14), and thirty (30) day retroactive and non-retroactive credit accident and sickness premium rates which are to be published no later than September 1, 1992, and are to take effect on January 1, 1993.

In order for the Commission to be able to perform the morbidity study required to publish these premium rates, it is necessary that your company complete the survey attached to this letter and return it to the address shown on the survey. Furnishing the information requested in this survey is required as provided by Section 38.2-1301 of the Code of Virginia and should be submitted no later than June 5, 1992. If no credit accident and sickness coverage has been written by your company in Virginia during 1989, 1990 or 1991, only Page 1 of the survey need be completed and submitted.

Kindly submit responses directly to the attention of Bureau staff as directed on Page 13 of the survey.

Your cooperation in completing and returning this survey by the date shown above is appreciated.

/s/ Steven T. Foster
Commissioner of Insurance

Bureau of Insurance
State Corporation Commission of Virginia
Credit Accident and Sickness Insurance Survey

Virginia Only Business

1. Please provide the company's credit accident and sickness insurance experience in Virginia for the years 1989, 1990 and 1991. This information should be identical to the information filed in Part 2 of the company's CREDIT LIFE AND ACCIDENT AND HEALTH EXPERIENCE EXHIBIT for direct business in the State of Virginia for the referenced years.

The following information is requested regarding direct credit accident and sickness insurance written in Virginia. The data which is being requested is supplemental to the information which your company submits in the CREDIT LIFE AND CREDIT ACCIDENT AND SICKNESS EXPERIENCE EXHIBIT. The data which you provide in this survey should be consistent with the data provided in these exhibits.

PART 2 - CREDIT ACCIDENT AND HEALTH INSURANCE

Year 1989

Company Name: _____

NAIC Company Code: _____

Name and Title of Officer of the Company Certifying that the Information in this Survey is Correct

Name and Title of Person Completing this Form: _____

Telephone No. of Person Completing this Form: _____

If your company did not have any credit accident and sickness business in force in Virginia in 1989, 1990 or 1991, please indicate this by writing "None" on the appropriate line below.

1989 _____
1990 _____
1991 _____

If business was not in force in any of these years, the remainder of this survey need not be completed. If business was in force in any of these years, information must be provided for those years.

	7 Day	14 Day	14 Day	30 Day	30 Day	Other	Total
	Retro	Retro	Non-Retro	Retro	Non-Retro		
1. Earned Premiums:							
A. Gross written premiums							
B. Refunds on terminations							
C. Net written premiums (A - B)							
D. Premium reserves, start of period							
E. Premium reserves, end of period							
F. Actual earned premium (C+D-E)							
2. Incurred Claims:							
A. Claims paid							
B. Unreported claim reserve, start of period							
C. Unreported claim reserve, end of period							
D. Claim reserves, start of period							
E. Claim reserves, end of period							
F. Incurred claims (A+B+C+D+E)							
3. Loss Ratio:							
A. Actual loss ratio (2F/1F)							

7 day non retro coverage must be reported in the "Other" column

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PART 2 - CREDIT ACCIDENT AND HEALTH INSURANCE

Year 1991

	7 Day		14 Day		30 Day		30 Day		Total	
	Retro	Non-Retro	Retro	Non-Retro	Retro	Non-Retro	Retro	Non-Retro	Other	Total
1. Earned Premiums:										
A. Gross written premium										
B. Refunds on terminations										
C. Net written premium (A - B)										
D. Premium reserves, start of period										
E. Premium reserves, end of period										
F. Actual earned premium (C-D-E)										
2. Incurred Claims:										
A. Claims paid										
B. Unreported claim reserve, start of period										
C. Unreported claim reserve, end of period										
D. Claim reserves, start of period										
E. Claim reserves, end of period										
F. Incurred claims (A-B-C-D+E)										
3. Loss Ratio:										
A. Actual loss ratio (2F/1F)										

7 day non retro coverage must be reported in the "other" column

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PART 2 - CREDIT ACCIDENT AND HEALTH INSURANCE

Year 1990

	7 Day		14 Day		30 Day		30 Day		Total	
	Retro	Non-Retro	Retro	Non-Retro	Retro	Non-Retro	Retro	Non-Retro	Other	Total
1. Earned Premiums:										
A. Gross written premium										
B. Refunds on terminations										
C. Net written premium (A - B)										
D. Premium reserves, start of period										
E. Premium reserves, end of period										
F. Actual earned premium (C-D-E)										
2. Incurred Claims:										
A. Claims paid										
B. Unreported claim reserve, start of period										
C. Unreported claim reserve, end of period										
D. Claim reserves, start of period										
E. Claim reserves, end of period										
F. Incurred claims (A-B-C-D+E)										
3. Loss Ratio:										
A. Actual loss ratio (2F/1F)										

7 day non retro coverage must be reported in the "other" column

2. Please provide the premium rate schedules for all credit accident and sickness coverages in force for the years 1989, 1990 and 1991. If the company has changed its premium rates during this period for any of the types of coverage offered, or if the insurance in force was written under different premium rate schedules, then additional rate schedules must be provided. If more than one rate was charged for any of these coverages, please copy the appropriate page and provide the requested information. A separate page must be completed for each rate charged.

Type of Coverage: 7 Day Retro

Dates Used: _____

Earned Premium This Rate Generated in: 1989 _____
 (See #3 for explanation). 1990 _____
 1991 _____

Term	Rate/100	Term	Rate/100	Term	Rate/100	Term	Rate/100
1	31		61		91		
2	32		62		92		
3	33		63		93		
4	34		64		94		
5	35		65		95		
6	36		66		96		
7	37		67		97		
8	38		68		98		
9	39		69		99		
10	40		70		100		
11	41		71		101		
12	42		72		102		
13	43		73		103		
14	44		74		104		
15	45		75		105		
16	46		76		106		
17	47		77		107		
18	48		78		108		
19	49		79		109		
20	50		80		110		
21	51		81		111		
22	52		82		112		
23	53		83		113		
24	54		84		114		
25	55		85		115		
26	56		86		116		
27	57		87		117		
28	58		88		118		
29	59		89		119		
30	60		90		120		

Type of Coverage: 7 Day Non-Retro

Dates Used: _____

Earned Premium This Rate Generated in: 1989 _____
 (See #3 for explanation). 1990 _____
 1991 _____

Term	Rate/100	Term	Rate/100	Term	Rate/100	Term	Rate/100
1		31		61		91	
2		32		62		92	
3		33		63		93	
4		34		64		94	
5		35		65		95	
6		36		66		96	
7		37		67		97	
8		38		68		98	
9		39		69		99	
10		40		70		100	
11		41		71		101	
12		42		72		102	
13		43		73		103	
14		44		74		104	
15		45		75		105	
16		46		76		106	
17		47		77		107	
18		48		78		108	
19		49		79		109	
20		50		80		110	
21		51		81		111	
22		52		82		112	
23		53		83		113	
24		54		84		114	
25		55		85		115	
26		56		86		116	
27		57		87		117	
28		58		88		118	
29		59		89		119	
30		60		90		120	

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Type of Coverage: 14 Day Retro

Dates Used: _____

Earned Premium This Rate Generated in: 1989 _____
 (See #3 for explanation). 1990 _____
 1991 _____

Term	Rate/100	Term	Rate/100	Term	Rate/100	Term	Rate/100
1		31		61		91	
2		32		62		92	
3		33		63		93	
4		34		64		94	
5		35		65		95	
6		36		66		96	
7		37		67		97	
8		38		68		98	
9		39		69		99	
10		40		70		100	
11		41		71		101	
12		42		72		102	
13		43		73		103	
14		44		74		104	
15		45		75		105	
16		46		76		106	
17		47		77		107	
18		48		78		108	
19		49		79		109	
20		50		80		110	
21		51		81		111	
22		52		82		112	
23		53		83		113	
24		54		84		114	
25		55		85		115	
26		56		86		116	
27		57		87		117	
28		58		88		118	
29		59		89		119	
30		60		90		120	

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Type of Coverage: 14 Day Non-Retro

Dates Used: _____

Earned Premium This Rate Generated in: 1989 _____
 (See #3 for explanation). 1990 _____
 1991 _____

Term	Rate/100	Term	Rate/100	Term	Rate/100	Term	Rate/100
1		31		61		91	
2		32		62		92	
3		33		63		93	
4		34		64		94	
5		35		65		95	
6		36		66		96	
7		37		67		97	
8		38		68		98	
9		39		69		99	
10		40		70		100	
11		41		71		101	
12		42		72		102	
13		43		73		103	
14		44		74		104	
15		45		75		105	
16		46		76		106	
17		47		77		107	
18		48		78		108	
19		49		79		109	
20		50		80		110	
21		51		81		111	
22		52		82		112	
23		53		83		113	
24		54		84		114	
25		55		85		115	
26		56		86		116	
27		57		87		117	
28		58		88		118	
29		59		89		119	
30		60		90		120	

Type of Coverage: 30 Day Retro

Dates Used: _____

Earned Premium This Rate Generated in: 1989 _____
 (See #3 for explanation). 1990 _____
 1991 _____

Term	Rate/100	Term	Rate/100	Term	Rate/100	Term	Rate/100
1		31		61		91	
2		32		62		92	
3		33		63		93	
4		34		64		94	
5		35		65		95	
6		36		66		96	
7		37		67		97	
8		38		68		98	
9		39		69		99	
10		40		70		100	
11		41		71		101	
12		42		72		102	
13		43		73		103	
14		44		74		104	
15		45		75		105	
16		46		76		106	
17		47		77		107	
18		48		78		108	
19		49		79		109	
20		50		80		110	
21		51		81		111	
22		52		82		112	
23		53		83		113	
24		54		84		114	
25		55		85		115	
26		56		86		116	
27		57		87		117	
28		58		88		118	
29		59		89		119	
30		60		90		120	

Type of Coverage: 30 Day Non-Retro

Dates Used: _____

Earned Premium This Rate Generated in: 1989 _____
 (See #3 for explanation). 1990 _____
 1991 _____

Term	Rate/100	Term	Rate/100	Term	Rate/100	Term	Rate/100
1		31		61		91	
2		32		62		92	
3		33		63		93	
4		34		64		94	
5		35		65		95	
6		36		66		96	
7		37		67		97	
8		38		68		98	
9		39		69		99	
10		40		70		100	
11		41		71		101	
12		42		72		102	
13		43		73		103	
14		44		74		104	
15		45		75		105	
16		46		76		106	
17		47		77		107	
18		48		78		108	
19		49		79		109	
20		50		80		110	
21		51		81		111	
22		52		82		112	
23		53		83		113	
24		54		84		114	
25		55		85		115	
26		56		86		116	
27		57		87		117	
28		58		88		118	
29		59		89		119	
30		60		90		120	

Type of Coverage: Other *

Dates Used: _____

Earned Premium This Rate Generated in: 1989 _____
 (See #3 for explanation). 1990 _____
 1991 _____

<u>Term</u>	<u>Rate/100</u>	<u>Term</u>	<u>Rate/100</u>	<u>Term</u>	<u>Rate/100</u>	<u>Term</u>	<u>Rate/100</u>
1		31		61		91	
2		32		62		92	
3		33		63		93	
4		34		64		94	
5		35		65		95	
6		36		66		96	
7		37		67		97	
8		38		68		98	
9		39		69		99	
10		40		70		100	
11		41		71		101	
12		42		72		102	
13		43		73		103	
14		44		74		104	
15		45		75		105	
16		46		76		106	
17		47		77		107	
18		48		78		108	
19		49		79		109	
20		50		80		110	
21		51		81		111	
22		52		82		112	
23		53		83		113	
24		54		84		114	
25		55		85		115	
26		56		86		116	
27		57		87		117	
28		58		88		118	
29		59		89		119	
30		60		90		120	

3. If the company has credit accident and sickness insurance in force which was written under more than one premium rate schedule, then the experience reflects all of those rate schedules. For example, if single premium business was written in 1990 using a new premium rate schedule as compared to that used in 1989, then the earned premium in 1990 would be a combination of old and new rate schedules.

Please provide the exact amount of earned premium, under each rate schedule, for each of the three (3) years. If exact amounts are not available, provide your best estimate of those amounts.

* - Please provide a detailed description of the coverage provided if it is in the "Other" category. A separate page must be completed for each kind of coverage.

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Please provide any additional information or comments which the company believes may be pertinent to the information provided or to the Commission's morbidity study.

This form must be completed and returned no later than June 5, 1992 to:

<u>U.S. Mail</u>		<u>U.P.S., Federal Express, etc.</u>
Commonwealth of Virginia		Commonwealth of Virginia
State Corporation Commission		State Corporation Commission
Bureau of Insurance	or	Bureau of Insurance
P. O. Box 1157		1220 Bank Street
Richmond, Virginia 23209		Richmond, Virginia 23219

Attention: Robert L. Wright

Any questions may be addressed to Robert F. Grisson, in writing, at either of the addresses shown above.

State Corporation Commission

BUREAU OF INSURANCE

April 16, 1992

ADMINISTRATIVE LETTER 1992-10

TO: All Insurers and Health Services Plans Subject to Registration Under Sections 38.2-1329 or 38.2-4231 of the Code of Virginia

RE: Transactions Within a Holding Company System Involving Any Person Who Is Not an Affiliate

Section 38.2-1331 of the Code of Virginia requires prior written approval from the State Corporation Commission of Virginia for certain material transactions between a domestic insurer and other persons in the insurer's holding company system. Similar provisions pertaining to holding company systems involving a health services plan appear in § 38.2-4233.

To avoid any misunderstanding or circumvention of any requirements for prior written approval provided for by §§ 38.2-1331 and 38.2-4233, this administrative letter addresses loans or extensions of credit to any person who is not an affiliate where the insurer or health services plan makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer or health services plan. Such loans or extensions of credit shall be deemed transactions between a domestic insurer or health services plan and an affiliate subject to the standards and any applicable requirements for prior written approval by the Commission as set forth in §§ 38.2-1331 or 38.2-4233.

In addition, the standards and applicable requirements for approval set forth in §§ 38.2-1331 and 38.2-4233 shall be deemed applicable to any reinsurance agreements requiring as consideration the transfer of assets from an insurer, or health services plan, to a non-affiliate, if an agreement or understanding exists between the insurer, or the health services plan, and the non-affiliate that any portion of such assets will be transferred to one or more affiliates of the insurer or health services plan.

Questions regarding this letter may be directed to:

Mr. Edward J. Buyalos, Jr.
Supervisor, Financial Analysis Section
Bureau of Insurance
P. O. Box 1157
Richmond, VA 23209

/s/ Steven T. Foster
Commissioner of Insurance

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 20, 1992

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v.

CASE NO. INS920076

Ex Parte: In the matter
of adopting Rules Governing
Accelerated Benefits Provisions

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein March 3, 1992, the Commission ordered all interested parties to take notice that the Commission would enter an order subsequent to April 15, 1992, adopting a regulation proposed by the Bureau of Insurance entitled "Rules Governing Accelerated Benefits Provisions" unless on or before April 15, 1992, any person objecting to the adoption of such regulation filed a request for a hearing, specifying in detail their objection to the adoption of the proposed regulation; and

WHEREAS, as of the date of this order, no interested party has filed a request for a hearing before the Commission to object to the adoption of the proposed regulation; and

THE COMMISSION, having considered the record herein, the comments of interested parties and the recommendation of the Bureau of Insurance, is of the opinion that the regulation, as amended, should be adopted;

THEREFORE, IT IS ORDERED that the regulation, as amended, entitled "Rules Governing Accelerated Benefits Provisions" which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED to be effective June 1, 1992.

AN ATTACHED COPY hereof shall be sent to the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this Order together with a copy of the regulation to all insurance companies licensed to write life insurance in the Commonwealth of Virginia.

Rules Governing Accelerated Benefits Provisions
(Insurance Regulation No. 44)

Section 1. Authority.

This Regulation is issued pursuant to the authority vested in the Commission under § 38.2-223 of the Code of Virginia.

Section 2. Purpose.

State Corporation Commission

The purpose of this Regulation is to regulate accelerated benefit provisions of individual and group life insurance policies and to provide required standards of disclosure. This Regulation shall apply to all accelerated benefits provisions of individual and group life insurance policies except those subject to Insurance Regulation No. 40, Rules Governing Long-Term Care Insurance, issued or delivered in this Commonwealth, on or after the effective date of this Regulation.

Section 3. Effective Date.

A. This Regulation shall be effective on June 1, 1992.

B. No new policy form shall be approved on or after June 1, 1992 unless it complies with this Regulation.

C. No policy form shall be delivered or issued for delivery in this Commonwealth on or after September 1, 1992 unless it complies with this Regulation.

Section 4. Applicability and Scope.

Except as otherwise specifically provided, this Regulation applies to accelerated benefit provisions on individual and group life insurance policies delivered or issued for delivery in this Commonwealth, on or after the effective date hereof, by insurers, fraternal benefit societies, cooperative non-profit life benefit companies or mutual assessment life, accident and sickness insurers.

Section 5. Definitions.

For the purposes of this Regulation:

A. "Accelerated benefits" as used in this Regulation means benefits payable under a life insurance contract:

(1) To a policyowner or certificateholder, during the lifetime of the insured, in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider; and

(2) Which reduce the death benefit otherwise payable under the life insurance contract; and

(3) Which are payable upon the occurrence of a single qualifying event which results in the payment of a benefit amount fixed at the time of acceleration.

B. "Qualifying event" means one or more of the following:

(1) A medical condition which would result in a drastically limited life span as specified in the contract, for example, twenty-four (24) months or less; or

(2) A medical condition which has required or requires extraordinary medical intervention, such as,

but not limited to, major organ transplant or continuous artificial life support, without which the insured would die; or

(3) Any condition which usually requires continuous confinement in an eligible institution as defined in the contract if the insured is expected to remain there for the rest of his or her life; or

(4) A medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span. Such conditions may include, BUT ARE NOT LIMITED TO, one or more of the following:

(a) Coronary artery disease resulting in an acute infarction or requiring surgery;

(b) Permanent neurological deficit resulting from cerebral vascular accident;

(c) End stage renal failure;

(d) Acquired Immune Deficiency Syndrome; or

(e) Other medical conditions which the Commission shall approve for any particular filing; or

(5) Other qualifying events which the Commission shall approve for any particular filing.

Section 6. Type of Product.

Accelerated benefit riders and life insurance policies with accelerated benefit provisions are primarily mortality risks rather than morbidity risks. They are life insurance benefits subject to Chapter 31 § 38.2-3100 et seq., Chapter 32 § 38.2-3200 et seq., and Chapter 33 § 38.2-3300 et seq. of Title 38.2 of the Code of Virginia.

Section 7. Assignee/Beneficiary.

Prior to the payment of the accelerated benefit, the insurer is required to obtain from any assignee or irrevocable beneficiary a signed acknowledgement of concurrence for payout. If the insurer making the accelerated benefit is itself the assignee under the policy, no such acknowledgement is required.

Section 8. Criteria for Payment.

A. Lump Sum Settlement Option Required.

Contract payment options shall include the option to take the benefit as a lump sum. The benefit shall not be made available as an annuity contingent upon the life of the insured.

B. Restrictions on Use of Proceeds.

No restrictions are permitted on the use of the

proceeds.

C. Accidental Death Benefit Provision.

If any death benefit remains after payment of an accelerated benefit, the accidental death benefit provision, if any, in the policy or rider shall not be affected by the payment of the accelerated benefit.

Section 9. Required Disclosure Provision.

A. Descriptive Title.

The terminology "accelerated benefit" shall be included in the descriptive title. Products regulated under this Regulation shall not be described or marketed as long-term care insurance or as providing long-term care benefits.

B. Tax Consequences.

A disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents.

C. Solicitations.

(1) A written disclosure including, but not necessarily limited to, a brief description of the accelerated benefit and definitions of the conditions or occurrences triggering payment of the benefits shall be given to the applicant. The description shall include an explanation of any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the disclosure form to the applicant prior to or concurrently with the application. Acknowledgment of the disclosure shall be signed by the applicant and writing agent.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the disclosure form to the applicant at the time the policy is delivered, with a notice that a full premium refund shall be received if the policy is returned to the company within the free look period.

(c) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificateholder.

(2) If there is a premium or cost of insurance charge,

the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the illustration to the applicant prior to or concurrently with the application.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant at the time the policy is delivered.

(c) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificateholder.

(3) Disclosure of Premium Charge.

(a) Insurers with financing options other than as described in Section 13 A(2) and (3) of this Regulation shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. These insurers shall make a reasonable effort to assure that the certificateholder is aware of any additional premium or cost of insurance charge if the certificateholder is required to pay such charge.

(b) Insurers shall furnish an actuarial demonstration to the Commission when filing the product disclosing the method of arriving at their cost for the accelerated benefit.

(4) Disclosure of Administrative Expense Charge.

The insurer shall disclose to the policyowner any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificateholder is aware of any administrative expense charge if the certificateholder is required to pay such charge.

D. Effect of the Benefit Payment.

When a policyowner or certificateholder requests an acceleration, the insurer shall send a statement to the policyowner or certificateholder and irrevocable beneficiary showing any effect that the payment of the accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens. The statement shall disclose that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements. In addition, receipt of an accelerated benefit payment may be taxable and assistance should be sought from a personal tax advisor. When a previous disclosure statement becomes invalid as a result of an acceleration of the death benefit, the insurer shall send a revised disclosure statement to the policyowner or

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certificateholder and irrevocable beneficiary. When the insurer agrees to accelerate death benefits, the insurer shall issue an amended schedule page to the policyholder or notify the certificateholder under a group policy to reflect any new, reduced in-force face amount of the contract.

Section 10. Effective Date of the Accelerated Benefits.

The accelerated benefit provision shall be effective for accidents on the effective date of the policy or rider. The accelerated benefit provision shall be effective for illness no more than thirty (30) days following the effective date of the policy or rider.

Section 11. Waiver of Premiums.

The insurer may offer a waiver of premium for the accelerated benefit provision in the absence of a regular waiver of premium provision being in effect. At the time the benefit is claimed, the insurer shall explain any continuing premium requirement to keep the policy in force.

Section 12. Discrimination.

Insurers shall not unfairly discriminate among insureds with differing qualifying events covered under the policy or among insureds with similar qualifying events covered under the policy. Insurers shall not apply further conditions on the payment of the accelerated benefits other than those conditions specified in the policy or rider.

Section 13. Actuarial Standards.

A. Financing Options.

(1) The insurer may require a premium charge or cost of insurance charge for the accelerated benefit. These charges shall be based on sound actuarial principles. In the case of group insurance, the additional cost may also be reflected in the experience rating.

(2) The insurer may pay a present value of the face amount. The calculation shall be based on any applicable actuarial discount appropriate to the policy design. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:

(a) The current yield on 90 day treasury bills; or

(b) The current maximum statutory adjustable policy loan interest rate.

(3) The insurer may accrue an interest charge on the amount of the accelerated benefits. The interest rate or interest rate methodology used in the calculation

shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:

(a) The current yield on 90 day treasury bills; or

(b) the current maximum statutory adjustable policy loan interest rate.

The interest rate accrued on the portion of the lien which is equal in amount to the cash value of the contract at the time of the benefit acceleration shall be no more than the policy loan interest rate stated in the contract.

B. Effect on Cash Value.

(1) Except as provided in Section 13B(2), when an accelerated benefit is payable, there shall be no more than a pro rata reduction in the cash value based on the percentage of death benefits accelerated to produce the accelerated benefit payment.

(2) Alternatively, the payment of accelerated benefits, any administrative expense charges, any future premiums and any accrued interest can be considered a lien against the death benefit of the policy or rider and the access to the cash value may be restricted to any excess of the cash value over the sum of any other outstanding loans and the lien. Future access to additional policy loans could also be limited to any excess of the cash value over the sum of the lien and any other outstanding policy loans.

C. Effect of Any Outstanding Policy Loans on Accelerated Death Benefit Payment.

When payment of an accelerated benefit results in a pro rata reduction in the cash value, the payment may not be applied toward repaying an amount greater than a pro rata portion of any outstanding policy loans.

Section 14. Actuarial Disclosure and Reserves.

A. Actuarial Memorandum.

A qualified actuary should describe the accelerated benefits, the risks, the expected costs and the calculation of statutory reserves in an actuarial memorandum accompanying each filing. The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under these provisions. These descriptions shall be made available for examination by the Commission upon request.

B. Reserves.

(1) When benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves shall be determined in accordance with §§ 38.2-3126 through

38.2-3144. All valuation assumptions used in constructing the reserves shall be determined as appropriate for statutory valuation purposes by a Member in good standing of the American Academy of Actuaries. Mortality tables and interest currently recognized for life insurance reserves by the National Association of Insurance Commissioners may be used as well as appropriate assumptions for the other provisions incorporated in the policy form. The actuary must follow both actuarial standards and certification for good and sufficient reserves. Reserves in the aggregate should be sufficient to cover:

- (a) Policies upon which no claim has yet arisen.
- (b) Policies upon which an accelerated claim has arisen.

(2) For policies and certificates which provide actuarially equivalent benefits, no additional reserves need to be established.

(3) Policy liens and policy loans, including accrued interest, represent assets of the company for statutory reporting purposes. For any policy on which the policy lien exceeds the policy's statutory reserve liability such excess must be held as a non-admitted asset.

Section 15. Filing Requirement.

The filing and prior approval of forms containing an accelerated benefit is required.

Section 16. Severability.

If any provision of this Regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this Regulation and the application of such provision to

STATE LOTTERY DEPARTMENT

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Title of Regulation: VR 447-01-2. Administration Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Public Hearing Date: July 27, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The State Lottery Department is proposing changes to its Administration Regulations to clarify current procurement procedures, to conform to amendments to the Code of Virginia, and to adopt numerous technical and housekeeping changes.

VR 447-01-2. Administration Regulations.

PART I. GENERAL PARAMETERS.

§ 1.1. Definitions.

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

"Altered ticket" means a lottery ticket which has been forged, counterfeited or altered.

"Appeal" means a request presented by a retailer, vendor or individual for an informal or formal hearing contesting the director's decision to refuse to issue or renew, suspend or revoke a lottery license for the appellant or award a contract to another vendor.

"Award" means a decision to contract with a specific vendor for a specific contract.

"Bank" means and includes any commercial bank, savings bank, savings and loan association, credit union, trust company, and any other type or form of banking institution organized under the authority of the Commonwealth of Virginia or of the United States of America whose principal place of business is within the Commonwealth of Virginia and which is designated by the State Treasurer to perform functions, activities or services in connection with the operations of the lottery for the deposit and handling of lottery funds, the accounting of those funds and the safekeeping of records.

"Bearer instrument" means a lottery ticket which has not been signed by or on behalf of a person or a legal entity. Any prize won on an unsigned ticket is payable to the holder, or bearer, of that ticket.

"Bid" means a competitively priced offer made by an

intended seller, usually in reply to an invitation for bids.

"Bid bond" means an insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event a specific bidder fails to accept the contract as bid.

"Board" means the State Lottery Board established by the state lottery law.

"Book," "ticket book," or "pack" generally means a set quantity of individually wrapped unbroken, consecutively numbered, fanfolded instant game tickets which all bear an identical book or pack number which is unique to that book or pack among all the tickets printed for a particular game.

"Competitive bidding" means the offer of firm bids by individuals or firms competing for a contract, privilege, or right to supply specified services or goods.

"Competitive negotiation" means a method for purchasing goods and services, usually of a highly complex and technical nature where qualified individuals or firms are solicited by using a Request For Proposal. Discussions are held with selected vendors and the best offer, as judged against criteria contained in the Request For Proposal, is accepted.

"Consideration" means something of value given for a promise to make the promise binding. It is one of the essentials of a legal contract.

"Contract" means an agreement, enforceable by law, between two or more competent parties. It includes any type of agreement or order for the procurement of goods or services.

"Contract administration" means the management of all facets of a contract to assure that the contractor's total performance is in accordance with the contractual commitments and that the obligations of the purchase are fulfilled.

"Contracting officer" means the person(s) authorized to sign contractual documents which obligate the State Lottery Department and to make a commitment against State Lottery Department funds.

"Contractor" means an individual or firm which has entered into an agreement to provide goods or services to the State Lottery Department.

"Department" means the State Lottery Department created by the state lottery law.

"Depository" means any person, including a bonded courier service, armored car service, bank, central or regional offices of the department, or state agency, which performs any or all of the following activities or services for the lottery:

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1. The safekeeping and distribution of tickets to retailers,
2. The handling of lottery funds,
3. The deposit of lottery funds, or
4. The accounting for lottery funds.

"Director" means the Director of the State Lottery Department or his designee.

"Electronic funds transfer (EFT)" means a computerized transaction that withdraws or deposits money against a bank account.

"Erroneous ticket" means a lottery ticket which contains an unintentional manufacturing or printing defect. A player holding such a lottery ticket is entitled to a replacement ticket of equal value.

"Game" means any individual or particular type of lottery authorized by the board.

"Goods" means any material, equipment, supplies, printing, and automated data processing hardware and software.

"Hearing" means agency processes other than those informational or factual inquiries of an informal nature.

"Household" means members of a group who live together as a family unit. It includes, but is not limited to, members who may be claimed as dependents for income tax purposes.

"Informalities" means defects or variations of a bid from the exact requirements of the Invitation for Bid which do not affect the price, quality, quantity, or delivery schedule for the goods or services being purchased.

"Inspection" means the close and critical examination of goods and services delivered to determine compliance with applicable contract requirements or specifications. It is the basis for acceptance or rejection.

"Instant game" means a game that uses preprinted tickets with a latex covering over a portion of the ticket. The covering is scratched off by the player to reveal immediately whether the player has won a prize or entry into a prize drawing. An instant game may include other types of non-on-line lottery games.

"Instant ticket" means an instant game ticket with a latex covering the game symbols located in the play area. Each ticket has a unique validation number and ticket number.

"Invitation for Bids (IFB)" means a document used to solicit bids for buying goods or services. It contains or references the specifications or scope of work and all

contractual terms and conditions.

"Kickbacks" means gifts, favors or payments to improperly influence procurement decisions.

"Legal entity" means an entity, other than a natural person, which has sufficient existence in legal contemplation that it can function legally, sue or be sued and make decisions through agents, as in the case of a corporation.

"Letter contract" means a written preliminary contractual instrument that authorizes a contractor to begin immediately to produce goods or perform services.

"License approval notice" means the form sent to the retailer by the lottery department notifying him that his application for a license has been approved and giving him instructions for obtaining the required surety bond and setting up his lottery bank account.

"Lottery" or **"state lottery"** means the lottery or lotteries established and operated in response to the provisions of the state lottery law.

"Lottery license" or **"retailer license"** means the official document issued by the department to a person authorizing him to sell or dispense lottery tickets, materials or lottery games at a specified location in accordance with all regulations, terms and conditions, and instructions and directives issued by the board and the director.

"Lottery retailer" or **"lottery sales retailer"** or **"retailer"** means a person licensed by the director to sell and dispense lottery tickets, materials or lottery games for instant lottery games or for both instant and on-line lottery games.

"Low-tier winner" or **"low-tier winning ticket"** means an instant game ticket which carries a cash prize of \$25 or less or a prize of additional unplayed instant tickets.

"Negotiation" means a bargaining process between two or more parties, each with its own viewpoints and objectives, seeking to reach a mutually satisfactory agreement on, or settlement of, a matter of common concern.

"Noncompetitive negotiations" means the process of arriving at an agreement through discussion and compromise when only one procurement source is practicably available or competitive procurement procedures are otherwise not applicable.

"Nonprofessional services" means personal services not defined as "professional services."

"Notice of Award" means a written notification to a vendor stating that the vendor has received a contract with the department.

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"Notice of Intent to Award" means a written notice which is publicly displayed, prior to signing of a contract, that shows the selection of a vendor for a contract.

"Pack" means the same thing as *"book."*

"Performance bond" means a contract of guarantee executed in the full sum of the contract amount subsequent to award by a successful bidder to protect the department from loss due to his inability to complete the contract in accordance with its terms and conditions.

"Personal interest," "personal interest in a contract," or "personal interest in a transaction" means financial benefit or liability accruing to an officer or employee or to a member of his immediate family in any matter considered by the department.

"Person" means a natural person and may extend and be applied to bodies politic and corporate unless the context indicates otherwise.

"Personal services contract" means a contract in which the department has the right to direct and supervise the employee(s) of outside business concerns as if the person(s) performing the work were employees of the department or a contract for personal services from an independent contractor.

"Prize" means any cash or noncash award to holders of winning tickets.

"Procurement" means the procedures for obtaining goods or services. It includes all activities from the planning steps and preparation and processing of a request through the processing of a final invoice for payment.

"Professional services" means services within the practice of accounting, architecture, behavioral science, dentistry, insurance consulting, land surveying, landscape architecture, law, medicine, optometry, pharmacy, professional engineering, veterinary medicine and lottery on-line and instant ticket services.

"Protest" means a complaint about an administrative action or decision brought by a vendor to the department with the intention of receiving a remedial result.

"Purchase order" (signed by the procuring activity only) means the form which is used to procure goods or services when a bilateral contract document, signed by both parties, is unnecessary, particularly for small purchases. The form may be used for the following:

1. To award a contract resulting from an Invitation For Bids (IFB).
2. To establish a blanket purchase agreement.
3. As a delivery order to place orders under state contracts or other requirements-type contracts which

were established for such purpose.

"Request for Information (RFI)" means a document used to get information from the general public or potential vendors on a good or service. The department may act upon the information received to enter into a contract without issuing an IFB or an RFP.

"Request for Proposals (RFP)" means a document used to solicit offers from vendors for buying goods or services. It permits negotiation with vendors (to include prices) as compared to competitive bidding used in the invitation for bids.

"Responsible vendor" means a person or firm who has the capability in all respects to fully satisfy the requirements of a contract as well as the business integrity and reliability to assure good faith performance. In determining a responsible vendor, a number of factors including but not limited to the following are considered. The vendor should:

1. Be a regular dealer or supplier of the goods or services offered;
2. Have the ability to comply with the required delivery or performance schedule, taking into consideration other business commitments;
3. Have a satisfactory record of performance; and
4. Have the necessary facilities, organization, experience, technical skills, and financial resources to fulfill the terms of the contract.

"Responsive vendor" means a person or firm who has submitted a bid, proposal, offer or information which conforms in all material respects to the solicitation.

"Sales," "gross sales," "annual sales" and similar terms mean total ticket sales including any discount allowed to a retailer for his compensation and, any discount or adjustment allowed for the retailer's payment of prizes of less than \$600.

"Services" means any work performed by a vendor where the work is primarily labor or duties and is other than providing equipment, materials, supplies or printing.

"Sole source" means that only one source is practicably available to furnish a product or service.

"Solicitation" means an Invitation for Bids (IFB), a Request for Proposals (RFP), a Request for Information (RFI) or any other document issued by the department or telephone calls by the department to obtain bids or proposals or information for the purpose of entering into a contract.

"Surety bond" means an insurance agreement in which a third party agrees to be liable to pay a specified amount

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of money to the department in the event the retailer fails to meet his obligations to the department.

"Ticket number" means the preprinted unique number or combination of letters and numbers which identifies that particular ticket as one within a particular game or drawing.

"Validation code" means the multi-letter or multi-number code which appears among the play symbol under the latex covering on the play area of an instant ticket. The validation code, also known as retailer validation code, is used to verify prize winning tickets.

"Validation number" means the unique number or number-and-letter code printed on the front of an instant ticket sometimes under a latex covering bearing the words "Do not remove," "Void if removed" or similarly worded label, or the unique number assigned by the on-line central computer and printed on the front of each on-line ticket.

"Vendor" means one who can sell, supply or install goods or services for the department.

§ 1.2. Generally.

The purpose of the state lottery is to produce revenue consistent with the integrity of the Commonwealth and the general welfare of its people. The operations of the State Lottery Board and the State Lottery Department will be conducted efficiently, honestly and economically.

§ 1.3. State Lottery Board.

A. Monthly meetings.

The board will hold monthly public meetings to receive information and recommendations from the director on the operation and administration of the lottery and to take official action. It may also request information from the public. The board may have additional meetings as needed. (See Part III, Board Procedures.)

B. Inspection of department records.

At the board's request, the department shall produce for review and inspection the department's books, records, files and other information and documents.

§ 1.4. Director.

The director shall administer the operations of the State Lottery Department following the authority of the Code of Virginia and these regulations.

§ 1.5. Ineligible players of the lottery.

Board members, officers or employees of the lottery, or any board member, officer or employee of any vendor to the lottery of lottery on-line or instant ticket goods or

services working directly with the department on a contract for such goods or services, or any person residing in the same household as any such board member, officer or employee, or any person under the age of 18 years may not purchase tickets or receive prizes of the lottery.

§ 1.6. Advertising.

A. Generally.

Advertising may include but is not limited to print advertisements, radio and television advertisements, billboards, point of purchase and point of sale display materials. The department will not use funds for advertising which is for the primary purpose of inducing people to play the lottery.

B. Lottery retailer advertising.

Any lottery retailer may use his own advertising materials if the department has approved its use in writing before it is shown to the public. The department shall develop written guidelines for giving such approval.

C. Information provided by department.

The department may provide information displays or other material to the retailer. The retailer shall position the material so it can be seen easily by the general public.

D. Special advertising.

The department may produce special posters, brochures or flyers describing various aspects of the lottery and provide these to lottery retailers to post or distribute.

E. Winner advertising.

The department may use interviews, pictures or statements from people who have won lottery prizes to show that prizes are won and awarded; however, in no case shall the use of interviews, pictures or statements be for the primary purpose of inducing persons to participate in the lottery.

F. Other advertising.

The department may use other informational and advertising items which may include any materials deemed appropriate advertising, informational, and educational media which are not for the primary purpose of inducing people to play the lottery.

§ 1.7. Operations of the department.

A. Generally.

The department shall be operated in a manner which considers the needs of the Commonwealth, lottery retailers, the public, the convenience of the ticket purchasers, and

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winners of lottery prizes.

B. Employment.

The department shall hire people without regard to race, sex, color, national origin, religion, age, handicap, or political affiliation.

1. All employees shall be recruited and selected in a manner consistent with the policies which apply to classified positions.
2. Sales and marketing employees are exempt from the Virginia Personnel Act.

C. Internal operations.

The department will operate under the internal administrative, accounting and financial controls specifically developed for the State Lottery Department under the applicable policies required by the Departments of Accounts, Planning and Budget, Treasury, State Internal Auditor and by the Auditor of Public Accounts.

1. Internal operations include, but are not limited to, ticket controls, money receipts and payouts, payroll and leave, budgeting, accounting, revenue forecasting, purchasing and leasing, petty cash, bank account reconciliation and fiscal report preparation.
2. Internal operations apply to automated and manual systems.

D. External operations.

The department will conduct business with the public, lottery retailers, vendors and others with integrity and honesty.

E. Apportionment of lottery revenue.

Moneys received from lottery sales will be divided approximately as follows:

50%	Prizes
45%	State Lottery Fund Account (On and after July 1, 1989, administrative costs of the lottery shall not exceed 10% of total annual estimated gross revenues to be generated from lottery sales.)
5.0%	Lottery retailer discounts

F. State Lottery Fund Account.

The State Lottery Fund will be established as an account in the Commonwealth's accounting system. The account will be established following usual procedures and will be under regulations and controls as other state accounts.

Funding will be from gross sales.

1. Within the State Lottery Fund, there shall be established a "Special Reserve Fund" which shall contain the following subaccounts:

a. An "Operations Special Reserve Fund" subaccount for administrative and operations costs will be created in the State Lottery Fund account. On June 30, 1989, \$1 million dollars shall be transferred into the Operations Special Reserve Fund. Thereafter, 1.7% of gross monthly revenues from sales shall be transferred to the Operations Special Reserve Fund until the Operations Special Reserve equals not less than 1.7% of estimated annual gross lottery revenues from sales.

b. A "Lottery Prize Special Reserve Fund" subaccount will be created in the State Lottery Fund account and which will be used when lottery prize pay-outs exceed department cash on hand. Immediately prior to initial lottery sales, \$500,000 shall be transferred to the Lottery Prize Special Reserve Fund from start-up treasury loan funds in the State Lottery Fund. Thereafter, 5.0% of monthly gross sales shall be transferred to the Lottery Prize Special Reserve Fund until the amount of the Lottery Prize Special Reserve Fund reaches 5.0% of the gross lottery revenue from the previous year's annual sales or \$5 million dollars, whichever is less.

(1) a. The calculation of the 5.0% will be made for each instant or on-line game.

(2) b. The funding of this subaccount may be adjusted at any time by the board.

2. Reserved.

3. Other subaccounts may be established in the State Lottery Fund account as needed at the direction of the board upon the request of the director with concurrence of the State Comptroller and the Auditor of Public Accounts.

4. In accordance with the Appropriation Acts of Assembly, the State Comptroller provides an interest-free line of credit not to exceed \$25,000,000 to the department. This line of credit is in lieu of the Operations Special Reserve Fund required to be established by the Comptroller in accordance with § 58.1-4022 B of the Code of Virginia. Draw-downs against this line of credit are available immediately upon request of the department.

G. Administrative and operations costs.

Lottery expenses include, but are not limited to, ticket costs, vendor fees, consultant fees, advertising costs, salaries, rents, utilities, and telecommunications costs.

H. Audit of lottery revenues.

The cost of any audit shall be paid from the State Lottery Fund.

1. The Auditor of Public Accounts or his designee shall conduct a monthly post-audit of all accounts and transactions of the department. When, in the opinion of the Auditor of Public Accounts, monthly post-audits are no longer necessary to ensure the integrity of the lottery, the Auditor of Public Accounts shall notify the board in writing of his opinion and fix a schedule of less frequent post-audits. The schedule of post-audits may, in turn, be further adjusted by the same procedure to require either more or less frequent audits in the future.

2. Annually, the Auditor of Public Accounts shall conduct a fiscal and compliance audit of the department's accounts and transactions.

I. Other matters.

The board and director may address other matters not mentioned in these regulations which are needed or desired for the efficient and economical operation and administration of the lottery.

PART II. BANKS AND DEPOSITORIES.

§ 2.1. Approval of banks.

The State Treasurer, with the concurrence of the director, and in accordance with applicable Treasury directives, shall approve a bank or banks to provide services to the department.

A. A bank or banks shall serve as agents for electronic funds transfers between the department and lottery retailers as required by these regulations and by contracts between the department, the State Treasury, retailers, and the banks.

B. In selecting the bank or banks to provide these services, the State Treasurer and the director shall consider quality of services offered, the ability of the banks to guarantee the safekeeping of department accounts and related materials, the cost of services provided and the sophistication of bank systems and products.

C. There shall be no limit on the number of banks approved under this section.

§ 2.2. Approval of depositories.

The director may contract with depositories to distribute lottery tickets and materials from the department's central warehouse to the department's regional offices and from the department to retailers, and to collect funds, lottery tickets and lottery materials from retailers. *Additionally,*

the director may contract for other financial services to process subscriptions and other deposit applications.

§ 2.3. Compensation.

A. The contract between each bank or depository and the department shall fix the compensation for services rendered to the department.

B. Compensation of banks will be in the form of compensating balances, direct fees, or some combination of these methods, at the discretion of the department.

C. Depositories will be compensated based on vouchers for services rendered.

§ 2.4. Depository for transfer of tickets.

A. The department may designate one or more depositories to transfer lottery tickets, lottery materials, and related documents between the department and lottery retailers.

B. Reserved.

C. In determining whether to use depositories for transferring tickets, materials and documents between the department and lottery retailers, the department may consider any relevant factor including, but not limited to, cost, security, timeliness of delivery, marketing concerns, sales objectives and privatization of governmental services.

PART III. LOTTERY BOARD PROCEDURES.

Article I.

Board Procedures for the Conduct of Business.

§ 3.1. Officers of the board.

A. Chairman and vice-chairman.

The board shall have a chairman and a vice-chairman who shall be elected by the board members.

B. Term of officers.

The board will elect its officers annually at its January meeting to serve for the calendar year.

§ 3.2. Board meetings.

A. Monthly meetings.

The board will hold monthly public meetings to receive information and recommendations from the director on the operation and administration of the lottery and to take official action. The board may also request information from the public.

B. Special meetings.

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The board may hold additional meetings as may be necessary to carry out its work. The chairman may call a special meeting at any time and shall call a special meeting when requested to do so by at least two board members or at the request of the director. Notice of special meetings shall be given to all board members at least two calendar days before the meeting. Written notice is preferred but telephonic notice may be accepted by any board member in lieu of written notice.

C. Quorum.

Three or more board members shall constitute a quorum for the conduct of business at both regular and special meetings of the board. A simple majority vote at a regular meeting is sufficient to take official action but official action at a special meeting requires three affirmative votes. The chairman is eligible to vote at all meetings.

D. Conflict of Interest.

If any board member determines that he has a conflict of interest or potential conflict relating to a matter to be considered, that board member shall not take part in such deliberations.

§ 3.3. Committees of the board.

A. Ad hoc committees.

The board chairman may at his discretion appoint such ad hoc committees as he deems necessary to assist the board in its work.

B. Purpose of committees.

An ad hoc committee may be established to advise the board on a matter referred to it or to act on a matter on behalf of the board if so designated.

1. A committee established to act on a matter on behalf of the board shall be composed entirely of board members and shall have at least three members.

a. Three members shall constitute a quorum.

b. Official action of such a committee shall require not fewer than three affirmative votes with each member including the chairman having one vote.

c. If a committee's vote results in an affirmative vote of only two members, the committee shall present a recommendation to the board and the board shall then take action on the matter.

2. A committee established to act in an advisory capacity to the board may include members of the general public. At least two members shall be board members and the chairman shall be a board member

appointed by the board chairman.

a. A majority of the members appointed to an advisory committee constitutes a quorum.

b. Recommendations of an advisory committee may be adopted by a majority vote of those present and voting. The chairman of an advisory committee shall be eligible to vote on all recommendations.

c. All actions of advisory committees shall be presented to the board in the form of recommendations.

Article 2.

Procedures for Appeals on Licensing Actions.

§ 3.4. Hearings on denial, suspension or revocation of a retailer's license.

A. Generally.

An instant lottery retailer applicant or an instant lottery retailer surveyed for an on-line license who is denied a license or a retailer whose license is denied for renewal or is suspended or revoked may appeal the licensing decision and request a hearing on the licensing action.

B. Hearings to conform to Administrative Process Act provisions.

The conduct of license appeal hearings will conform to the provisions of Article 3 (§ 9-6.14:11 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia relating to Case Decisions.

1. An initial hearing consisting of an informal fact finding process will be conducted by the director in private to attempt to resolve the issue to the satisfaction of the parties involved.

2. If an appeal is not resolved through the informal fact finding process, a formal hearing will be conducted by the board in public. The board will then issue its decision on the case.

3. Upon receipt of the board's decision on the case, the appellant may elect to pursue court action in accordance with the provisions of the Administrative Process Act (APA) relating to Court Review.

§ 3.5. Procedure for appealing a licensing decision.

A. Form for appeal.

Upon receiving a notice that (i) an application for an *instant game license*, or the *survey of an instant retailer for licensing as an on-line retailer*, or the renewal of a license, has been denied by the director, or (ii) the director intends to or has already taken action to suspend or revoke a current license, the applicant or licensed

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retailer may appeal in writing for a hearing on the licensing action. The appeal shall be submitted within 30 days of receipt of the notice of the licensing action.

1. Receipt is presumed to have taken place not later than the third day following mailing of the notice to the last known address of the applicant or licensed retailer. If the third day falls upon a day on which mail is not delivered by the United States Postal Service, the notice is presumed to have been received on the next business day. The "last known address" means the address shown on the application of an applicant or licensed retailer.

2. The appeal will be timely if it bears a United States Postal Service postmark showing mailing on or before the 30th day prescribed in § 3.5 A.

B. Where to file appeal.

An appeal to be mailed shall be addressed to:

State Lottery Director
State Lottery Department
Post Office Box 4689
Richmond, Virginia 23220

An appeal to be hand delivered shall be delivered to:

State Lottery Director
State Lottery Department
Bookbindery Building
2201 West Broad Street
Richmond, Virginia 23220

1. An appeal delivered by hand will be timely only if received at the headquarters of the State Lottery Department within the time allowed by § 3.5 A.

2. Delivery to State Lottery Department regional offices or to lottery sales personnel by hand or by mail is not effective.

3. The appellant assumes full responsibility for the method chosen to file the notice of appeal.

C. Content of appeal.

The appeal shall state:

1. The decision of the director which is being appealed;

2. The basis for the appeal;

3. The retailer's license number or the Retailer License Application Control Number; and

4. Any additional information the appellant may wish to include concerning the appeal.

§ 3.6. Procedures for conducting informal fact finding licensing hearings.

A. Director to conduct informal hearing.

The director will conduct an informal fact finding hearing with the appellant for the purpose of resolving the licensing action at issue.

B. Hearing date and notice.

The director will hold the hearing as soon as possible but not later than 30 days after the appeal is filed. A notice setting out the hearing date, time and location will be sent to the appellant, *by certified mail, return receipt requested*, at least 10 days before the day set for the hearing.

C. Place of hearings.

All informal hearings shall be held in Richmond, Virginia, unless the director decides otherwise.

D. Conduct of hearings.

The hearings shall be informal. They shall not be open to the public.

1. The hearings will be electronically recorded. The recordings will be kept until any time limits for any subsequent appeals have expired.

2. A court reporter may be used. The court reporter shall be paid by the person who requested him. If the appellant elects to have a court reporter, a transcript shall be provided to the department. The transcript shall become part of the department's records.

3. The appellant may appear in person or may be represented by counsel to present his facts, argument or proof in the matter to be heard and may request other parties to appear to present testimony.

4. The department will present its facts in the case and may request other parties to appear to present testimony.

5. Questions may be asked by any of the parties at any time during the presentation of information subject to the director's prerogative to regulate the order of presentation in a manner which serves the interest of fairly developing the factual background of the appeal.

6. The director may exclude information at any time which he believes is not germane or which repeats information already received.

7. The director shall declare the hearing completed when both parties have finished presenting their information.

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E. Director to issue written decision.

Normally, the director shall issue his decision within 15 days after the conclusion of an informal hearing. However, for a hearing with a court reporter, the director shall issue his decision within 15 days after receipt of the transcript of the hearing. The decision will be in the form of a letter to the appellant summarizing the case and setting out his decision on the matter. The decision will be sent to the appellant by certified mail, return receipt requested.

F. Appeal to board for hearing.

After receiving the director's decision on the informal hearing, the appellant may elect to appeal to the board for a formal hearing on the licensing action. The appeal shall be:

1. Submitted in writing within 15 days of receipt of the director's decision on the informal hearing;

2. Mailed to:

Chairman, State Lottery Board
State Lottery Department
Post Office Box 4689
Richmond, Virginia 23220

OR

Hand delivered to:

Chairman, State Lottery Board
State Lottery Department
Bookbindery Building
2201 West Broad Street
Richmond, Virginia 23220

3. The same procedures in § 3.5 B for filing the original notice of appeal govern the filing of the notice of appeal of the director's decision to the board.

4. The appeal shall state:

a. The decision of the director which is being appealed;

b. The basis for the appeal;

c. The retailer's license number or the Retailer License Application Control Number; and

d. Any additional information the appellant may wish to include concerning the appeal.

§ 3.7. Procedures for conducting formal licensing hearings.

A. Board to conduct formal hearing.

The board will conduct a formal hearing within 45 days of receipt of an appeal on a licensing action.

B. Number of board members hearing appeal.

Three or more members of the board are sufficient to hear an appeal. If the chairman of the board is not present, the members present shall choose one from among them to preside over the hearing.

C. Board chairman may designate an ad hoc committee to hear appeals.

The board chairman at his discretion may designate an ad hoc committee of the board to hear licensing appeals and act on its behalf. Such committee shall have at least three members who will hear the appeal on behalf of the board. If the chairman of the board is not present, the members of the ad hoc committee shall choose one from among them to preside over the hearing.

D. Conflict of interest.

If any board member determines that he has a conflict of interest or potential conflict, that board member shall not take part in the hearing. In the event of such a disqualification on a subcommittee, the board chairman shall appoint an ad hoc substitute for the hearing.

E. Notice, time and place of hearing.

A notice setting the hearing date, time and location will be sent to the appellant *by certified mail, return receipt requested*, at least 10 days before the day set for the hearing. All hearings will be held in Richmond, Virginia, unless the board decides otherwise.

F. Conduct of hearings.

The hearings shall be conducted in accordance with the provisions of the Virginia Administrative Process Act (APA). The hearings shall be open to the public.

1. The hearings will be electronically recorded and the recordings will be kept until any time limits for any subsequent court appeals have expired.

2. A court reporter may be used. The court reporter shall be paid by the person who requested him. If the appellant elects to have a court reporter, a transcript shall be provided to the department. The transcript shall become part of the department's records.

3. The provisions of §§ 9-6.14:12 through 9-1.14:14 of the APA shall apply with respect to the rights and responsibilities of the appellant and of the department.

G. Board's decision.

Normally, the board will issue its written decision within 21 days of the conclusion of the hearing. However, for a

hearing with a court reporter, the board will issue its written decision within 21 days of receipt of the transcript of the hearing.

1. A copy of the board's written decision will be sent to the appellant by certified mail, return receipt requested. The original written decision shall be retained in the department and become a part of the case file.

2. The written decision will contain:

a. A statement of the facts to be called "Findings of Facts";

b. A statement of conclusions to be called "Conclusions" and to include as much detail as the board feels is necessary to set out the reasons and basis for its decision; and

c. A statement, to be called "Decision and Order," which sets out the board's decision and order in the case.

H. Court review.

After receiving the board's decision on the case, the appellant may elect to pursue court review as provided for in the Administrative Process Act.

Article 3.

Procedures for Promulgating Regulations.

§ 3.8. Board procedures for promulgating regulations.

Generally.

Except for temporary regulations issued under the exemption provided by the Virginia Lottery Law, the board shall promulgate regulations, in consultation with the director, in accordance with the provisions of the Administrative Process Act (Chapter 1.1:1 of Title 9 of the Code of Virginia).

1. The board will provide for a public participation process to be set out in "Guidelines for Public Participation in Regulation Development and Promulgation."

2. Public hearings may be held if the subject matter of a proposed regulation and the level of interest generated through the public participation process warrant them.

PART IV. PROCUREMENT.

§ 4.1. Procurement in general.

A. To promote the free enterprise system in Virginia, the State Lottery Department will purchase goods or

services by using competitive methods whenever possible. In its operations and to ensure efficiency, effectiveness and economy, the department will consider using goods and services offered by private enterprise.

B. Reserved.

C. The department may purchase goods or services which are under state term contracts established by the Department of General Services, Division of Purchases and Supply, when in the best interest of the State Lottery Department.

D. When time permits, the department may publish notice of procurement actions in "Virginia Business Opportunities," published by the Department of General Services, Division of Purchases and Supply.

§ 4.2. Exemption and restrictions.

A. Purchase of goods and services of \$1,000 or less shall be exempted from competitive procurement procedures. Specific purchases of goods and services of more than \$1,000 may be exempted from the competitive procurement procedures when the director determines in writing that the best interests of the department will be served. An exemption may also be declared by the director when an immediate or emergency need exists for goods or services.

B. All purchases shall be made in compliance with the standards of ethics in § 4.23 of these regulations.

C. The department shall not take any procurement action which discriminates on the basis of the race, religion, color, sex, or national origin of any vendor.

D. It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities and to encourage their participation in state procurement activities. Towards that end, the State Lottery Department encourages these firms to compete and encourages nonminority firms to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities.

E. Whenever a purchase is exempt from competitive procurement procedures under these regulations, the contracting officer is obliged to make a determination that the cost of the goods or services is reasonable under the circumstances. In making this reasonableness determination, the contracting officer may use historical pricing data, and personal knowledge of product and marketplace conditions.

§ 4.3. Requests for information.

A. A Request for Information (RFI) may be used by the department to determine available sources for goods or

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services.

B. The RFI shall set out a description of the good or service needed, its purpose and the date by which the department needs the information.

C. The RFI may be mailed to interested parties or published by summary notice in general circulation newspapers or other publications.

1. Additional RFI's may be published for a good or a service, as determined on a case-by-case basis.

2. To help ensure competition, the department will ask for information from as many private sector vendors as it determines are necessary.

D. All costs of developing and presenting the information furnished will be paid for by the vendor.

E. The department shall have unlimited use of the information furnished in the reply to an RFI. The department accepts no responsibility for protection of the information furnished unless the vendor requests that proprietary information be protected in the manner prescribed by § 11-52 D of the Code of Virginia. The department shall have no further obligation to any vendor who furnishes information.

F. The department may, at its option, use the responses to the RFI as a basis for entering directly into negotiation with one or more vendors for the purpose of entering into a contract.

§ 4.4. Request for Proposals.

A. A written Request for Proposal (RFP) may be used by the department to describe in general terms the goods or services to be purchased. An RFP may result in a negotiated contract.

B. The RFP will set forth the due date and list the requirements to be used by the vendors in writing the proposal. It may contain other terms and conditions and essential vendor characteristics.

C. The department shall publish or post a public notice of the RFP.

1. All solicitations shall be posted for not less than five working days on a bulletin board at the State Lottery Department. The notice may also be: mailed to vendors who responded to a Request for Information; published in general circulation newspapers in areas where the contract will be performed; if time permits and at the option of the department, reported to the "Virginia Business Opportunities" at the Department of General Services, Division of Purchases and Supply; and given to any other interested vendor.

2. The department shall decide the method of giving public notice on a case-by-case basis. The decision will consider the means which will best serve the department's procurement needs and competition in the private sector.

D. Public openings of the RFP's are not required. If the RFP's are opened in public, only the names of the vendors who submitted proposals will be available to the public.

E. The department will evaluate each vendor proposal.

1. The evaluation will consider the vendor's response to the factors in the RFP.

2. The evaluation will consider whether the vendor is qualified, responsive and responsible for the contract.

F. The department may conduct contract negotiations with one or more qualified vendors. The department may also determine, in its sole discretion, that only one vendor is fully qualified or that one vendor is clearly more highly qualified than the others and negotiate and award a contract to that vendor.

G. Award of RFP Contract.

1. The vendor selected shall be qualified and best suited on the basis of the proposal and contract negotiations.

2. Price will be considered but is not necessarily the determining factor.

3. The award document shall be a contract. It shall include requirements, terms and conditions of the RFP and the final contract terms agreed upon.

§ 4.5. Invitations for Bids.

A. A written Invitation for Bid (IFB) may be used by the department to describe in detail the specifications, contractual terms and conditions which apply to a purchase of goods or services.

B. The IFB will list special qualifications needed by a vendor. It will describe the contract requirements and set the due date for bid responses.

1. The IFB may contain inspection, testing, quality, and other terms essential to the contract.

2. It may contain other optional data.

C. Public notice of the IFB shall be given.

1. The IFB may be mailed to potential bidders and to the Department of Minority Business Enterprise. In addition, it may be published in summary form stating where a full copy may be obtained in general

circulation newspapers in areas where the contract will be performed. The IFB shall be posted for not less than five working days at the department's central office in a public area used to post purchase notices, and shall be given to any other interested vendor.

2. The publication of the IFB notice will consider the means which will best serve the department's procurement needs and competition in the private sector.

D. Receiving IFB's.

1. Bids shall be received until the date and time set forth in the IFB.
2. Late bids shall not be considered.

E. Opening IFB's.

The IFB may provide that bids shall be publicly opened. If bids are publicly opened, the following items shall be read aloud:

1. Name of bidder;
2. Unit or lot price, as applicable; and
3. Terms: discount terms offered, if applicable, and brand name and model number, if requested by attendees.

F. Evaluating IFB's.

The department shall evaluate each vendor bid.

1. The evaluation shall consider whether the bid responds to the factors in the IFB.
2. All bids which respond completely to the IFB shall be evaluated to determine which bid presents the lowest dollar price.
3. The vendor presenting the lowest price bid shall be evaluated to determine whether he is a responsible bidder.

G. Award of IFB contract.

The department shall award the contract to the lowest responsive and responsible bidder.

§ 4.6. Sole source procurements.

A. A sole source procurement shall be made when there is only one source practicably available for goods or services. Because there is only one source practicably available, a sole source contract may be made without the use of an RFI, RFP, IFB or other competitive procurement process.

B. For a sole source procurement of more than \$1,000 but not more than \$15,000, the department will state in writing for the file that only one source was determined to be practicably available, the vendor selected, the goods or services procured, the date of the procurement and factors leading to the determination of sole source.

C. For a sole source procurement greater than \$15,000, on the day the director awards the procurement, he will post for not less than five working days a written statement in a public area used to post purchase notices at the department's central office. The director will state in writing for the file that only one source was determined to be practicably available, the vendor selected, the goods and services procured for, the factors leading to the determination of sole source, and the date of the procurement.

§ 4.7. Emergency purchase procurement.

A. An emergency purchase procurement shall be made when an unexpected, sudden, serious, or urgent situation demands immediate action. An emergency purchase may be used only to purchase goods or services necessary to meet the emergency; subsequent purchases must be obtained through normal purchasing procedures. Competitive procedures are not required to make an emergency purchase procurement.

B. For an emergency purchase of more than \$1,000 but not more than \$15,000, the department will state in writing the nature of the emergency, the vendor selected, the goods or services procured, the date of the procurement and factors leading to a determination of the emergency purchase.

C. For an emergency purchase greater than \$15,000, on the day the director awards the procurement, a written statement shall be posted for not less than five working days in a public area used to post purchase notices at the department's central office. The director will state in writing for the file the nature of the emergency, the vendor selected, the goods and services procured, the date of the procurement and factors leading to a determination of the emergency purchase.

§ 4.8. Procedures for small purchases.

A. Generally.

Small purchases are those where the estimated one-time or annual contract for cost of goods or services does not exceed \$15,000.

B. Price quotations.

Price quotations may be obtained through oral quotations in person or by telephone without the use of an RFI, RFP or IFB.

C. Written confirmation.

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If the contract is \$2,000 or less, no written confirmation is needed. Written price confirmation from the vendor is needed for small purchases over \$2,000.

D. Except in the case of an emergency under § 4.7 or for purchases of \$1,000 or less, the department will attempt to obtain at least three quotations.

E. In letting small purchase contracts, the department may consider factors in addition to price.

§ 4.9. Procurement of nonprofessional services.

A. Generally, the procurement of nonprofessional services shall be in accordance with competitive procurement principles, unless otherwise exempted.

B. Nonprofessional services may be procured through noncompetitive negotiations under the following conditions:

1. Where the estimated one-time cost is less than \$5,000. When there is more than one qualified source for a specific type of nonprofessional services, every effort shall be made to utilize all such qualified sources on a rotating basis when opportunities and circumstances allow.

2. When a written determination is made and approved by the director that there is only one adequately qualified expert or source practicably available for the services to be procured.

§ 4.10. Procurement of professional services.

A. Generally, the procurement of professional services shall be in accordance with competitive principles but is always exempt from competitive bidding requirements. Selection of professional services should be made on the basis of qualifications, resources, experience and the cost involved.

B. Professional services may be procured through noncompetitive negotiations under the following conditions:

1. Where the estimated one-time cost is less than \$5,000. When there is more than one qualified source for a specific type of professional services, every effort shall be made to utilize all such qualified sources on a rotating basis when opportunities and circumstances allow.

2. When a written determination is made and approved by the director that there is only one adequately qualified professional, expert or source practicably available for the services to be procured. Such services may include those of uniquely qualified lottery industry professionals, experts or sources.

C. Professional services procurement by competitive negotiation shall be in accordance with § 4.11.

§ 4.11. Guidelines for competitive procurement of professional services.

A. In competitive negotiations for professional services, the department shall engage in one or more individual discussions with each of two or more offerors deemed fully qualified, responsible and suitable, with emphasis on professional competence to provide the required services. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. Such discussions may also include nonbinding estimates of total project costs and methods to be utilized in arriving at a price for the services.

B. At the request of an offeror, properly marked, proprietary information shall not be disclosed to the public or to competitors.

C. At the conclusion of the discussions, on the basis of predetermined evaluation factors and information developed in the selection process, the department shall select, in order of preference, two or more offerors whose professional qualifications and proposed services are deemed to meet best the department's procurement needs.

D. Negotiations are then conducted with the first ranked offeror. If a satisfactory and advantageous contract can be negotiated at a fair and reasonable price, the award is made to that offeror. Otherwise, the negotiations with the first ranked offeror are terminated formally and are conducted with the offeror ranked second and so on until such a contract can be negotiated at a fair and reasonable price.

E. If the department determines in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the other offerors under consideration, a purchase may be negotiated and awarded to that offeror.

F. The department must ensure that all points negotiated are properly documented and become a part of the procurement file.

G. The department shall establish a limit for each procurement on the number of times a contract or open purchase term may be extended.

H. A contract for professional services may be made subject to the notification and public posting requirement of the formal bid procedures.

§ 4.12. Time to submit and accept RFI's, RFP's or IFB's.

A. All vendors shall submit requests for information, proposals or bids in time to reach the department before the set time and due date.

1. All vendors shall take responsibility for their chosen method of delivery to the department.

2. The department will date stamp the vendors' answers to RFI's, RFP's and IFB's when received. The department's stamped date shall be considered the official date received.

3. Any information which the department did not request or is received after the due date may be disregarded or returned to the vendor.

4. All vendors who received solicitations will be notified of any changes in the process times and dates or if a solicitation is cancelled.

B. Any proposal or bid quotation submitted by a vendor to the department shall remain valid for at least 45 days after the submission due date and will remain in effect thereafter unless the bidder retracts his bid in writing at the end of that period. The vendor must agree to accept a contract if offered within the 45-day time period. The department may require a longer or shorter period for specific goods or services.

§ 4.13. Questions on bids.

Questions on contents of other bidders' bids or offerors' proposals will not be answered until after decisions are made.

§ 4.14. How to modify or withdraw proposals or bids.

A. A vendor may modify or withdraw a proposal or bid before the due time and date set out in the request without any formalities except that the modification or withdrawal shall be in writing.

B. A request to modify or withdraw a bid or proposal after the due date may be given special review by the director.

1. A vendor shall put in writing and deliver to the department a statement which details how the proposal would be modified or why it should be permitted to be withdrawn.

2. A proposal or bid may be withdrawn after opening if the department receives prompt notice and sufficient information to show that an honest error will cause undue financial loss.

C. A vendor may not modify a proposal or bid after the purchase award is made.

§ 4.15. Rejection of bids.

The department reserves the right to reject any or all bids. The decision may be made that a vendor is ineligible, disqualified, not responsive or responsible, or involved in fraud, or that the best interest of the Commonwealth will not be served. Vendors so identified shall be notified in writing by the department. New bids may be requested at a time which meets the needs of the

department.

§ 4.16. Testing of product.

Various items or services may require testing either before or after the final award of a contract. The vendor shall guarantee price and quality before and after testing.

§ 4.17. Proposal bid or performance security.

A. The department may require performance security on proposals or bids. The security is to protect the interests of the Commonwealth.

1. When required, security must be in the form of a certified check, certificate of deposit or letter of credit made payable to the State Lottery Department, or on a form issued by a surety company authorized to do business in Virginia.

2. When required, security will not be waived, except upon action by the director.

B. Security provided by vendors to whom a contract is awarded will be kept by the department until all provisions of the contract have been completed.

§ 4.18. Assignment of contracts.

A vendor may not assign any contract to another party without permission of the director.

§ 4.19. Strikes, lockouts or acts of God.

Whenever a vendor's place of business, mode of delivery or source of supply has been disrupted by a strike, lockout or act of God, the vendor will promptly advise the department by telephone and in writing. The department may cancel all orders on file with the vendor and place an order with another vendor.

§ 4.20. Remedies for the department on goods and services which do not meet the contract.

A. In any case where the vendor fails to deliver, or has delivered goods or services which do not meet the contract standards, the department will send a written "Notice to Cure" to the vendor for correction of the problem.

B. If the vendor does not respond adequately to the "Notice to Cure," the department may cancel the contract and buy goods or services from another vendor. Any increase between the contract price and market price will be paid by the vendor who failed to follow the contract. This remedy shall be in addition to any other remedy provided by law.

§ 4.21. Administration of contracts.

A. Generally.

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The department will follow procedures in administering its contracts that will ensure that the vendor is complying with all terms and conditions of the contract.

B. Records.

The department shall keep all records relating to a contract for three years after the end of a contract.

1. The records shall include the requirements, a list of the vendors bidding, methods of evaluation, a signed copy of the contract, comments on vendor performance, and any other information necessary.

2. Records shall be open to the public except for proprietary information for which protection has been properly requested.

C. Change orders.

1. Contracts may need to be adjusted for minor changes. The department may change the contract to correct errors, to add or delete small quantities of goods, or to make other minor changes.

2. The department shall send the changes in writing to the vendor. Vendors who deviate from the contract without receiving the written changes from the department do so at their own risk.

3. Modifications which increase the original contract price by an amount less than \$5,000 may be made by letters issued by the State Lottery Department and accepted by signature of the contractor. Such letter shall become part of the official contract. In no event shall the cumulative amount of the contract increased by all such letters exceed \$10,000.

4. All contract changes of \$5,000 or more require a formal written amendment to the contract.

D. Cancellation orders.

The department shall cancel orders in writing. Contracts may be cancelled if the vendor fails to fulfill his obligations as provided in § 4.20 A and B.

E. Overshipments and overruns.

The department may refuse to accept goods which exceed the number ordered. The goods may be returned to the vendor at the vendor's expense.

F. Inspection, acceptance and rejection of goods or services.

1. The department shall be responsible for inspecting, accepting or rejecting goods or services under contract.

2. In rejecting goods or services, the department will

notify the vendor as soon as possible.

3. The department will state the reasons for rejecting the goods or services and request prompt replacement.

4. Replacement goods or services shall be made available at a date acceptable to the department.

G. Complaints.

The department will report complaints in writing to the vendor as they occur. The reports will be part of the department's purchase records.

H. Invoice processing.

To maintain good vendor relations and a competitive environment, the department will process invoices promptly. The department shall follow the requirements for prompt payment found in Title 11, Chapter 7, Article 2.1 of the Code of Virginia. The department will use rules and regulations issued by the Department of Accounts to process invoices.

I. Default actions.

Before the department finds a vendor in default of a contract, it will consider the specific reasons the vendor failed and the time needed to get goods or services from other vendors.

J. Termination for convenience of the department.

1. A purchase order or contract may be terminated for the convenience of the department by delivering to the vendor a notice of termination specifying the extent to which performance under the purchase order or contract is terminated, and the date of termination. After receipt of a notice of termination, the contractor must stop all work or deliveries under the purchase order or contract on the date and to the extent specified.

2. If the purchase order or contract is for commercial items sold in substantial quantities to the general public and no specific identifiable inventories were maintained exclusively for the department's use, no claims will be accepted by the department. Payment will be made for items shipped prior to receipt of the termination notice.

3. If the purchase order or contract is for items being produced exclusively for the use of the department, and raw materials or services must be secured by the vendor from other sources, the vendor shall order no additional materials or services except as may be necessary for completion of any portion of the work which was not terminated. The department may direct the delivery of the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in

connection with the performance of the work, or direct the vendor to sell the same, subject to the department's approval as to price. The vendor may, with the approval of the department retain the same, and apply a credit to the claim. The vendor must complete performance on any part of the purchase order or contract which was not terminated.

4. Within 120 days after receipt of the notice of termination, or such longer period as the department for good cause may allow, the vendor must submit any termination claims. This claim will be in a form and with certifications prescribed by the purchasing office that issued the purchase order. The claim will be reviewed and forwarded with appropriate recommendations to the requisitioning agency or the appropriate assistant attorney general, or both, for disposition in accordance with § 2.1-127 of the Code of Virginia.

§ 4.22. Vendor background.

A. A vendor shall allow the department to check his background. The background check may extend to any on-line or instant ticket vendor employee working directly on a contract with the department, any parent or subsidiary corporation of the vendor and shareholders of 5.0% or more of the vendor, parent or subsidiary corporation. The check may include officers and directors of the vendor or parent or subsidiary corporation.

B. Before contracting with the department, the department may require a vendor to sign an agreement with the department to allow a criminal investigation of the entities and persons named in § 4.22 A.

C. The vendor shall allow the department to audit, inspect, examine or photocopy the vendor's records related to the State Lottery Department business during normal business hours.

§ 4.23. Ethics in contracting.

A. Generally.

Except for more stringent requirements set forth in this section, the department will follow the ethics in public contracting requirements of the Virginia Public Procurement Act, Title 11, Chapter 7, Article 4 of the Code of Virginia.

B. Employee role with vendors prohibited.

A department employee who has responsibility to buy from vendors may not:

1. Be employed by a vendor at the same time;
2. Have a business associate or a member of his household be an officer, director, trustee, partner or hold a similar position with a vendor and or play a

role in soliciting contracts for vendors;

3. Himself or his business associate or a member of his household own or control an interest in a vendor of at least 5.0%;

4. Himself or his business associate or a member of his household have a ~~financial~~ *personal* interest in a contract procured for the department; or

5. Himself or his business associate or a member of his household negotiate or have an arrangement about prospective employment with a vendor.

C. Offers, requests, or acceptance of gifts.

No vendor or employee of the department involved in purchasing will offer, request or accept, at the present or in the future, any payment, loan, advance, deposit of money, services or anything of more than nominal value for which nothing of comparable value is exchanged.

D. Kickbacks.

No vendor will demand or receive from any of his suppliers or subcontractors, as an incentive for a contract, any kickback.

E. Vendors to give certified statement on ethics in contracting.

Each vendor shall give the department a certified statement that the proposal, bid, or contract or any claim is not the result of, or affected by, collusion with another vendor. The statement will also state that no act of fraud has been involved in negotiating, signing and meeting the contract.

F. Department employees to give notice of subsequent employment with vendors.

Any department employee or former employee who dealt in an official capacity with vendors on procurement actions who intends to accept employment from any such vendor within one year of terminating his employment with the department shall give notice to the director of his intention prior to his first day of employment with the vendor.

G. Any contract which violates the contracting ethics in the Code of Virginia and these regulations may be voided and rescinded immediately by the department.

§ 4.24. Preference for Virginia products and firms.

A. In the case of a tie bid, preference shall be given to goods, services and construction produced in Virginia or provided by Virginia persons, firms or corporations, if such a choice is available; otherwise the tie shall be decided by lot.

State Lottery Department

B. Whenever any bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a preference, a like preference may be allowed to the lowest responsible bidder who is a resident of Virginia.

PART V. PROCUREMENT APPEALS AND DISPUTES.

§ 5.1. Generally.

The State Lottery Department is not subject to the Virginia Public Procurement Act or its procedures. In lieu thereof, this regulation applies to all vendors. In the event of a protest on a procurement action, the vendor shall follow the remedies available in this regulation. The vendor assumes whatever risks are involved in the selected method of delivery to the director. The director will conduct a hearing on each appeal or he shall designate a hearing officer to preside over the hearing.

§ 5.2. Appeals, protests, time frames and remedies related to solicitation and award of contracts.

A. If a vendor is considered ineligible or disqualified.

1. The vendor may appeal the department's decision. The written appeal shall be filed within 10 days after the vendor receives the department's decision.
2. If appealed and the department's decision is reversed, the sole relief will be to consider the vendor eligible for the particular contract.

B. If a vendor is not allowed to withdraw a bid in certain circumstances.

1. The vendor may appeal the department's decision. The written appeal shall be filed within 10 days after the vendor receives the department's decision.
2. If no bond has been posted by the vendor, then before appealing the department's decision the vendor shall provide to the department a certified check or cash bond for the amount of the difference between the bid sought to be withdrawn and the next lowest bid.
 - a. The certified check shall be payable to the State Lottery Department.
 - b. The cash bond shall name the State Lottery Department as obligor.
 - c. The security shall be released if the vendor is allowed to withdraw the bid or if the vendor withdraws the appeal and agrees to accept the bid or if the department's decision is reversed.
 - d. The security shall go to the State Lottery Department if the vendor loses all appeals and fails

to accept the contract.

3. If appealed and the department's decision is reversed, the sole relief shall be to allow the vendor to withdraw the bid.

C. If a vendor is considered not responsible for certain contracts.

1. Any vendor, despite being the low bidder, may be determined not to be responsible for a particular contract. The vendor may appeal the department's decision. The written appeal shall be filed within 10 days after the vendor receives the department's decision.
2. If appealed and the department's decision is reversed, the sole relief shall be that the vendor is a responsible vendor for the particular contract under appeal.
3. A vendor protesting the department's decision that he is not responsible, shall appeal under this section and shall not protest the award or proposed award under subsection D.
4. Nothing contained in this subsection shall be construed to require the department to furnish a statement of the reasons why a particular proposal was not deemed acceptable.

D. If a vendor protests an award or decision.

1. Any vendor or potential vendor may protest the award or the department's decision to award a contract. The written protest shall be filed within 10 days after the award on the announcement of the decision to award is posted or published, whichever occurs first.
2. If the protest depends upon information contained in public records pertaining to the purchase, then a 10 day time limit for a protest begins to run after the records are made available to the vendor for inspection, so long as the vendor's request to inspect the records is made within 10 days after the award or the announcement of the decision to award is posted or published, whichever occurs first.
3. No protest can be made that the selected vendor is not a responsible vendor. The only grounds for filing a protest are (i) that a procurement action was not based upon competitive principles, or (ii) that a procurement action violated the standards of ethics promulgated by the board.
4. If, prior to an award, it is determined by the director that the department's decision to award the contract is erroneous, the only relief will be that the director will cancel the proposed award or revise it.

5. No protest shall delay the award of a contract.

6. Where the award has been made, but the work has not begun, the director may stop the contract. Where the award has been made and the work begun, the director may decide that the contract is void if voiding the contract is in the best interest of the public. Where a contract is declared void, the performing vendor will be paid for the cost of work up to the time when the contract was voided. In no event shall the performing vendor be paid for lost profits.

§ 5.3. Appeals, time frames and remedies related to contract disputes and claims.

A. Generally.

In the event a vendor has a dispute with the department over a contract awarded to him, he may file a written claim with the director.

B. Contract claims.

Claims for money or other relief, shall be submitted in writing to the director, and shall state the reasons for the action.

1. All vendor's claims shall be filed no later than 30 days after final payment is made by the department.
2. If a claim arises while a contract is still being fulfilled, a vendor shall give a written notice of the vendor's intention to file a claim. The notice shall be given to the director at the time the vendor begins the disputed work or within 10 days after the dispute occurs.
3. Nothing in this regulation shall keep a vendor from submitting an invoice to the department for final payment after the work is completed and accepted.
4. Pending claims shall not delay payment from the department to the vendor for undisputed amounts.
5. The director's decision will state the reasons for the action.

C. Claims relief.

Relief from administrative procedures, liquidated damages, or informalities may be given by the director. The circumstances allowing relief usually result from acts of God, sabotage, and accidents, fire or explosion not caused by negligence.

§ 5.4. Form and content of appeal to the director.

A. Form for appeal.

The vendor shall make the appeal to the director in

writing. The appeal shall be mailed to the State Lottery Director, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220 or hand delivered to the department's central office at the Bookbindery Building, 2201 West Broad Street, Richmond, Virginia 23220.

B. Content of appeal.

The appeal shall state the:

1. Decision of the department which is being appealed;
2. Basis for the appeal;
3. Contract number;
4. Other information which identifies the contract; and
5. Reasons for the action.

C. Vendor notification.

The director's decision on an appeal will be sent to the vendor by registered *certified* mail, return receipt requested.

1. The director shall follow the time limits in the regulations and shall not make exceptions to the filing periods for the vendor's appeal and rendering the director's decision.
2. The director's decision will state the reasons for the action.

§ 5.5. State Lottery Department appeal hearing procedures.

A. Generally.

The director or the appointed hearing officer will conduct a hearing on every appeal within 45 days after the appeal is filed with the director. The hearings before the State Lottery Department are not trials and shall not be conducted like a trial.

1. The Administrative Process Act does not apply to the hearings.
2. The hearings shall be informal. The vendor and the department will be given a reasonable time to present their position.
3. Legal counsel may represent the vendor or the department. Counsel is not required.
4. The director may exclude evidence which he determines is repetitive or not relevant to the dispute under consideration.
5. The director may limit the number of witnesses, testimony and oral presentation in order to hear the

State Lottery Department

appeal in a reasonable amount of time.

6. Witnesses may be asked to testify. The director does not have subpoena power. No oath will be given.

7. The director may ask questions at any time. The director may not question the vendor in closed session.

B. Public hearings for appeals.

1. Hearings shall be open to the public. The director may adjourn the public hearing to discuss and reach his decision in private.

2. The hearings shall be electronically recorded. The department will keep the recordings for 60 days.

3. A court reporter may be used. The court reporter shall be paid by the person who requested him.

a. The court reporter's transcript shall be given to the director at no expense, unless the director requests the use of a court reporter.

b. The transcript shall become part of the department's records.

C. Order during the hearing.

Unless the director determines otherwise, hearings will be in the following order:

1. The vendor will explain his reasons for appealing and the desired relief.

2. The vendor will present his witnesses and evidence. The director and the department will be able to ask questions of each witness.

3. The department will present its witnesses and evidence. The appellant may ask questions of each party and witness.

4. After all evidence has been presented, the director shall reach his decision in private.

§ 5.6. Notice, time and place of hearings.

A. Notice and setting the time.

All people involved in the hearing will be given at least 10 days notice of the time and place of the appeal hearing.

1. Appeals may be heard sooner if everyone agrees.

2. In scheduling hearings, the director may consider the desires of the people involved in the hearing.

B. Place of hearings.

All hearings shall be held in Richmond, Virginia, unless the director decides otherwise.

§ 5.7. Who may take part in the appeal hearing.

A. Generally.

The director may request specific people to take part in the hearing.

B. Hearings on ineligibility, disqualification, responsibility or denial of a request to withdraw a bid.

The protesting vendor and the department shall participate.

C. Hearings on claims or disputes.

The protesting vendor and the department shall participate.

§ 5.8. Director's decision.

A. Generally.

The director will issue a written decision within 30 days after the hearing date except for hearings with a court reporter.

B. Hearings with court reporter.

For hearings with a court reporter, the director's decision will be issued within 30 days after a transcript of the hearing is received by the director if a transcript is prepared. There is no requirement that a transcript be made, even if services of a court reporter are used for the hearing.

C. Format of decision.

1. The director's decision will include a brief statement of the facts. This will be called "Findings of Fact."

2. The director will give his decision. The decision will include as much detail as the director feels is necessary to set out reasons for his decision.

3. The decision will be signed by the director.

D. Copies of the decision.

Copies will be mailed to the appealing vendor, all other vendors who participated in the appeal and the department. The director will give copies of the decision to other people who request it.

§ 5.9. Appeal to courts.

A. The department is not subject to the Virginia Public Procurement Act. Thus, a vendor has no automatic right

of appeal of a decision to award, an award, a contract dispute, or a claim with the department.

B. Nothing in these regulations shall prevent the director from taking legal action against a vendor.

INFORMAL ADMINISTRATIVE HEARING REQUEST

REGISTRAR OF REGULATIONS

TO: Kenneth W. Thorson, Director
Virginia State Lottery
P.O. Box 4689
Richmond, Virginia 23220

93 APR 29 AM 10:32

I am requesting that an informal hearing be held to appeal the:

- Denial of my license application for instant games.
Denial of selection as an on-line retailer.
Denial of my participation as an on-line retailer due to investigative findings.
Removal of my on-line terminal.
Suspension or revocation of my license.

The basis for the appeal is as follows:

[Blank lines for basis of appeal]

(check here if applicable) I have attached additional information to support my appeal.

I understand that this appeal must be mailed to the Director within thirty (30) days from the receipt of the Department's decision in order to have my situation reviewed. I also understand that I may have legal counsel present to represent me.

Signature of Owner, Partner or Corporate Officer

Business Name

Retailer Number

Date Received by Lottery Director

[This form will accompany written notices of denial, suspension or revocation.]

FORMAL ADMINISTRATIVE HEARING REQUEST

REGISTRAR OF REGULATIONS
93 APR 29 AM 10:32

TO: State Lottery Board
Virginia State Lottery
P.O. Box 4689
Richmond, Virginia 23220

I am requesting that a formal hearing be held to appeal the Director's decision resulting from the informal hearing.

The basis for the appeal is as follows:

[Blank lines for basis of appeal]

(check here if applicable) I have attached additional information to support my appeal.

I understand that this appeal must be mailed to the Board within fifteen (15) days from the receipt of the Director's decision in order to have my situation reviewed. I also understand that I may have legal counsel present to represent me.

Signature of Owner, Partner or Corporate Officer

Business Name

Retailer Number

Date Received at Lottery or by Chairman

[This form will accompany all written decisions of the Director which deny any change in the decision appealed.]

COMMONWEALTH OF VIRGINIA
STATE LOTTERY DEPARTMENT
AGENCY PURCHASE ORDER

Bid Open Date Bid Ref/Req No. M-C #

DELIVER TO:
Att. Phone:

Address All inquiries to:
Purchase Office: 93 APR 29 11:10:32
Title:
Telephone: (804) 367-
Intra-agency use:

VENDOR:
Att. Phone:

SEND INVOICE TO:
Virginia State Lottery Department
P.O. Box 5546
Richmond, Virginia 23220
Att. Accounts Payable

Item #	Comm. Code	Description	Quantity	Unit	Unit Price	Item Amount
						Total ▶ Amount ▶

 * See instructions, terms and conditions on last page of Purchase Order.
 * Purchase order number must appear on invoice and packing slip to be paid.
 Failure to provide this information suspends the Prompt Payment Act.

Purchase Authorized By: _____ Title: _____

STATE LOTTERY DEPARTMENT
AGENCY PURCHASE ORDER
CONTINUATION

Order Date:

REGISTRAR OF REGULATIONS
Sheet No.

Vendor:

Item No.	Trans.	Agency	Cost Code	Fund/Detail	FFY	Program Prog. Sub. Ele.	Object	Amount
1	0	172		05-00		811 01 00		\$
2	0	172		05-00		811 01 00		\$
3	0	172		05-00		811 01 00		\$
4	0	172		05-00		811 01 00		\$
5	0	172		05-00		811 01 00		\$
6	0	172		05-00		811 01 00		\$
7	0	172		05-00		811 01 00		\$
8	0	172		05-00		811 01 00		\$
9	0	172		05-00		811 01 00		\$
10	0	172		05-00		811 01 00		\$
11	0	172		05-00		811 01 00		\$
12	0	172		05-00		811 01 00		\$
13	0	172		05-00		811 01 00		\$
14	0	172		05-00		811 01 00		\$
15	0	172		05-00		811 01 00		\$
16	0	172		05-00		811 01 00		\$
17	0	172		05-00		811 01 00		\$
18	0	172		05-00		811 01 00		\$
19	0	172		05-00		811 01 00		\$
20	0	172		05-00		811 01 00		\$
21	0	172		05-00		811 01 00		\$
22	0	172		05-00		811 01 00		\$
23	0	172		05-00		811 01 00		\$
24	0	172		05-00		811 01 00		\$

State Lottery Department

Title of Regulation: VR 447-02-1. Instant Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Public Hearing Date: July 27, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The State Lottery Department is amending numerous sections of the instant game regulations to promulgate emergency regulations on prize payments by retailers, to conform to legislative intent, and to adopt numerous technical and housekeeping changes.

VR 447-02-1. Instant Game Regulations.

PART I. LICENSING OF RETAILERS FOR INSTANT GAMES

§ 1-1 Licensing.

Generally

§ 1.1 Definitions; licensing.

The words and terms, when used in any of the department's regulations, shall have the same meaning as defined in these regulations, unless the context indicates otherwise.

A. Definitions for instant games.

"Altered ticket" means a lottery ticket which has been forged, counterfeited or altered.

"Bearer instrument" means a lottery ticket which has not been signed by or on behalf of a person or a legal entity. Any prize won on an unsigned ticket is payable to the holder, or bearer, or that ticket.

"Book" or "ticket book" means the same thing as "pack."

"Damaged ticket" means a lottery ticket pulled from distribution by the department due to poor quality, e.g., bent, torn or defaced, thereby rendering it unfit to play.

"Erroneous ticket" means a lottery ticket which contains an unintentional manufacturing or printing defect. A player holding such a lottery ticket is entitled to a replacement ticket of equal value.

"Game" means any individual or particular type of lottery authorized by the board.

"Instant game" means a game that uses preprinted

tickets with a latex covering over a portion of the ticket. The covering is scratched off by the player to reveal immediately whether the player has won a prize or entry into a prize drawing. An instant game may include other types of non-on-line lottery games.

"Instant ticket" means an instant game ticket with a latex covering the game symbols located in the play area. Each ticket has a unique validation number and ticket number.

"License approval notice" means the form sent to the retailer by the lottery department notifying him that his application for a license has been approved and giving him instructions for obtaining the required surety bond and setting up his lottery bank account.

"Lottery retailer" or "lottery sales retailer" or "retailer" means a person licensed by the director to sell and dispense lottery tickets, materials or lottery games for instant lottery games or for both instant and on-line lottery games.

"Low-tier winner" or "low-tier winning ticket" means an instant game ticket which carries a cash prize of \$25 or less or a prize of additional unplayed instant tickets.

"Manufactured omitted tickets" means those tickets pulled from distribution due to poor quality by the manufacturer prior to distribution to the department.

"Omitted tickets" means those tickets pulled from distribution by the department for testing purposes and quality assurance.

"Pack" generally means a set quantity of individually wrapped unbroken, consecutively numbered, fanfolded instant game tickets which all bear an identical book or pack number which is unique to that book or pack among all the tickets printed for a particular game.

"Player" means a person who is a lottery customer who has purchased or intends to purchase any lottery ticket or tickets for a specific lottery game or drawing, or an agent or representative of such person. Licensed lottery retailers and their employees may be a lottery customer; however, they may not act as agents or representatives of a player.

"Prize" means any cash or noncash award to holders of winning instant or on-line tickets.

"Retailer," as used in these instant game regulations, means a licensed instant lottery retailer, unless the context clearly requires otherwise.

"Ticket number" means the preprinted unique number or combination of letters and numbers which identifies that particular ticket as one within a particular game or drawing.

"Validation" means the process of determining whether

1 lottery ticket is a winning ticket.

"Validation number" means the unique number or number-and-letter code printed on the front of an instant ticket sometimes under a latex covering bearing the words "Do not remove," "Void if removed" or similarly worded label, or the unique number assigned by the on-line central computer and printed on the front of each on-line ticket.

B. Licensing of retailers for instant games.

The director may license as lottery retailers for instant games persons who will best serve the public convenience and promote the sale of tickets and who meet the eligibility criteria and standards for licensing.

For purposes of this part on licensing, "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

§ 1.2. Eligibility.

A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may submit an application for licensure, except no person may submit an application for licensure:

1. Who will be engaged primarily in the business of selling lottery tickets; or
2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same household as a board member, officer or employee of the department; or
3. Who is a vendor of lottery tickets or material or data processing services, or whose business is owned by, controlled by, or affiliated with a vendor of lottery tickets or materials or data processing services.

B. Application not an entitlement to license.

The submission of an application for licensure does not in any way entitle any person to receive a license to act as a lottery retailer.

§ 1.3. Application procedure.

Filing of forms with the department.

Any eligible person shall first file an application with the department on forms supplied for that purpose, along with the required fees as specified elsewhere in these

regulations. The applicant shall complete all information on the application forms in order to be considered for licensing. The forms to be submitted include:

1. Retailer License Application;
2. Personal Data Form(s); and
3. Retailer Location Form.

State Lottery Law makes falsification, concealment or misrepresentation of a material fact, or making a false, fictitious or fraudulent statement or representation in an application for a license a misdemeanor.

§ 1.4. General standards for licensing.

A. Selection factors for licensing.

The director may license those persons who, in his opinion, will best serve the public interest and public trust in the lottery and promote the sale of lottery tickets. The director will consider the following factors before issuing or renewing a license:

1. The financial responsibility and security of the applicant, to include:
 - a. A credit and criminal background investigation;
 - b. Outstanding delinquent state tax liability;
 - c. Required business licenses, tax and business permits; *and*
 - d. Physical security at the place of business, including insurance coverage.
2. The accessibility of his place of business to the public, to include:
 - a. The hours of operation;
 - b. The availability of parking and transit routes, where applicable;
 - c. The location in relation to major employers, schools, or retail centers;
 - d. The population level and rate of growth in the market area; *and*
 - e. The traffic density, including levels of congestion in the market area.
3. The sufficiency of existing lottery retailers to serve the public convenience, to include:
 - a. The number of and proximity to other lottery retailers in the market area;

State Lottery Department

- b. The expected sales volume and profitability of potentially competing lottery retailers; *and*
 - c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers.
4. The volume of expected lottery ticket sales, to include:
- a. Type and volume of the products and services sold by the retailer;
 - b. Dollar sales volume of business;
 - c. Sales history of business and market area; *and*
 - d. Volume of customer traffic in place of business.
5. The ability to offer high levels of customer service to instant lottery players, to include:
- a. Ability to display point of sale material;
 - b. A favorable image consistent with lottery standards;
 - c. Ability to pay prizes during maximum selling hours; and
 - d. Commitment to authorize employee participation in all required instant lottery training.
- B. Additional factors for selection.

The director may develop and, by administrative order, publish additional criteria which, in his judgment, are necessary to serve the public interest and public trust in the lottery.

§ 1.5. Bonding of lottery retailers.

A. Approved retailer to secure bond.

A lottery retailer approved for licensing shall obtain a surety bond from a surety company entitled to do business in Virginia. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under subsection C of this section, the surety bond shall be in the amount and penalty of \$5,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.
2. Within 15 calendar days of receipt of the "License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "License Approval Notice" to the State Lottery Department to be filed with his record.

B. Continuation of surety bond on annual license review.

A lottery retailer whose license is being reviewed shall:

1. Obtain a letter or certificate from the surety company to verify that the surety bond is being continued for the annual license review period; and
2. Submit the surety company's letter or certificate with the required annual license fee to the State Lottery Department.

C. Sliding scale for surety bond amounts.

The department may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded.

D. Effective date for sliding scale.

The sliding scale for surety bonding requirements will become effective when the director determines that sufficient data on lottery retailer ticket sales volume activity are available. Any changes in a retailer's surety bonding requirements that result from instituting the sliding scale will become effective only at the time of the retailer's next annual license review action.

§ 1.6. Lottery bank accounts and EFT authorization.

A. Approved retailer to establish lottery bank account.

A lottery retailer approved for licensing shall establish a separate bank account to be used exclusively for lottery business in a bank participating in the Automatic Clearing House (ACH) system.

B. Retailer's use of lottery account.

The lottery account will be used by the retailer to make funds available to permit withdrawals and deposits initiated by the department through the electronic funds transfer (EFT) process to settle a retailer's account for funds owed or due from the purchase of tickets and the payment of prizes. All retailers shall make payments to the department through the electronic funds transfer (EFT) process unless the director designates another form of payment and settlement under terms and conditions he deems appropriate.

C. Retailer responsible for bank charges.

The retailer shall be responsible for payment of any fees or service charges assessed by the bank for maintaining the required account.

D. Retailer to authorize electronic funds transfer.

Within 15 calendar days of receipt of the "License

Approval Notice," the lottery retailer shall return the properly executed "Electronic Funds Transfer Authorization" portion of the "License Approval Notice" to the department to record establishment of his account.

E. Change in retailer's bank account.

If a retailer finds it necessary to change his bank account from one bank to another, he must submit a newly executed "Electronic Funds Transfer Authorization" form for the new bank account. The retailer may not discontinue use of his previously approved bank account until he receives notice from the department that the new account is approved for use.

F. Director to establish EFT account settlement schedule.

The director will establish a schedule for processing the EFT transactions against retailers' lottery bank accounts and issue instructions to retailers on how settlement of accounts will be made.

§ 1.7. License term and annual review.

A. License term.

A general license for an approved lottery retailer shall be issued on a perpetual basis subject to an annual determination of continued retailer eligibility and the payment of an annual fee fixed by the board.

B. Annual license review. The annual fee shall be collected within the 30 days preceding a retailer's anniversary date. Upon receipt of the annual fee, the general license shall be continued so long as all eligibility requirements are met. The director may implement a staggered, monthly basis for annual license reviews and allow for the proration of annual license fees. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for any other reason.

C. Reserved.

D. Amended license term.

The annual fee for an amended license issued under the requirements of § 1.9 C will be due on the same date as the fee for the license it replaced.

E. Special license.

The director may issue special licenses to persons for specific events and activities. Special licenses shall be for a limited duration and under terms and conditions that he determines appropriate to serve the public interest. *Instant game lottery retailers currently licensed by the department are not required to obtain an additional surety bond for the purposes of obtaining a special event license.*

F. Surrender of license certificate.

If the license of a lottery retailer is suspended, revoked or not continued from year to year, the lottery retailer shall surrender the license certificate upon demand.

§ 1.8. License fees.

A. License application fee.

The fee for a license application for a lottery retailer general license to sell instant game tickets shall be \$25. The general license fee to sell instant game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. License fee.

The annual fee for a lottery retailer general license to sell instant game tickets shall be an amount fixed by the board at its November meeting for all annual license reviews occurring in the next calendar year. The fee shall be designed to recover all or a portion of the annual costs of the department in providing services to the retailer. The fee shall be paid for each location for which a license is reviewed. This fee is nonrefundable. The fee shall be submitted within the 30 days preceding a retailer's anniversary date.

C. Amended license application fee.

The fee for processing an amended license application for a lottery retailer general license shall be an amount as approved by the board at its November meeting for all amendments occurring in the next calendar year. The amended license fee shall be paid for each location affected. This fee is nonrefundable. An amended license application shall be submitted in cases where a business change occurs as specified in § 1.9 B.

§ 1.9. Transfer of license prohibited; invalidation of license.

A. License not transferrable.

A license issued by the director authorizes a specified person to act as a lottery retailer at a specified location as set out in the license. The license is not transferrable to any other person or location.

B. License invalidated.

A license shall become invalid for any of the following reasons:

1. Change in business location;
2. Change in business structure (e.g., from a partnership to a sole proprietorship); or
3. Change in the business owners listed in the original

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application form for which submission of a Personal Data Form is required under the license application procedure.

C. Amended application required.

A licensed lottery retailer who anticipates a change as listed in subsection B shall notify the department of the anticipated change at least 15 calendar days before it takes place and submit an amended application. The director shall review the changed factors in the same manner that would be required for a review of an original application.

§ 1.10. Display of license.

License displayed in general view.

Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

§ 1.11. Denial, suspension, revocation or noncontinuation of license.

A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person does not meet the eligibility criteria and standards for licensing as set out in these regulations or if:

1. The person has been convicted of a felony;
2. The person has been convicted of a crime involving moral turpitude;
3. The person has been convicted of any fraud or misrepresentation in any connection;
4. The person has been convicted of bookmaking or other forms of illegal gambling;
5. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;
6. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons;
7. The nature of the person's business is not consonant with the probity of the Commonwealth; or
8. The person has committed any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery.

B. Grounds for refusal to license partnership or corporation.

The director may refuse to issue a license to any

partnership or corporation if he finds that any general or limited partner or officer or director of the partnership or corporation does not meet the eligibility criteria and standards for licensing as set out in these regulations or if any general or limited partner or officer or director of the partnership or corporation has been convicted of any of the offenses cited in subsection A.

C. Grounds for suspension, revocation or refusal to continue license.

The director may suspend, revoke, or refuse to continue a license for any of the following reasons:

1. Failure to properly account for lottery tickets received, for prizes claimed and paid or for the proceeds of the sale of lottery tickets;
2. Failure to file or maintain the required bond or the required lottery bank account;
3. Failure to comply with applicable laws, instructions, terms and conditions of the license, or rules and regulations of the department concerning the licensed activity, especially with regard to the prompt payment of claims;
4. Conviction, following the approval of the license, of any of the offenses cited in subsection A;
5. Failure to file any return or report or to keep records or to pay any fees or other charges as required by the state lottery law or the rules and regulations of the department;
6. Commission of any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;
7. Failure to maintain lottery ticket sales at a level sufficient to meet the department's administrative costs for servicing the retailer, provided that the public convenience is adequately served by other retailers;
8. Failure to notify the department of a material change, after the license is issued, of any matter required to be considered by the director in the licensing application process;
9. Failure to comply with lottery game rules;
10. Failure to meet minimum point of sale standards;
11. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;
12. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons; or

13. The nature of the person's business is not consonant with the probity of the Commonwealth.

D. Notice of intent to suspend, revoke or deny continuation of license.

Before taking action under subsection C, the director will notify the retailer in writing of his intent to suspend, revoke or deny continuation of the license. The notification will include the reason or reasons for the proposed action and will provide the retailer with the procedures for requesting a hearing before the board. Such notice shall be given to the retailer at least 14 calendar days prior to the effective date of suspension, revocation or denial.

E. Temporary suspension without notice.

If the director deems it necessary in order to serve the public interest and maintain public trust in the lottery, he may temporarily suspend a license without first notifying the retailer. Such suspension will be in effect until any prosecution, hearing or investigation into possible violations is concluded.

F. Surrender of license and lottery property upon revocation or suspension.

A retailer shall surrender his license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in his possession and give a final lottery accounting of his lottery activities by the date specified by the director.

§ 1.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

§ 1.13. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale material provided by the director in a manner which is readily seen by and available to the public.

B. Prior approval for retailer-sponsored material.

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

C. Removal of unapproved material.

The director may require removal of any retailer's lottery material that has not been approved for use by the

department.

§ 1.14. Inspection of premises.

Access to premises by department.

Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises.

§ 1.15. Examination of records; seizure of records.

A. Inspection, auditing or copying of records.

Each lottery retailer shall make all books and records pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

B. Records subject to seizure.

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

§ 1.16. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

§ 1.17. Reporting requirements and settlement procedures.

Instructions for purchasing tickets, reporting transactions and settling accounts.

Before a retailer may begin lottery sales, the director will issue to him instructions and report forms that specify the procedures for (i) ordering tickets; (ii) paying for tickets purchased; (iii) reporting receipts, transactions and disbursements pertaining to lottery ticket sales; and (iv) settling the retailer's account with the department.

§ 1.18. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transfers or checks.

A. Forms of payment for tickets; deposit of lottery receipts.

Each lottery retailer shall purchase the tickets

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distributed to him. The moneys for payment of these tickets shall be deposited to the credit of the State Lottery Fund by the department. The retailer shall make payments to the department by Electronic Funds Transfers (EFT); however, the director reserves the right to specify one or more of the following alternative forms of payment under such conditions as he deems appropriate:

1. Cash;
 2. Cashier's check;
 3. Certified check;
 4. Money order; or
 5. Business check.
- B. Payment due date.

Payments shall be due as specified by the director in the instructions to retailers regarding the purchasing and payment of tickets and the settlement of accounts.

C. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will be assessed an interest charge on the moneys due plus a \$25 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the department for deposit.

D. Service charge for dishonored EFT transfer or bad check.

The director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

E. Service charge for debts referred for collection.

If the department refers a debt of any retailer to the Attorney General, the Department of Taxation or any other central collection unit of the Commonwealth, the retailer owing the debt shall be liable for an additional service charge which shall be in the amount of the administrative costs associated with the collection of the debt that are incurred by the department and the agencies to which the debt is referred.

F. Service charge, interest and penalty waived.

The service charge, interest and penalty charges may be waived when the event which would otherwise cause a service charge, interest or penalty to be assessed is not in any way the fault of the lottery retailer. For example, a waiver may be granted in the event of a bank error or

lottery error.

§ 1.19. Training of retailers and their employees.

Retailer training.

Each retailer or his designated representative or representatives is required to participate in training given by the department in the operation of each game. The director may consider nonparticipation as grounds for suspending or revoking the retailer's license.

§ 1.20. License termination by retailer.

Voluntary termination of license.

The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 15 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

PART II. INSTANT GAMES.

§ 2.1. Development of instant games.

The director shall select, operate, and contract for the operation of instant games which meet the general criteria set forth in these regulations. The board shall determine the specific details of each instant game after consultation with the director. These details include, but are not limited to:

1. Prize amounts and prize structure,
2. Types of noncash prizes, if any, and
3. The amount and type of any jackpot or grand prize which may be awarded.

The actual number of prizes and prize structure may vary from that adopted by the board because of the omission of defective tickets in the manufacturing process, an increase or decrease in the number of tickets ordered, or the removal of tickets from inventory to perform the department's quality control inspection procedures.

§ 2.2. Prize structure.

The prize structure for any instant game shall be designed to return to winners approximately 50% of gross sales.

A. The specific prize structure for each instant game shall be approved in advance by the board.

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B. Prizes may be cash or noncash awards, including instant game tickets.

§ 2.3. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board. Lottery retailers may not discount the sale price of instant game tickets or offer free tickets as a promotion with the sale of instant tickets. This section shall not prevent a retailer from providing free instant tickets with the purchase of other goods or services customarily offered for sale at the retailer's place of business; provided, however, that such promotion shall not be for the primary purpose of inducing persons to participate in the lottery.

B. This section shall not apply to the redemption of a winning instant ticket the prize for which is another free ticket.

§ 2.4. Sales, gift of tickets to minors prohibited.

An instant game ticket shall not be sold to, purchased by, redeemed from or given as a gift to any individual under 18 years old. *No prize shall be paid on a ticket purchased by or transferred to any person under 18 years old. The transferee of any ticket by any person ineligible to purchase a ticket is ineligible to receive any prize.*

§ 2.5. Odds Chances of winning.

The director shall publicize the overall odds chances of winning a prize in each instant game. The odds chances may be printed on the ticket or contained in informational materials, or both.

§ 2.6. End of game.

Each instant game will end on a date announced in advance by the director. The director may suspend or terminate an instant game without advance notice if he finds that this action will serve and protect the public interest.

§ 2.7. Sale of tickets from expired games prohibited.

No instant game tickets shall be sold after that game ends.

§ 2.8. Licensed retailers' compensation.

A. Licensed retailers shall receive 5.0% compensation on all instant game tickets purchased from the department for resale by the retailer.

B. The director may award cash bonuses or other incentives to retailers. The board shall approve any bonus or incentive system. The director will publicize any such system by administrative order.

C. Retailers may not accept any compensation for the

sale of lottery tickets other than compensation approved under this section, regardless of source.

§ 2.9. Price for ticket packs.

For each pack, retailers shall pay the retail value, less the 5.0% retailer compensation and less the value of the low-tier winning tickets in the pack. For example, for a pack of tickets with a retail value of \$ 500 300 , and guaranteed low end prize structure of \$ 165 154 , the retailer would pay \$ ~~310 131~~ : \$ 500 300 (the pack value) minus \$ 165 154 for low-tier winners, less the retailer's \$ 25 15 compensation.

§ 2.10. Purchase of instant tickets.

A. Retailers shall purchase ~~books~~ packs of tickets directly from the department or through designated depositories.

B. Retailers shall pay for tickets via an electronic funds transfer (EFT) initiated by the department.

1. The department will initiate the EFT after tickets are delivered to the retailer. The schedule will be determined by the director.

2. If an electronic funds transfer is refused, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations. The service charge, interest and penalty charges may be waived under § 1.18 F of these regulations.

3. The director may approve another form of payment for designated retailers under conditions to be determined by the director.

4. If the director permits payment by check and if payment on any check is denied, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations.

C. Once tickets are accepted by a retailer, the department will not replace mutilated or damaged tickets, unless specifically authorized by the director.

D. Ticket sales to retailers are final.

1. The department will not accept returned tickets except as provided for elsewhere in these regulations or with the director's advance approval.

2. The retailer is responsible for lost, stolen or destroyed tickets unless otherwise approved by the director.

§ 2.11. Retailers' conduct.

A. Retailers shall sell instant tickets at the price fixed by regulation, unless the board allows reduced prices or ticket give-aways.

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B. All ticket sales shall be for cash, check, cashier's check, traveler's check or money order at the discretion of and in accordance with the licensed retailer's policy for accepting payment by such means. A ticket shall not be purchased with credit cards, food stamps or food coupons.

C. All ticket sales shall be final. Retailers shall not accept ticket returns except as allowed by department regulations or policies or with the department's specific approval.

D. Tickets shall be sold during all normal business hours unless the director approves otherwise.

E. Tickets shall be sold only at the location listed on each retailer's license from the department.

F. Retailers shall not sell instant tickets after the announced end of an instant game.

G. Retailers shall not break apart ticket packs to sell instant tickets except to sell tickets from the same pack at separate selling stations within the same business establishment.

H. Retailers shall not exchange ticket ~~books~~ packs or tickets with one another or sell ticket ~~books~~ packs or tickets to one another.

I. On the back of each instant ticket sold by a retailer, the retailer shall print or stamp the retailer's name, address and retailer number. This shall be done in a manner that does not conceal any of the preprinted material.

J. No retailer or his employee or agent shall try to determine the numbers or symbols appearing under the removable latex coverings or otherwise attempt to identify unsold winning tickets. However, this shall not prevent the removal of the covering over the validation code or validation number after the ticket is sold and a prize is claimed.

K. Unsupervised retailer employees who sell or otherwise vend lottery tickets must be at least 18 years of age. Employees not yet 18 but at least 16 years of age may sell or vend lottery tickets so long as they are supervised by a person 18 years of age or older.

§ 2.12. Returns of unsold tickets.

A. Each retailer may return for credit full, unbroken ticket packs to the department at any time before the announced end of the game and before the return of any partial packs.

B. After the twelfth week of any instant game, each retailer may return broken partial packs of tickets to the department for credit. Partial pack returns are limited to one pack return per register where tickets have been sold for that game. At the same time partial packs are

returned, the retailer must return all eligible partial packs and all full packs for that game remaining in his inventory. No additional partial packs or full packs will be accepted from the retailer by the department for credit after partial packs have been returned.

C. All tickets in the possession of a retailer remaining unsold at the announced end of the game, the return of which are not prohibited by § 2.12 B, whether partial pack or full pack, must be returned to the department not later than 21 calendar days after the announced end of each instant game or any final prize drawing or no credit will be allowed to the retailer for tickets remaining unsold by that retailer.

~~§ 2.13. Reserved.~~

~~§ 2.14. Reserved.~~

~~§ 2.15. Reserved.~~

PART III. PAYMENT OF PRIZES FOR INSTANT GAMES.

§ 3.1. Prize winning tickets.

Prize-winning instant tickets are those that have been validated and determined in accordance with the rules of the department to be official prize winners. Consistent with these regulations, criteria and specific rules for winning prizes shall be published and posted by the director for each instant game and made available for all players. Final validation and determination of prize winning tickets remains with the department.

§ 3.2. Unclaimed prizes.

All instant game winning tickets shall be received for payment as prescribed in these regulations within 180 days after the announced end of the game or of the event which caused the ticket to be a winning entry, whichever is later. In the event that the 180th day falls on a Saturday, Sunday or legal holiday, a claimant may redeem his prize-winning ticket on the next business day. Tickets which have been mailed in an envelope bearing a postmark on or before the 180th day will be deemed to have been received on time.

A. Any non-low-tier instant game cash prize which has been won as a result of a drawing but which is not claimed within 180 days after the instant game drawing shall revert to the State Literary Fund.

B. Any non-low-tier instant game cash prize which has been won other than by drawing, but which is not claimed within 180 days after the announced end of the instant game shall revert to the State Literary Fund.

C. Any instant game low-tier prize-winning ticket which has been purchased but which is not claimed within 180 days after the announced end of the instant game shall

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revert as a bonus compensation to the account of the retailer which sold the instant game low-tier prize-winning ticket.

D. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C.A. § 525), any person while in active military service may claim exemption from the 180-day ticket redemption requirement. Such person, however, must claim his winning ticket or share as soon as practicable and in no event later than 180 days after discharge from active military service.

§ 3.3. Using winners' names.

The department shall have the right to use the names of prize winners *and the city, town or county in which they live*. Photographs of prize winners may be used with the written permission of the winners. No additional consideration shall be paid by the department for this purpose *unless otherwise determined by the director*.

§ 3.4. No prize paid to people under 18.

No prize shall be claimed by, redeemed from or paid to any individual under 18 years of age *and no prize shall be paid on a ticket purchased by or transferred to any person under 18 years of age. The transferee of any ticket by any person ineligible to purchase a ticket is ineligible to receive any prize.*

§ 3.5. Where prizes claimed.

Winners may claim instant game prizes from the retailer from whom the ticket was purchased or the department in the manner specified in these regulations.

§ 3.6. Validating winning tickets.

A. Winning tickets shall be validated by the retailer or the department as set out in these regulations or in any other manner which the director may determine.

B. Any instant lottery cash prize resulting from a ticket which is purchased by or claimed by a person ineligible to play the lottery game is invalid and reverts to the State Lottery Fund.

§ 3.7. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$ 600 601 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number

(FEIN) issued by the Internal Revenue Service.

1. If the department, a retailer or these regulations require that a claim form be filed, the FEIN shall be shown on the claim form.

2. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

3. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate one individual in whose name the claim shall be entered and that person's social security number shall be furnished.

4. A group, family unit, club or other organization wishing to divide a jackpot prize shall complete an "Agreement to Share Ownership and Proceeds of Lottery Ticket" form. The filing of this form is an irrevocable election which may only be changed by an appropriate judicial order.

§ 3.8. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

1. The director may pay any prize *according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the department or to the estate of a deceased prize winner who has not completed such a form*, and

2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

§ 3.9. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

§ 3.10. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the director and employees of the department, terminates upon payment of a lottery prize.

§ 3.11. Delay of payment allowed.

The director may refrain from making payment of the prize pending a final determination by the director under any of the following circumstances:

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1. If a dispute occurs or it appears that a dispute may occur relative to any prize;
2. If there is any question regarding the identity of the claimant;
3. If there is any question regarding the validity of any ticket presented for payment; or
4. If the claim is subject to any set off for delinquent debts owed to any agency eligible to participate in the Set-Off Debt Collection Act *if the agency has registered such debt with the Virginia Department of Taxation and timely notice of the debt has been furnished by the Virginia Department of Taxation to the State Lottery Department.*

No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim. *The department is neither liable for nor has it any responsibility to resolve disputes between competing claimants.*

§ 3.12. When periodic prize payment may be delayed.

The director may, at any time, delay any payment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that has been brought to the department's attention. All delayed payments shall be brought up to date immediately upon the director's confirmation. Delayed payments shall continue to be paid according to the original payment schedule after the director's decision is given. *No liability for interest for any such delay shall accrue to the benefit of the claimant pending payment of the claim.*

§ 3.13. Ticket is bearer instrument.

A ticket that has been legally issued by a lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket is considered the bearer of the ticket.

§ 3.14. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification and the submission of a prize claim form if one is required, unless otherwise delayed in accordance with these regulations.

§ 3.15. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

§ 3.16. Penalty for counterfeit or altered ticket.

Forging, altering or fraudulently making any lottery ticket or knowingly presenting a forged, counterfeit or

altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment is a Class 6 felony in accordance with the state lottery law.

§ 3.17. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

The director may honor a prize claim of an apparent winner who does not possess the original ticket if the claimant is in possession of information which demonstrates that the original ticket meets the following criteria and can be validated through other means. The exception does not apply to an instant game ticket the prize for which is a free ticket or is \$25 or less.

1. The claim form and a photocopy of the ticket, or photocopy of the original claim form and ticket, are timely filed with the department;
2. The prize for which the claim is filed is an unclaimed winning prize as verified in the department's records;
3. The prize has not been claimed within the required redemption period; and
4. The claim is filed within 180 days of the drawing or within the redemption period, as established by game rules.

§ 3.18. Erroneous or mutilated ticket.

The department is not liable for erroneous or mutilated tickets. The director, at his option, may replace an erroneous or mutilated ticket with an unplayed ticket for the same or a later instant game.

§ 3.19. Retailer to pay low-tier prizes.

Low-tier prizes (those of \$25 or less in cash or free instant game tickets) shall be paid by the retailer who sold the winning ticket, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

§ 3.20. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

1. Retailers may pay cash prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.
2. If payment of a prize by a check presented to a claimant by a retailer is denied for any reason, the retailer is subject to the same service charge interest and penalty payments that would apply if the check

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were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.

3. Retailers shall pay claims for low-tier prizes during all normal business hours.

4. Prize claims shall be paid only at the location specified on the license.

5. The department will reimburse a retailer for prizes of ~~between~~ *from* \$26 to and *including* \$ ~~599 600~~ paid up to 180 days after an instant game ends.

§ 3.21. Retailer to validate winning ticket.

Before paying a prize claim, the retailer should validate the winning ticket. The retailer should follow validation procedures listed in these regulations or obtained from the department. Retailers who pay claims without validating the ticket do so at their own financial risk.

§ 3.22. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize-winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

§ 3.23. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims paid in error.

§ 3.24. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The manner of voiding the ticket will be prescribed by the director.

§ 3.25. Prizes of ~~less than~~ \$600 or less.

A retailer may elect to pay instant prizes ~~between~~ *from* \$26 to and *including* \$ ~~599 600~~ won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. If the retailer elects to pay prizes of ~~up to~~ \$ ~~599 600~~ or less, the following terms and conditions apply:

1. The retailer shall execute an agreement with the department to pay higher prize limits.
2. The retailer shall pay all prizes agreed to up to and *including* \$ ~~599 600~~ on validated tickets presented to that retailer.
3. The retailer shall display special informational material provided by or approved by the department informing the public of the exceptional prize payments

available from that retailer.

4. Nothing in this section shall be construed to prevent the department from accepting an agreement from a retailer to pay prize amounts \$26 or more but less than \$ ~~599 601~~.

§ 3.26. Additional validation requirements.

Before paying any prize ~~between~~ *from* \$26 to and *including* \$ ~~599 600~~, the retailer or the department should:

1. Reserved

2. Inspect the ticket to assure that it conforms to each validation criterion listed in these regulations and to any additional criteria the director may specify;

3. Report to the department the ticket number, validation code and validation number of the ticket; and

4. Obtain an authorization number for prize payment from the department.

§ 3.27. When prize shall be claimed from the department.

The department will pay prizes in any of the following circumstances:

1. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall present a completed claim form and the signed ticket at any department regional office or mail both the completed claim form and the signed ticket to the department central office.

2. If a ticket holder is unable to return to the retailer from which the ticket was purchased to claim a prize which the retailer otherwise would pay, the ticket holder may present the signed ticket at any department regional office or mail both a completed claim form and the signed ticket to the department central office.

3. If the prize amount is over the limit paid by the retailer from which the ticket was purchased, the ticket holder may present a completed claim form, if required, and the signed ticket to any department regional office or mail both a completed claim form and the signed ticket to the department central office.

§ 3.28. Prizes of \$25,000 or less.

Prizes of \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

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§ 3.29. Prizes of more than \$25,000.

Prizes of more than \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay cash prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.30. When claims form required.

A claims form for a winning ticket may be obtained from any department office or any lottery sales retailer.

A. Claims forms shall be required to claim any prize from the department's central office.

B. Claims forms shall be required to claim any prize of \$ 600 601 or more from the department's regional offices.

C. Reserved.

D. The director may, at his discretion, require claims forms to be filed to claim prizes.

§ 3.31. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations.

A. If the claim is not valid, the department will notify the ticket holder promptly.

B. If the claim is mailed to the department and the department validates the claim, a check for the prize amount will be mailed to the winner.

C. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

§ 3.32. Withholding, notification of prize payments.

A. When paying any prize of \$ 600 601 or more, the department shall:

1. File the appropriate income reporting form(s) with the state Department of Taxation and the federal Internal Revenue Service; and

2. Withhold any moneys due for delinquent debts listed with the Department of Taxation's set-off debt collection program federal and state taxes from any winning ticket in excess of \$5,001 .

B. When paying any prize of more than \$5,000, the department shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for the winning ticket. Additionally, when paying any prize of \$101 or more, the

department shall withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program.

§ 3.33. Grand prize event.

If an instant game includes a grand prize or jackpot event, the following general criteria shall be used:

1. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules set by the director.

2. Participation in the drawing(s) shall be limited to those tickets which are actually received and validated by the department on or before the date announced by the director.

3. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent instant game. That action is the extent of the department's liability.

4. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each instant game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

§ 3.34. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

§ 3.35. Valid ticket described.

To be valid, a Virginia lottery game ticket shall meet all of the validation requirements listed here:

1. The ticket shall have been issued by the department in an authorized manner.

2. The ticket shall not be altered, unreadable, reconstructed, or tampered with in any way.

3. The ticket shall not be counterfeit in whole or in part.

4. The ticket shall not have been stolen or appear on any list of void or omitted tickets on file with the department.

5. The ticket shall be complete and not blank or partly blank, miscut, misregistered, defective, or printed or produced in error.

6. The ticket shall have exactly one play symbol and exactly one caption under each of the rub-off spots,

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exactly one ticket number, exactly one validation code, and exactly one validation number. These items shall be present in their entirety, legible, right side up, and not reversed in any manner.

7. The validation number of an apparent winning ticket shall appear on the department's official list of validation numbers of winning tickets provided by the vendor of the instant tickets. A ticket with that validation number shall not have previously been paid.

8. The ticket shall pass all additional confidential validation requirements set by the department.

§ 3.36. Invalid ticket.

An instant ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its instant game is invalid. An invalid ticket is not eligible for any prize.

§ 3.37. Replacement of ticket.

The director may replace an invalid ticket with an unplayed ticket from the same or another instant game. If a defective ticket is purchased, the department's only liability or responsibility shall be to replace the defective ticket with an unplayed ticket from the same or another instant game or to refund the purchase price, at the department's option.

§ 3.38. When ticket is partially mutilated or not intact.

If an instant ticket is partially mutilated or if the ticket is not intact but can still be validated by other validation tests, the director may pay the prize for that ticket.

§ 3.39. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

§ 3.40. When prize payable over time.

Unless the rules for any specific instant game provide otherwise, any cash prize of \$100,001 or more will be paid in multiple payments over time. The schedule of payments shall be designed to pay the winner equal dollar amounts in each year, with the exception of the first, until the total payments equal the prize amount.

§ 3.41. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to facilitate purchase of an appropriate funding mechanism.

§ 3.42. When prize payable for "life."

If a prize is advertised as payable for the life of the

winner, only an individual may claim the prize. If a claim is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

Notice: The forms used in administering the State Lottery Department Instant Game Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the State Lottery Department, 2201 West Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Retailer License Application
Personal Data Form
Retailer Location Form
Retailer Data Collection Form
Licensed Retailer Certificate
Commonwealth of Virginia Lottery Bond Application
Special Notice on Bonding for Lottery Retailers (Renewal)
Authorization Agreement for Preauthorized Payments
Winner Claim Form
Accounts Receivable Transaction Form
Accounting Transaction Form
Retailer Advertising Approval Form
Agreement to Pay Mid-Tier Prizes
Ticket Dispenser Agreement
Returned Ticked Receipt Form
Returned Ticket Receipt Partial Pack Returns
Ticket Invoice
Stolen Ticket Report
Winner Gram
We're Sorry But ...
Agreement to Share Ownership and Proceeds of Lottery Ticket
Statement of Person(s) Receiving Gambling Winnings (Form 5754)

* * * * *

Title of Regulation: VR 447-02-2. On-Line Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Public Hearing Date: July 27, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The State Lottery Department is amending numerous sections of the on-line game regulations to promulgate emergency regulations to establish its subscription program, to increase prize payments by retailers, and to reduce the potential of the purchase of large blocks of on-line lottery tickets, to conform to legislative intent, and to make housekeeping and

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technical revisions.

VR 447-02-2. One-Line Game Regulations.

PART I. ON-LINE GAMES.

§ 1.1. Development of on-line games.

The director shall select, operate, and contract for the operation of on-line games which meet the general criteria set forth in these regulations. The board shall determine the specific details of each on-line lottery game after consultation with the director. These details include, but are not limited to:

1. The type or types of on-line lottery games;
2. Individual prize amounts and overall prize structure;
3. Types of noncash prizes, if any;
4. The amount and type of any jackpot or grand prize which may be awarded and how awarded; and
5. Chances of winning.

§ 1.2. General definitions for on-line games.

"Auto pick" means the same as "easy pick."

"Breakage" means the fraction of a dollar not paid out due to rounding down and shall be used exclusively to fund prizes.

"Cancelled ticket" means a ticket that (i) has been placed into the terminal, whereupon the terminal must read the information from the ticket and cancel the transaction or (ii) whose validation number has been manually entered into the terminal via the keyboard and cancelled.

"Certified drawing" means a drawing in which a lottery official and an independent certified public accountant attest that the drawing equipment functioned properly and that a random selection of a winning combination has occurred.

"Confirmation (or registration) notice" means the subscription notification letter or card mailed to the subscriber which confirms the game numbers for the game panel played, and the plan start date and number of draws.

"Drawing" means a procedure by which the lottery randomly selects numbers or items in accordance with the specific game rules for those games requiring random selection of number(s) or item(s).

"Duplicate ticket" means a ticket produced by any means other than by an on-line terminal with intent to

imitate the original ticket.

"Easy pick" means computer generated numbers or items.

"Game panel" means the play(s) entered on a playslip by the player or by the subscriber on the subscription application.

"Game numbers" means the numbers designated by the player on the playslip or subscription application or the computer-generated numbers if easy pick is selected.

"Group-designated agent" means the individual listed on the back of a ticket or on the subscription application who is elected by the group of players to act as the representative or subscriber on the group's behalf in handling all correspondence and payment disbursements resulting from the group's activity.

"Number of draws" means the actual number of draws for which a multiple play or subscription is valid.

"On-line game" means a lottery game, the play of which is dependent upon the use of an on-line terminal in direct communication with an on-line game main frame operated by or at the direction of the department.

"On-line lottery retailer" means a licensed lottery retailer who has entered an agreement with the department to sell on-line tickets at a specific location.

"On-line system" means the department's on-line computer system consisting of on-line terminals, central processing equipment, and a communication network.

"On-line terminal" means the department's computer hardware through which a combination of numbers or items is selected or generated and through which on-line tickets are generated and claims may be validated.

"On-line ticket" means a computer-generated ticket issued by an on-line lottery retailer to a player as a receipt for the number, numbers, or items or combination of numbers or items the player has selected.

"Person" means a natural person and may extend and be applied to groups of persons as well as corporations, companies, partnerships, and associates, unless the context indicates otherwise.

"Plan" means the duration of the subscription as determined by the number of draws designated by the subscriber on the subscription application or renewal notice.

"Play" means a wager on a single set of selected numbers.

"Player-selected item" means a number or item or group of numbers or items selected by a player in

connection with an on-line game. Player-selected items include selections of items randomly generated by the computer on-line system. Such computer-generated numbers or items are also known as "auto picks," "easy picks" or "quick picks."

"Playslip" means an optically readable card issued by the department, used in marking player's game plays.

"Present at the terminal" means that a player remains physically present at the on-line lottery terminal from the time the player's order for the purchase of on-line lottery tickets is paid for and accepted by the lottery retailer until the processing of the order is completed and the tickets are delivered to the player at the licensed on-line retailer terminal location.

"Quick pick" means the same as "easy pick."

"Registration" means the process of entering subscription information concerning the subscriber, plan and selected numbers into the central computer system.

"Retailer," as used in these on-line game regulations, means a licensed on-line lottery retailer, unless the context clearly requires otherwise.

"Roll stock" or "ticket stock" means the paper roll placed into the lottery retailer terminals from which a unique lottery ticket is generated by the computer, displaying the player selected item(s) or number(s).

"Share" means a percentage of ownership in a winning ticket or subscription plan.

"Start date" means the first draw date for which a multiple play or subscription is effective.

"Subscriber" means the individual designated on the subscription application whose entry has been entered into the department's central computer system and who has received confirmation from the department of his designated numbers and includes the group-designated agent for a group, organization, family unit, or club.

"Subscription" means a method to play a lottery on-line game by purchasing subscription plays, using a designated set of numbers, for a specific period of time, and for which the player is automatically entered in each drawing or game during the period for which the subscription is effective.

"Subscription application" means the form(s) used by an individual or group-designated agent to play lottery games by subscription.

"Subscription game" means a lottery game in which the player can purchase on-line game tickets through the mail, for a specific period of time, and for which the player is automatically entered in each on-line drawing during the period for which the subscription is purchased.

"Subscription renewal" means the process by which a subscription plan is renewed by the subscriber in accordance with procedures established by the department.

"Subscription ticket" means an on-line ticket which provides the ability to play a specific number of games utilizing the same numbers, selected by the player, for a period of consecutive weeks as specified on the ticket.

"Validation" means the process of determining whether an on-line ticket presented for payment is a winning ticket.

"Validation number" means a unique number assigned by the on-line central computer and printed on the front of each on-line ticket which is used for validation.

"Winning combination" means two or more items or numbers selected by a drawing.

The words and terms, when used in any of the department's regulations, shall have the same meaning, as defined in these regulations, unless the context clearly indicates otherwise. Definitions that relate to instant games are incorporated by reference in the On-Line Game Regulations (VR 447-02-2).

§ 1.3. Prize structure.

The prize structure for any on-line game shall be designed to return to winners approximately 50% of gross sales.

A. The specific prize structure for each type of on-line game shall be determined in advance by the board.

B. From time to time, the board may determine temporary adjustments to the prize structure to account for breakage or other fluctuations in the anticipated redemption of prizes.

§ 1.4. Drawing and selling times.

A. Drawings shall be conducted at times and places designated by the director and publicly announced by the department.

B. On-line tickets may be purchased up to a time prior to the drawing as specified in the on-line drawing rules. That time will be designated by the director.

§ 1.5. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board. These limits shall not operate to prevent the sale of more than one lottery play on a single ticket. Unless authorized by the board, lottery retailers may not discount the sale price of on-line game tickets or provide free lottery tickets as a promotion with the sale of on-line tickets. This section shall not prevent a

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licensed retailer from providing free on-line tickets with the purchase of other goods or services customarily offered for sale at the retailer's place of business; provided, however, that such promotion shall not be for the primary purpose of inducing persons to participate in the lottery. (see § 1.9)

B. This section shall not apply to the redemption of a winning on-line game ticket the prize for which is another free ticket.

§ 1.6. Ticket cancellation.

A ticket may be cancelled and a refund of the purchase price obtained at the request of the bearer of the ticket under the following conditions:

1. To be accepted for cancellation, the ticket must be presented to the lottery retailer location at which the ticket was sold, prior to the time of the drawing and within the same business day it was purchased.

2. Cancellation may only be effected by the following two procedures:

a. Inserting the ticket into the lottery terminal, whereupon the terminal must read the information from the ticket and cancel the transaction.

b. After first determining that the preceding procedure cannot be utilized successfully to cancel the ticket, the terminal operator may cancel the ticket by manually entering the ticket validation number into the terminal via the keyboard.

Any ticket which cannot be cancelled by either of these procedures remains valid for the drawing for which purchased. Any ticket which is mutilated, damaged or has been rendered unreadable, and cannot be inserted into or read by the lottery terminal or whose validation number cannot be read and keyed into the terminal, cannot be cancelled by any other means.

3. The cancelled ticket must be surrendered by the bearer to the retailer.

4. On a case-by-case basis, credit may be provided to retailers for tickets which could not be cancelled by either of the two methods described in § 1.6 2. Such credit may be given provided unusual, verifiable circumstances are present which show that the department's computer system could not accept the cancellation within the same day the ticket was purchased or that the ticket was produced by an unusual retailer error. The retailer must notify the department's Hotline prior to the time of the drawing and within the same business day the ticket was purchased.

5. The director may approve credit for other

cancellation requests not described in this section.

6. The lottery's internal auditor will audit cancelled tickets on a sample basis.

§ 1.7. Chances of winning.

The director shall publicize the overall chances of winning a prize in each on-line game. The chances may be printed in informational materials.

§ 1.8. Licensed retailers' compensation.

A. Licensed retailers shall receive 5.0% compensation on all net sales from on-line games. "Net sales" are gross sales less cancels.

B. The board shall approve any bonus or incentive system for payment to retailers. The director will publicize any such system by administrative order. The director may then award such cash bonuses or other incentives to retailers. *Retailers may not accept any compensation for the sale of lottery tickets other than compensation approved under this section, regardless of the source.*

§ 1.9. Retailers' conduct.

A. Retailers shall sell on-line tickets at the price fixed by the board, unless the board allows reduced prices or ticket give-aways.

B. All ticket sales shall be for cash, check, cashier's check, traveler's check or money order at the discretion of and in accordance with the licensed retailer's policy for accepting payment by such means. A ticket shall not be purchased with credit cards, food stamps or food coupons.

C. All ticket sales shall be final. Retailers shall not accept ticket returns except as allowed by department regulations or policies, or with the department's specific approval.

D. Tickets shall be sold during all normal business hours of the lottery retailer when the on-line terminal is available unless the director approves otherwise. *Retailers shall give prompt service to lottery customers present and waiting at the terminal to purchase tickets for on-line games. Prompt service includes interrupting processing of on-line ticket orders for which the customer is not present at the terminal. Failure to render prompt service to lottery customers may result in administrative action by the director including but not limited to license suspension or revocation or disabling the on-line terminal so that it will not process transactions.*

E. Tickets shall be sold only at the location listed on each retailer's license from the department. *For purposes of this section, the sale of an on-line lottery ticket at the licensed location means a lottery transaction in which all elements of the sale between the licensee and the player shall take place on site at the lottery terminal including*

the exchange of consideration, the exchange of the play slip if one is used, and the exchange of the ticket. No part of the sale may take place away from the lottery terminal.

F. On-line retailers must offer for sale all lottery products offered by the department.

G. An on-line game ticket shall not be sold to, purchased by, given as a gift to or redeemed from any individual under 18 years of age, and no prize shall be paid on a ticket purchased by or transferred to any person under 18 years of age. The transferee of any ticket by any person ineligible to purchase a ticket is ineligible to receive any prize.

H. On-line retailers shall furnish players with proper claim forms provided by the department.

I. On-line retailers shall post winning numbers prominently.

J. On-line retailers and employees who will operate on-line equipment shall attend training provided by the department and allow only trained personnel to operate terminals.

K. Unsupervised retailer employees who sell or otherwise vend lottery tickets must be at least 18 years of age. Employees not yet 18 but at least 16 years of age may sell or vend lottery tickets so long as they are supervised by the manager or supervisor in charge at the location where the tickets are being sold.

L. Federal Internal Revenue Code, 26 U.S.C. 60501 requires lottery retailers who receive more than \$10,000 in cash in one transaction, two or more related transactions in the aggregate, or a series of connected transactions exceeding \$10,000 in the aggregate, from a single player or his agent, to file a Form 8300 with the Internal Revenue Service. IRS encourages retailers to report all suspicious transactions, even if they do not meet the \$10,000 threshold. "Cash" includes coin and currency only and does not include bank checks or drafts, traveler's checks, wire transfers, or other negotiable or monetary instruments not customarily accepted as money.

§ 1.10. End of game; suspension.

The director may suspend or terminate an on-line game without advance notice if he finds that this action will serve and protect the public interest.

PART II.

LICENSING OF RETAILERS FOR ON-LINE GAMES.

§ 2.1. Licensing.

A. Generally.

The director may license persons as lottery retailers for

on-line games who will best serve the public convenience and promote the sale of tickets and who meet the eligibility criteria and standards for licensing.

B. For purposes of this part on licensing, "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

§ 2.2. Eligibility.

A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may be considered for licensure, except no person may be considered for licensure:

1. Who will be engaged primarily in the business of selling lottery tickets; or

2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same household as board member, officer or employee of the department; or

3. Who is a vendor to the department of instant or on-line lottery tickets or goods or data processing services, whose tickets, goods or services are provided directly to the lottery department, or whose business is owned by, controlled by, or affiliated with a vendor of instant or on-line lottery tickets or goods or data processing services whose tickets, goods or services are provided directly to the lottery department.

B. Form submission.

The submission of forms or data for licensure does not in any way entitle any person to receive a license to act as an on-line lottery retailer.

§ 2.3. General standards for licensing.

A. Selection factors for licensing.

The director may license those persons who, in his opinion, will best serve the public interest and public trust in the lottery and promote the sale of lottery tickets. The director will consider the following factors before issuing or renewing a license:

1. The financial responsibility and integrity of the retailer, to include:

a. A credit and criminal record history search or when deemed necessary a full investigation of the retailer;

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- b. A check for outstanding delinquent state tax liability;
 - c. A check for required business licenses, tax and business permits; and
 - d. An evaluation of physical security at the place of business, including insurance coverage.
2. The accessibility of his place of business to public, to include:
- a. The hours of operation compared to the on-line system selling hours;
 - b. The availability of parking including ease of ingress and egress to parking;
 - c. Public transportation stops and passenger traffic volume;
 - d. The vehicle traffic density, including levels of congestion in the market area;
 - e. Customer transaction count within the place of business;
 - f. Other factors indicating high public accessibility and public convenience when compared with other retailers; and
 - g. Adequate space and physical layout to sell a high volume of lottery tickets efficiently.
3. The sufficiency of existing lottery retailers to serve the public convenience, to include:
- a. The number of and proximity to other lottery retailers in the market area;
 - b. The expected impact on sales volume of potentially competing lottery retailers;
 - c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers; and
 - d. The population to terminal ratio, compared to other geographical market areas.
4. The volume of expected lottery ticket sales, to include:
- a. Type and volume of the products and services sold by the retailer;
 - b. Dollar sales volume of the business;
 - c. Sales history of the market area;
 - d. Sales history for instant tickets, if already licensed as an instant retailer;
 - e. Volume of customer traffic in place of business; and
 - f. Market area potential, compared to other market areas.
5. The ability to offer high levels of customer service to on-line lottery players, including:
- a. A history demonstrating successful use of lottery product related promotions;
 - b. Volume and quality of point of sale display;
 - c. A history of compliance with lottery directives;
 - d. Ability to display jackpot prize amounts to pedestrians and vehicles passing by;
 - e. A favorable image consistent with lottery standards;
 - f. Ability to pay prizes less than of \$600 or less during maximum selling hours, compared to other area retailers;
 - g. Commitment to authorize employee participation in all required on-line lottery training; and
 - h. Commitment and opportunity to post jackpot levels near the point of sale.
- B. Additional factors for selection.
- The director may develop and, by director's order, publish additional criteria which, in the director's judgment, are necessary to serve the public interest and public trust in the lottery.
- C. Filing of forms with the department.
- After notification of selection as an on-line lottery retailer, the retailer shall file required forms with the department. The retailer must submit all information required to be considered for licensing. Failure to submit required forms and information within the times specified in these regulations may result in the loss of the opportunity to become or remain a licensed on-line retailer. The forms to be submitted shall include:
- 1. Signed retailer agreement;
 - 2. Signed EFT Authorization form with a voided check or deposit slip from the specified account; and
 - 3. Executed bond requirement.
- § 2.4. Bonding of lottery retailers.
- A. Approved retailer to secure bond.

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A lottery retailer approved for licensing shall obtain a surety bond in the amount of \$10,000 from a surety company entitled to do business in Virginia. If the retailer is already bonded for instant games, a second bond will not be required. However, the amount of the original bond must be increased to \$10,000. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under subsection C of this section, the surety bond shall be in the amount and penalty of \$10,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.

2. Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "On-Line License Approval Notice" to the State Lottery Department to be filed with his record.

B. Continuation of surety bond on annual license review.

A lottery retailer whose license is being reviewed shall:

1. Obtain a letter or certificate from the surety company to verify that the surety bond is being continued for the annual license review period; and

2. Submit the surety company's letter or certificate with the required annual license review fee to the State Lottery Department.

C. Sliding scale for surety bond amounts.

The department may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded. Such sliding scale may require a surety bond amount either greater or lesser than the amount fixed by subsection A of this section.

D. Effective date for sliding scale.

The sliding scale for surety bonding requirements will become effective when the director determines that sufficient data on lottery retailer ticket sales volume activity are available. Any changes in a retailer's surety bonding requirements that result from instituting the sliding scale will become effective only at the time of the retailer's next renewal action.

E. Limit on sales in excess of bond.

Under no circumstances shall the retailer allow total, weekly, net on-line and instant sales from a single location for the seven-day period ending at the close of

the lottery fiscal week (normally Tuesday night) to exceed five times the amount of the bond for that licensed location, unless such retailer has first obtained written permission from the director. The director, in his sole discretion, may require additional bond or other security as a condition for continued sales, may accelerate the collection from the retailer of the net proceeds from the sale of lottery tickets, or may temporarily suspend the requirement that no retailer may sell lottery tickets in excess of five times the amount of the bond for that licensed location for all on-line lottery retailers or for individual retailers on a case-by-case basis.

§ 2.5. Lottery bank accounts and EFT authorization.

A. Approved retailer to establish lottery bank account.

A lottery retailer approved for licensing shall establish a separate bank account to be used exclusively for lottery business in a bank participating in the automatic clearing house (ACH) system. A single bank account may be used for both on-line and instant lottery business.

B. Retailer's use of lottery account.

The lottery account will be used by the retailer to make funds available to permit withdrawals and deposits initiated by the department through the electronic funds transfer (EFT) process to settle a retailer's account for funds owed by or due to the retailer from the sale of tickets and the payment of prizes. All retailers shall make payments to the department through the electronic funds transfer (EFT) process unless the director designates another form of payment and settlement under terms and conditions he deems appropriate.

C. Retailer responsible for bank charges.

The retailer shall be responsible for payment of any fees or service charges assessed by the bank for maintaining the required account.

D. Retailer to authorize electronic funds transfer.

Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "On-Line Electronic Funds Transfer Authorization" portion of the "License Approval Notice" to the department recording the establishment of his account.

E. Change in retailer's bank account.

If a retailer finds it necessary to change his bank account from one bank account to another, he must submit a newly executed "Electronic Funds Transfer Authorization" form for the new bank account. The retailer may not discontinue use of his previously approved bank account until he receives notice from the department that the new account is approved for use.

F. Director to establish EFT account settlement

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schedule.

The director will establish a schedule for processing the EFT transactions against retailers' lottery bank accounts and issue instructions to retailers on how settlement of accounts will be made.

§ 2.6. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transfers or checks.

A. Payment due date.

Payments shall be due as specified by the director in the instructions to retailers regarding the settlement of accounts.

B. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will ~~have his~~ *be contacted by the department and instructed to make immediate deposit. If the retailer is not able to deposit the necessary funds or if the item is returned to the department unpaid for a second time, the retailer's on-line terminal will be inactivated. The retailer will not be reactivated until payment is made by ~~cashiers~~ cashier's check, certified check or wire transfer, and if deemed a continuing credit risk by the department, not until an informal hearing is held to determine if the licensee is able and willing to meet the terms of his license agreement.* Additionally, interest will be charged on the moneys due plus a \$25 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the department for deposit.

C. Service charge for dishonored EFT transfer or bad check.

In addition to the penalty authorized by subsection B of this section, the director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

D. Service charge for debts referred for collection.

If the department refers a debt of any retailer to the Attorney General, the Department of Taxation or any other central collection unit of the Commonwealth, the retailer owing the debt shall be liable for an additional service charge which shall be in the amount of the administrative costs associated with the collection of the debt incurred by the department and the agencies to which the debt is referred.

E. Service charge, interest and penalty waived.

The service charge, interest and penalty charges may be waived when the event which would otherwise cause a

service charge, interest or penalty to be assessed is not in any way the fault of the lottery retailer. For example, a waiver may be granted in the event of a bank error or lottery error.

§ 2.7. License term and annual review.

A. License term.

A general on-line license for an approved lottery retailer shall be issued on a perpetual basis subject to an annual determination of continued retailer eligibility and the payment of an annual fee fixed by the board. A general on-line license requires the retailer to sell both on-line and instant lottery tickets.

B. Annual license review.

The annual fee shall be collected within the 30 days preceding a retailer's anniversary date. Upon receipt of the annual fee, the general license shall be continued so long as all eligibility requirements are met. The director may implement a staggered, monthly basis for annual license reviews and allow for the proration of annual license fees. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for any other reason.

C. Amended license term.

The annual fee for an amended license will be due on the same date as the fee for the license it replaced.

D. Special license.

The director may issue special licenses. Special licenses shall be for a limited duration and under terms and conditions that he determines appropriate to serve the public interest. *On-line game lottery retailers currently licensed by the department are not required to obtain an additional surety bond for the purposes of obtaining a special event license.*

E. Surrender of license certificate.

If the license of a lottery retailer is suspended, revoked or not continued from year to year, the lottery retailer shall surrender the license certificate upon demand.

§ 2.8. License fees.

A. License fee.

The fee for a lottery retailer general license to sell on-line game tickets shall be \$25. Payment of this fee shall entitle the retailer to sell both on-line and instant game tickets. The general license fee to sell on-line game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. Annual license fee.

The annual fee for a lottery retailer general license to sell on-line game tickets shall be an amount determined by the board at its November meeting or as soon thereafter as practicable for all reviews occurring in the next calendar year. The fee shall be designed to recover all or a portion of the annual costs of the department in providing services to the retailer. The fee shall be paid for each location for which a license is. This fee is nonrefundable. The fee shall be submitted within the 30 days preceding a retailer's anniversary date.

C. Amended license fee.

The fee for processing an amended license for a lottery retailer general license shall be an amount as determined by the board at its November meeting or as soon thereafter as practicable for all amendments occurring in the next calendar year. The amended license fee shall be paid for each location affected. This fee is nonrefundable. An amended license shall be submitted in cases where a business change has occurred.

§ 2.9. Fees for operational costs.

A. Installation fee.

The fee for initial terminal telecommunications installation for the on-line terminal shall be \$275 *unless otherwise determined by the director*. This fee may be subject to change based upon an annual cost review by the department.

1. If the retailer has purchased a business where a terminal is presently installed or telecommunication service is available, a fee of \$25 per year shall be charged upon issuance of a new license.

2. No installation fee will be charged if interruption of service to the terminal has not occurred.

B. Weekly on-line telecommunications line charge.

Each retailer shall be assessed a weekly charge of \$15 per week. This fee may be subject to change based upon an annual cost review by the department.

§ 2.10. Transfer of license prohibited; invalidation of license.

A. License not transferrable.

A license issued by the director authorizes a specified person to act as a lottery retailer at a specified location as set out in the license. The license is not transferrable to any other person or location.

B. License invalidated.

A license shall become invalid in the event of any of the following circumstances:

1. Change in business location;

2. Change in business structure (e.g., from a partnership to a sole proprietorship); *or*

3. Change in the business owners listed on the original personal data forms for which submission of a personal data form is required under the license procedure.

C. Amended personal data form required.

A licensed lottery retailer who anticipates any change listed in subsection B must notify the department of the anticipated change at least 30 calendar days before it takes place and submit an amended personal data form. The director shall review the changed factors in the same manner that would be required for a review of an original personal data form.

§ 2.11. Denial, suspension, revocation or of license.

A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person does not meet the eligibility criteria and standards for licensing as set out in these regulations or if:

1. The person has been convicted of a felony;

2. The person has been convicted of a crime involving moral turpitude;

3. The person has been convicted of any fraud or misrepresentation in any connection;

4. The person has been convicted of bookmaking or other forms of illegal gambling;

5. The person has been convicted of knowingly and willfully falsifying, or misrepresenting, or concealing a material fact or makes a false, fictitious, or fraudulent statement or misrepresentation;

6. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;

7. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons;

8. The nature of the person's business is not consonant with the probity of the Commonwealth; *or*

9. The person has committed any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery.

B. Grounds for refusal to license partnership or corporation.

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In addition to refusing a license to a partnership or corporation under subsection A of this section, the director may also refuse to issue a license to any partnership or corporation if he finds that any general or limited partner or officer or director of the partnership or corporation has been convicted of any of the offenses cited in subsection A of this section.

C. Appeals of refusal to license.

Any person refused a license under subsection A or B may appeal the director's decision in the manner provided by VR 447-01-02, Part III, Article 2, § 3.4.

D. Grounds for suspension, revocation or refusal to continue license.

The director may suspend, revoke, or refuse to continue a license for any of the following reasons:

1. Failure to properly account for on-line terminal ticket roll stock, for cancelled ticket, for prizes claimed and paid, or for the proceeds of the sale of lottery tickets;
2. Failure to file or maintain the required bond or the required lottery bank account;
3. Failure to comply with applicable laws, instructions, terms or conditions of the license, or rules and regulations of the department concerning the licensed activity, especially with regard to the prompt payment of claims;
4. Conviction, following the approval of the license, of any of the offenses cited in subsection A;
5. Failure to file any return or report or to keep records or to pay any fees or other charges as required by the state lottery law or the rules or regulations of the department or board;
6. Commission of any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;
7. Failure to maintain lottery ticket sales at a level sufficient to meet the department's administrative costs for servicing the retailer, provided that the public convenience is adequately served by other retailers. This failure may be determined by comparison of the retailer's sales to a sales quota established by the director;
8. Failure to notify the department of a material change, after the license is issued, of any matter required to be considered by the director in the licensing process;
9. Failure to comply with lottery game rules;

10. Failure to meet minimum point of sale standards;

11. The person's place of business caters to or is frequented predominantly by persons under 18 years of age;

12. The nature of the person's business constitutes a threat to the health or safety of prospective lottery patrons; or

13. The nature of the person's business is not consonant with the probity of the Commonwealth.

E. Notice of intent to suspend, revoke or deny continuation of license.

Before taking action under subsection C, the director will notify the retailer in writing of his intent to suspend, revoke or deny continuation of the license. The notification will include the reason or reasons for the proposed action and will provide the retailer with the procedures for requesting a hearing before the board. Such notice shall be given to the retailer at least 14 calendar days prior to the effective date of suspension, revocation or denial.

F. Temporary suspension without notice.

If the director deems it necessary in order to serve the public interest and maintain public trust in the lottery, he may temporarily suspend a license without first notifying the retailer. Such suspension will be in effect until any prosecution, hearing or investigation into possible violations is concluded.

G. Surrender of license and lottery property upon revocation or suspension.

A retailer shall surrender his license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in his possession and give a final accounting of his lottery activities by the date specified by the director.

§ 2.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

§ 2.13. Display of license.

License displayed in general view. Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

§ 2.14. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale material provided by the director in a manner which is readily seen by and available to the public.

B. Prior approval for retailer-sponsored material.

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

C. Removal of unapproved material.

The director may require removal of any licensed retailer's lottery promotional material that has not been approved for use by the department.

§ 2.15. Inspection of premises.

Access to premises by department. Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises.

§ 2.16. Examination of records; seizure of records.

A. Inspection, auditing or copying of records.

Each lottery retailer shall make all books and records pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

B. Records subject to seizure.

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

§ 2.17. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

§ 2.18. Reporting requirements and settlement procedures.

~~Instructions for ordering on-line terminal ticket roll stock, reporting transactions and settling accounts.~~ Before a retailer may begin lottery sales, the director will issue to

him instructions and report forms that specify the procedures for (i) ordering on-line terminal ticket roll stock; (ii) reporting receipts, transactions and disbursements pertaining to on-line lottery ticket sales; and (iii) settling the retailer's account with the department.

§ 2.19. Training of retailers and their employees.

~~Retailer training.~~ Each retailer or anyone that operates an on-line terminal at the retailer's location will be required to participate in training given by the department for the operation of each game. The director may consider nonparticipation in the training as grounds for suspending or revoking the retailer's license.

§ 2.20. License termination by retailer.

~~Voluntary termination of license.~~ The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 30 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

PART III.

ON-LINE TICKET VALIDATION REQUIREMENTS.

§ 3.1. Validation requirements.

To be valid, a Virginia lottery on-line game ticket shall meet all of the validation requirements listed here:

1. The original ticket must be presented for validation.
2. The ticket validation number shall be presented in its entirety and shall correspond using the computer validation file to the selected numbers printed on the ticket.
3. The ticket shall not be mutilated, altered, or tampered with in any manner. (see § 3.4)
4. The ticket shall not be counterfeited, forged, fraudulently made or a duplicate of another winning ticket.
5. The ticket shall have been issued by the department through a licensed on-line lottery retailer in an authorized manner.
6. The ticket shall not have been cancelled.
7. The ticket shall be validated in accordance with procedures for claiming and paying prizes. (see §§ 3.10 and 3.12)
8. The ticket data shall have been recorded in the

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central computer system before the drawing, and the ticket data shall match this computer record in every respect.

9. The player-selected items, the validation data, and the drawing date of an apparent winning ticket must appear on the official file of winning tickets and a ticket with that exact data must not have been previously paid.

10. The ticket may not be misregistered or defectively printed to an extent that it cannot be processed by the department.

11. The ticket shall pass any validation requirement contained in the rules published and posted by the director for the on-line game for which the ticket was issued.

12. The ticket shall pass all other confidential security checks of the department.

13. Any on-line lottery cash prize resulting from a ticket which is purchased by or claimed by a person ineligible to play the lottery game is invalid and reverts to the State Lottery Fund.

§ 3.2. Invalid ticket.

An on-line ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its on-line game is invalid. An invalid ticket is not eligible for any prize.

§ 3.3. Replacement of ticket.

The director may refund the purchase price of an invalid ticket. If a defective ticket is purchased, the department's only liability or responsibility shall be to refund the purchase price of the defective ticket.

§ 3.4. When ticket cannot be validated through normal procedures.

If an on-line ticket is partially mutilated or if the ticket cannot be validated through normal procedure but can still be validated by other validation tests, the director may pay the prize for that ticket.

§ 3.5. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

§ 3.6. Prize winning tickets.

Prize winning on-line tickets are those that have been validated in accordance with these regulations and the rules of the department and determined to be official prize winners. Criteria and specific rules for winning prizes shall be published for each on-line game and

available for all players. Final validation and determination of prize winning tickets remain with the department.

§ 3.7. Unclaimed prizes.

A. Except for free ticket prizes, all claims for on-line game winning tickets must be postmarked or received for payment as prescribed in these regulations within 180 days after the date of the drawing for which the ticket was purchased. In the event that the 180th day falls on a Saturday, Sunday or legal holiday, a claimant may redeem his prize-winning ticket on the next business day only at a lottery regional office.

B. Any on-line lottery cash prize which remains unclaimed after 180 days following the drawing which determined the prize shall revert to the State Literary Fund. Cash prizes do not include free ticket prizes or other noncash prizes such as merchandise, vacations, admissions to events and the like.

C. All claims for on-line game winning tickets for which the prize is a free ticket must be postmarked or received for redemption as prescribed in these regulations within 60 days after the date of the drawing for which the ticket was purchased. In the event that the 60th day falls on a Saturday, Sunday or legal holiday, a claimant may only redeem his prize-winning ticket for a free ticket at an on-line lottery retailer on or before the 60th day. Except for claims for free ticket prizes mailed to lottery headquarters and postmarked on or before the 60th day, claims for such prizes will not be accepted at lottery regional offices or headquarters after the 60th day. *This section does not apply to the redemption of free tickets awarded through the subscription program. (see § 4.14)*

D. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C.A. § 525), any person while in active military service may claim exemption from the 180-day ticket redemption requirement. Such person, however, must claim his winning ticket or share as soon as practicable and in no event later than 180 days after discharge from active military service.

§ 3.8. Using winners' names.

The department shall have the right to use the names of prize winners and the city, town or county in which they live. Photographs of prize winners may be used with the written permission of the winners. No additional consideration shall be paid by the department for this purpose *unless authorized by the director*.

§ 3.9. No prize paid to people under 18.

No prize shall be claimed by, redeemed from or paid to any individual under 18 years of age, *and no prize shall be paid on a ticket purchased by or transferred to any person under 18 years of age. The transferee of any ticket*

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to any person ineligible to purchase a ticket is ineligible to receive any prize .

§ 3.10. Where prizes claimed.

Winners may claim on-line game prizes from any licensed on-line retailer or the department in the manner specified in these regulations. Licensed on-line retailers are authorized and required to make payment of all validated prizes of less than \$600 or less .

§ 3.11. Validating winning tickets.

Winning tickets shall be validated by the retailer or the department as set out in these regulations and in any other manner which the director may prescribe in the specific rules for each type of on-line game.

§ 3.12. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$600 \$601 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations. A nonresident alien shall furnish their Immigration and Naturalization Service Number. This I.N.S. number begins with an A and is followed by numerical data.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) issued by the Internal Revenue Service. If the department or these regulations require that a claim form be filed, the FEIN must be shown on the claim form.

C. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

D. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate the individuals in whose names the claim shall be entered and those persons' social security numbers shall be furnished.

E. A group, family unit, club or other organization wishing to divide a jackpot prize shall complete an "Agreement to Share Ownership and Proceeds of Lottery Ticket" form. The filing of this form is an irrevocable election which may only be changed by an appropriate judicial order.

§ 3.13. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

1. The director may pay any prize according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the department or to the estate of a deceased prize winner who has not completed such a form , and

2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

§ 3.14. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

§ 3.15. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the board, the director and employees of the department, terminates upon final payment of a lottery prize.

§ 3.16. Delay of payment allowed.

The director may refrain from making payment of the prize pending a final determination by the director, under any of the following circumstances:

1. If a dispute occurs or it appears that a dispute may occur relative to any prize;

2. If there is any question regarding the identity of the claimant;

3. If there is any question regarding the validity of any ticket presented for payment; or

4. If the claim is subject to any set-off for delinquent debts owed to any agency eligible to participate in the Set-Off Debt Collection Act ; ~~when~~ if the agency has registered such debt with the Virginia Department of Taxation and timely notice of the debt has been furnished by the Virginia Department of Taxation to the State Lottery Department. ~~No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.~~

No liability for interest for any such delay shall accrue to the benefit of the claimant pending payment of the claim. The department is neither liable for nor has it any responsibility to resolve disputes between competing claimants.

§ 3.17. When installment prize payment may be delayed.

The director may, at any time, delay any installment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter

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that has been brought to the department's attention. All delayed installments shall be brought up to date immediately upon the director's confirmation. Delayed installments shall continue to be paid according to the original payment schedule after the director's decision is given. *No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.*

§ 3.18. Ticket is bearer instrument.

A ticket that has been legally issued by a licensed lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket is considered the bearer of the ticket.

§ 3.19. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon submission of a prize claim form, if one is required, unless otherwise delayed in accordance with these regulations. If a validated winning ticket has been signed, the bearer may be required to present proper identification.

§ 3.20. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

§ 3.21. Penalty for counterfeit, forged or altered ticket.

Forging, altering or fraudulently making any lottery ticket or knowingly presenting a counterfeit, forged or altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment is a Class 6 felony in accordance with the state lottery law.

§ 3.22. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

The director may honor a prize claim of an apparent winner who does not possess the original ticket if the claimant is in possession of information which demonstrates that the original ticket meets the following criteria and can be validated through other means. The exception does not apply to an on-line game ticket the prize for which is a free ticket.

1. The claim form and a photocopy of the ticket, or photocopy of the original claim form and ticket, are timely filed with the department;
2. The prize for which the claim is filed is an unclaimed winning prize as verified in the department's records;

3. The prize has not been claimed within the required redemption period; and

4. The claim is filed within 180 days of the drawing or within the redemption period, as established by game rules.

§ 3.23. Retailer to pay all prizes less than of \$600 or less .

Prizes less than of \$600 or less shall be paid by any licensed on-line retailer, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

§ 3.24. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

1. Retailers may pay cash prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.
2. If a check for payment of a prize by a retailer to a claimant is denied for any reason, the retailer is subject to the same service charge for referring a debt to the department for collection and penalty payments that would apply if the check were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.
3. Retailers shall pay claims for all prizes under of \$600 or less during all normal business hours of the lottery retailer when the on-line terminal is operational and the ticket claim can be validated.
4. Prize claims shall be payable only at the location specified on the license.
5. The department will reimburse a retailer for prizes paid up to 180 days after the drawing date.

§ 3.25. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

§ 3.26. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims a retailer has paid in error.

§ 3.27. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The manner of voiding the ticket will be prescribed by the

director.

§ 3.28. Prizes of less than \$600 or less .

A retailer shall pay on-line prizes of less than \$600 or less won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. The retailer shall display special informational material provided by or approved by the department informing the public that the retailer pays all prizes of less than \$600 or less .

§ 3.29. When prize shall be claimed from the department.

The department will process claims for payment of prizes in any of the following circumstances:

1. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall present the signed ticket and a completed claim form to the department regional office or mail both the signed ticket and a completed claim form to the department central office.
2. If a ticket holder is unable to return to any on-line retailer to claim a prize which the retailer otherwise would pay, the ticket holder may present the signed ticket at any department regional office or mail both the signed ticket and a completed claim form to the department central office.
3. If the prize amount is ~~\$600~~ \$601 or more, the ticket holder may present the signed ticket and a completed claim form at any department regional office or mail both the signed ticket and a completed claim form to the department central office.

§ 3.30. Prizes of \$25,000 or less.

Prizes of \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.31. Prizes of more than \$25,000.

Prizes of more than \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay cash prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.32. Grand prize event.

If an on-line game includes a grand prize or jackpot event, the following general criteria shall be used:

1. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules

set by the director consistent with § 1.1 of these regulations.

2. Participation in the drawing(s) shall be limited to those tickets which are actually purchased by the entrants on or before the date announced by the director.

3. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent event. That action is the extent of the department's liability.

4. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each on-line game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

§ 3.33. When prize payable over time.

Unless the rules for any specific on-line game provide otherwise, any cash prize of \$100,001 or more will be paid in multiple payments over time. The schedule of payments shall be designed to pay the winner equal dollar amounts in each year, with the exception of the first, until the total payments equal the prize amount.

§ 3.34. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to facilitate purchase of an appropriate funding mechanism.

§ 3.35. When prize payable for "life."

If a prize is advertised as payable for the life of the winner, only an individual may claim the prize. If a claim is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

§ 3.36. When claims form required.

A claim form for a winning ticket may be obtained from any department office or any licensed lottery retailer. A claim form shall be required to claim any prize from the department's central office. A claim form shall be required to claim any prize of ~~\$600~~ \$601 or more from the department's regional offices. *This section does not apply to the redemption of prizes awarded through a subscription plan as identified in § 4.14.*

§ 3.37. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations.

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1. If the claim is not valid, the department will promptly notify the ticket holder.

2. If the claim is mailed to the department and the department validates the claim, a check for the prize amount will be mailed to the winner.

3. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

§ 3.38. Withholding, notification of prize payments.

A. When paying any prize of ~~\$600~~ \$601 or more, the department shall:

1. File the appropriate income reporting form(s) with the Virginia Department of Taxation and the Federal Internal Revenue Service; and

2. ~~Withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program; and~~

~~3. 2. Withhold federal and state taxes from any winnings over \$5,000 winning ticket in excess of \$5,001.~~

B. Additionally, when paying any prize of \$101 or more, the department shall withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program.

§ 3.39. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

PART IV. SUBSCRIPTION PLAN.

§ 4.1. Development of subscription.

In addition to regulations set forth in this part, the conduct of subscriptions is subject to all applicable rules and regulations of the department.

§ 4.2. Subscriptions.

Subscriptions may be purchased for periods specified by the department in rules applicable to the lottery game to which the subscription applies.

§ 4.3. Subscription price.

The sale price of a subscription shall be determined by the board.

§ 4.4. Subscription cancellation.

A. A subscription entered into the department's central computer system cannot be cancelled by a subscriber or group-designated agent except when a subscriber or group-designated agent becomes employed by the lottery as an employee, board member, officer or employee of any vendor to the lottery of lottery on-line or instant ticket goods or services working directly with the department on a contract for such goods or services, or any person residing in the same household as any such board member, officer or employee during the subscription period.

B. A subscription cannot be assigned by a subscriber or group-designated agent to another person.

C. Funds remitted to the department as payment for the subscription are not refundable to the subscriber or group-designated agent unless provisions identified in subsection A of this section are present.

§ 4.5. Effective date.

The subscription shall be effective on the start date indicated in the confirmation notice for that subscription.

§ 4.6. Retailer compensation.

Active licensed lottery retailers shall receive 5.0% compensation on sales of subscriptions. The compensation shall be based on all subscriptions purchased at any active licensed lottery retailer location as well as on all subscription applications mailed or delivered to the department's central office with payment and bearing a valid licensed lottery retailer number. In addition, active licensed lottery retailers shall be compensated for renewals of subscriptions which originated at their retailer location. Retailer compensation for a subscription shall be cancelled in the event the tender for the subscription payment is not honored by the payor institution or if the licensed lottery retailer does not provide the retailer number.

§ 4.7. Validation requirements.

Only those subscriptions entered into the department's central computer system and which are confirmed are valid entries eligible for prizes. Otherwise, game numbers selected on a subscription application are not eligible to win a prize in any drawing.

§ 4.8. Purchase of subscription.

A. Subscription applications may be distributed through the department's central office, any department regional office, any licensed lottery retailer, or any other means as determined by the department.

B. An individual, group, family unit, club, or other organization otherwise eligible to purchase lottery tickets may purchase a subscription by mail from the department's central office or from other locations as determined by the department.

State Lottery Department

C. In order to purchase a subscription, an individual, group, family unit, club, or other organization must furnish a valid Virginia street address or post office box, as required by U.S. postal regulations.

D. After receipt of the subscription at the department's central office, the subsequent entry of data into the central computer system, and the bank clearance of the subscriber's method of payment, the department shall mail a confirmation notice to the subscriber or group-designated agent at the address provided on the subscription application.

§ 4.9. Subscription application requirements.

A. A subscription application must meet the following requirements in order to be accepted for entry:

1. The numbers selected by the player must contain the prescribed number of unduplicated game numbers from numbers available for play in the game. If permitted by the rules of the game, numbers may be duplicated;

2. The subscription application must contain a valid Virginia street address or post office box, as required by U.S. postal regulations;

3. If a subscription is entered for a group, corporation, family unit or club, one individual must be designated as the group agent; and

4. The subscription application must be an official department application.

a. A group, family unit, club or other organization which is not a legal entity or which does not possess a Federal Employer's Identification Number (FEIN) may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and are taxable.

b. If the prize winner does not furnish a social security number or taxpayer identification number, the prize will be deemed unclaimed and the department will not pay the prize. Failure to furnish the social security number or taxpayer identification number may expose the prize winner(s) to the risk that the prize will remain unclaimed after 180 days from the date of the drawing and will be forfeited.

B. A subscription application will be rejected for any of the following reasons:

1. If a subscription application is received by the department on an unofficial subscription form;

2. If no numbers are designated in a selected game

panel and an available easy pick option is not selected;

3. If more or fewer than the prescribed set of numbers are selected;

4. If numbers are duplicated within the game panel, unless permitted by game rules;

5. If both a prescribed set of numbers and easy pick is designated in the same game panel;

6. If payment is not for the correct amount and is not made payable to the "Virginia Lottery," if a check or money order is returned unpaid, if a third-party check is remitted for payment, or if remittance is dishonored, the registration and the confirmation notice are void automatically for all drawings including those which may have occurred prior to the remittance being dishonored;

7. If the application contains an out-of-state address;

8. If the application is not signed;

9. If an individual (subscriber, group-designated agent or recipient) is under the age of 18, according to birth date recorded on the application; or

10. If an individual is found to be a Virginia Lottery Department employee, vendor employee, or household member, otherwise prohibited from playing any lottery game.

C. If the subscription is rejected by the department, both the subscription application and subscription payment will be returned to the subscriber or group-designated agent with a letter of explanation and no prize will be paid on any play appearing on the rejected subscription application for any drawing deriving from that subscription application.

These regulations assume that an easy pick option is available. If not available in a subscription plan, the criteria for accepting or rejecting a subscription application is modified accordingly.

§ 4.10. Subscription gifts.

A. Any recipient of a subscription gift must have a valid Virginia address or post office box.

B. Numbers selected by the subscriber for the recipient cannot be cancelled or reselected.

C. All other provisions of these regulations shall apply to subscription gifts, subscription purchasers and subscription recipients.

§ 4.11. Subscription renewals.

State Lottery Department

A. Approximately six weeks prior to the end of a subscription, a renewal notice will be mailed to a subscriber or group-designated agent at the address on file with the department. Subscribers or group-designated agents may renew the subscription by returning the renewal notice with payment to the department's central office. Renewal notices may be obtained from the department's central office or other locations as determined by the lottery. Renewal notices shall not be mailed to subscribers or group-designated agents who no longer have a valid Virginia address or post office box.

B. Renewals will not be accepted unless the individual subscriber or group-designated agent furnishes a valid Virginia address or post office box.

§ 4.12. Change of name.

In the event a subscriber or group-designated agent's name changes during the subscription period, he may notify the department in writing of such change. Proof of name change may be required by the department at any time. The department reserves the right to refuse to change a name registered as a subscriber.

§ 4.13. Change of address.

In the event a subscriber or group-designated agent moves out of state during the subscription period and notifies the department of the change of address, the subscription will remain in effect until the number of draws for that subscription plan has expired. The subscriber or group-designated agent will not be eligible to receive a subscription renewal notice.

§ 4.14. Payment of prizes.

A. Before any prize of \$601 or greater can be paid, the department must be provided with the subscriber's taxpayer identification number, if it has not already been provided on the subscription application. The department will make reasonable efforts to obtain the missing taxpayer identification number. Payment will be delayed until the number is provided. Prizes for which no taxpayer identification number has been furnished within 180 days of the date of the drawing in which the prize was won will be forfeited.

B. The department will monitor subscriptions and mail nonannuitized prize payments to subscription winners without the necessity of a claim form being filed by the subscription winners. Prizes shall be subject to payment of any taxes and Set-Off Debt Collection Act amounts due and the department shall deduct applicable taxes and set-off debt amounts prior to mailing prize payments.

C. Subscribers winning a free play will receive a check as payment of free ticket prize(s) from the department at the end of their subscription(s). In lieu of awarding free tickets to a subscriber or group-designated agent, the check will pay the cumulative value of all free tickets

won during the subscription plan. The value of free play tickets won on a subscription shall be the same as the purchase price for a single-play, on-line ticket in the same game as determined by the board.

D. The department will notify subscription winners of annuitized prizes by certified mail or telephone, at the address or telephone number shown on the subscription application on file with the department, and request that they come to the department's central office to receive the first prize payment. Subsequent checks will be mailed to subscription winners. Claim forms for annuitized prizes will not be required.

E. Prize payments will be processed in the name of an individual or group-designated agent according to information furnished on the subscription application.

F. If for any reason a payment is returned by the U.S. Postal Service and a new address cannot be located, such payments will be held by the department under the state's unclaimed property laws and transferred to the state if not claimed within 180 days following the drawing. Thereafter the department shall not be liable for payment and winners who make claims after this time period will be referred to the Unclaimed Property Division, Virginia Department of the Treasury.

G. Any subscription cash prize which remains unclaimed for any reason other than the preceding subsection after 180 days following the drawing which determined the prize shall revert to the State Literary Fund. This includes, but is not limited to, failure or refusal to furnish a taxpayer identification number to complete the claim for a prize won.

§ 4.15. Player responsibility.

A. The department is not liable for department or licensed lottery retailer employee errors.

B. The player(s) assumes responsibility for any delays resulting from the choice of method of forwarding a subscription application to the department.

C. The subscriber or group-designated agent is responsible for verifying the accuracy of the lottery game data as recorded on the confirmation notice mailed to the subscriber or group-designated agent by the department.

D. The player shall notify the department if an error has been made. Notification shall be postmarked within 10 business days of date of the confirmation notice.

E. Player-requested corrections are not effective until entry of the corrected data into the department's central computer system and a corrected confirmation notice is mailed to the subscriber by the department. Such corrections are not retroactive. Any errors in lottery game data remain valid for all drawings occurring while the erroneous data remains effective but such erroneous game

data is no longer valid for drawings occurring after the erroneous data is corrected and a corrected confirmation notice is issued.

§ 4.16. Department responsibility.

A. The department is responsible for entering the subscription data, including authorized corrections, on the department's central computer system within a reasonable period of time from receipt of the subscription application and clearance of remittance or receipt of the Request for Corrections notice.

B. If for any reason a subscription play is not accepted, the liability of the department and its retailers is limited to a refund of the purchase price for that play.

§ 4.17. Disputes.

A. The department is neither liable for nor has it any responsibility to resolve disputes among group members for group subscriptions.

B. The decision of the director shall be final.

NOTICE: The forms used in administering the State Lottery Department On-Line Game Regulations are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the State Lottery Department, 2201 West Broad Street, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

On-Line Game Survey (SLD-120)
Retailer Data Collection
Lottery Retailer Surety Bond
Retailer Agreement Form (SLD-130, 3/89)
Virginia Lottery Licensed Retailer Certificate (4/90)
Things to Do
Commonwealth of Virginia Lottery Bond Application
Special Notice on Bonding for Lottery Retailers
Virginia Lottery On-Line Play Center;
Agreement/Order Form (SLD-0136, 4/89)
On-Line Authorization Agreement for Preauthorized
Payment
On-Line Ticket Stock Return (X-0120, 6/89)
On-Line Weekly Settlement Envelope (SLD-0127)
Weekly Settlement Form
A/R Online Accounting Transaction Form (X-0105,
6/89)
Cash Tickets Envelope/Cancelled Tickets Envelope
Ticket Problem Report
Winner Claim Form (SLD-0007, 3/89)
Winner-Gram
We're Sorry But
Subscription Playslip
Confirmation Letter
Statement by Person(s) Receiving Gambling Winnings
(Form 5754)

Report of Cash Payments Over \$10,000 Received in a
Trade or Business (Form 8300, 3/92)
Agreement to Share Ownership and Proceeds of
Lottery Ticket

Virginia Tax Bulletin

Virginia Department of Taxation

APRIL 15, 1992

92-3

IMPORTANT INFORMATION FOR 1992 ESTIMATED TAX FILERS

Beginning with taxable year 1992, the age deduction amounts for taxpayers age 62 and over will be increased annually in each taxable year by the most recent percentage increase in the social security wage base. Taxpayers age 62 and over should pay special attention to this change in completing their Virginia estimated tax declarations, which are due by May 1, 1992.

In computing the age deduction for 1992, taxpayers should use the following amounts:

Age by midnight, January 1, 1993	Age deduction base
Age 62, 63, 64	\$ 6,236
Age 65 and over	\$12,472

These indexed deduction amounts must be reduced by social security benefits and/or railroad retirement benefits received in computing the tax benefit allowed.

The information regarding the percentage increase in the social security wage base was not available prior to the time that the estimated income tax return instructions went to press.

The indexed age deduction base does not affect the individual income tax returns for taxable year 1991. However, it will affect the 1992 estimated tax declarations which are due May 1, 1992.

Individuals who have questions regarding the age deduction should contact either the department's Taxpayer Assistance Section, Post Office Box 1115, Richmond, Virginia 23208, phone (804) 367-8031, or their local Commissioner of Revenue, Director of Finance or Supervisor of Assessments.

State Tax Update '92

VIRGINIA DEPARTMENT OF TAXATION

APRIL 15, 1992

'92 Legislative Changes Should Have Minimal Impact

Tax-related legislation passed by the 1992 General Assembly should have minimal impact on taxpayers and tax professionals. Some changes, however, may impact 1992 estimated tax declarations for individuals. These changes include:

REGISTRAR OF REGULATIONS

- Deferral of Virginia's conformity to the federal income tax deduction for 1/2 of Social Security self-employment taxes paid -- this will require taxpayers to make a Virginia addition for the amount of the federal deduction claimed in 1992 and 1993; however, additions made for taxable years 1990 through 1993 may be claimed as subtractions on returns for taxable years 1994 through 1997.

- Deferral of the effective date of the Virginia low-income housing credit for individuals and corporations until taxable year 1994; however, the credit will come into effect then only if the federal low-income housing credit remains in effect.

- Repeal of the individual and corporation income tax credit for broadcasters who air substance abuse advertising -- this credit otherwise would have taken effect for taxable year 1992.

Other legislative changes of interest include:

- Deferral until January 1, 1995 of provisions allowing individual itemizers to claim additional Virginia withholding exemptions to reflect the difference between the standard deduction and their anticipated itemized deductions.

CONTINUED ON NEXT PAGE

New Compliance Initiatives Taking Shape in '92

The department has received additional appropriations for the remainder of fiscal year 1992 and the biennium beginning July 1, 1992 to enhance existing compliance programs and implement other new and innovative programs.

These appropriations are expected to generate approximately \$65 million in additional revenue for the 1992 - 1994 biennium. New positions are being added, both in compliance areas (audit and collections) and support areas (systems development, taxpayer and technical assistance, compliance program development, tax policy, etc.).

In addition to new auditors and collectors, the department will be piloting three initiatives:

- New compliance programs emphasizing the utilization of multiple data sources to identify nonfilers

CONTINUED ON NEXT PAGE

Age Deduction Indexation Will Affect '92 Estimates

The age deduction for individuals 62 and older will be indexed annually beginning with taxable year 1992. For purposes of making 1992 estimated tax declarations, taxpayers should use the following base amounts for the deduction:

Age 62 - 64	\$ 6,236
Age 65 or over	\$12,472

The base amounts must still be reduced by the total Social Security and Tier 1 Railroad Retirement benefits the taxpayer expects to receive in 1992. ■

**SEE NEXT PAGE FOR
'91 FILING TIPS**

Filing Tips for '91 Returns: From TAX's Perspective

REFUNDS: The accelerated refund (AR) program continues to be a success. This is possible through the cooperation of taxpayers, practitioners, and local tax officials. To ensure that the program continues to run smoothly, please take a moment to make sure the taxpayer meets the filing criteria below before submitting an accelerated refund for processing:

- Eligible for a refund (**please**, no ARs on zero balance or tax due returns, or returns of less than \$1 in tax!)

- Filed a 1990 Virginia return;
- Name(s), address, and Social Security number(s) on '90 return have not changed; and
- Filing status has not changed since the '90 return.

Also, ARs also should not be filed for deceased individuals.

Filing ARs that meet the above criteria will ensure the continued success of the program.

AGE DEDUCTION: On joint or combined returns, remember that *each* spouse age 62 or older is now

Criminal Investigation Unit Getting Results

The department's new Criminal Investigation Unit, formed in July 1991, focuses on tax evasion resulting from criminal or fraudulent activities. The 5-person unit has already proven its value -- *one* particularly successful investigation resulted in the collection of over \$458,000 in sales and income taxes.

Other investigations have resulted in the conviction of four individuals for conversion of sales and withholding taxes held in "trust" for the state (one was sentenced to two years in prison) and two other individuals for income tax evasion. The unit has also investigated several businesses which routinely paid taxes by bad check -- prosecutions have not been recommended, however, as the checks have been made good.

A key to the future success of the unit is the 1992 General Assembly's enactment of a class 6 felony for the willful conversion of trust taxes collected or withheld by businesses. ■

entitled to the age deduction. Thus, where one spouse cannot fully use the deduction, the excess now can be used to offset the taxable income of the other spouse. ■

Legislative Changes, continued

- Extension of recovery period for corporate ACRS additions -- subtractions to reclaim previous additions will not be allowed in taxable years 1992 and 1993; however, the recovery period will be extended by two additional years to taxable year 1998.

- Deferral of the effective date of the sales tax exemption for nonprescription drugs from July 1, 1992 until July 1, 1994.

- Repeal of the sales tax exemption for sales by state ABC stores, effective July 1, 1992.

- Exemption of distributions from IRAs and SEPs from income tax withholding, retroactive to January 1, 1992 (however, all other amounts paid to Virginia residents and subject to federal withholding under Internal Revenue Code §§ 3402 or 3405 remain subject to state withholding).

- Modifying the individual income tax credit for income tax paid to another state, effective for taxable year 1992, to hold harmless Virginia residents whose only source of income is wages earned in North Carolina -- due to a recent N.C. law change, these taxpayers were required to pay tax to *both* states; the law change will provide these taxpayers with a credit equal to the tax they paid to N.C. (not to exceed the Virginia tax, however). ■

Compliance Initiatives, continued

and underreporters;

- A program of income and expense audits of individuals and corporations; and

- A program to promote and expand *voluntary* compliance through enhanced communications with taxpayers and practitioners.

Interdisciplinary teams are currently at work throughout the department planning the logistical and organizational changes necessary to implement the expanded compliance program. ■

Details on all enacted tax legislation can be found in the **1992 Legislative Summary** available June 15

Come to the 1st ever IRS/TAX TOWN MEETING

An opportunity to provide input on forms, publications & services to Tax Commissioner Bill Forst & IRS District Director Jack Petrie

May 21, 1992, 5 - 6:30 p.m.
Richmond Centre (Tredegar Room)
400 E. Marshall St., downtown Richmond

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF EDUCATION

Title of Regulation: VR 270-01-0054. Reporting Acts of Violence and Substance Abuse in Schools.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: April 27, 1992

DEPARTMENT OF HEALTH

Title of Regulation: VR 355-34-100. Private Wells Regulations.

Governor's Comment:

I approve of the form and the content of this proposal.

/s/ Lawrence Douglas Wilder
Governor
Date: April 20, 1992

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: VR 460-03-4.1921. Maximum Obsteric and Pediatric Payments.

Governor's Comment:

I approve of the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: April 20, 1992

DEPARTMENT OF THE TREASURY

Title of Regulation: VR 640-04-1. Regulations Governing Escheats.

Governor's Comment:

Upon review of a version of the regulation which contains clarifying changes suggested by the public,

pending further public comment, I concur with the regulation as proposed.

/s/ Lawrence Douglas Wilder
Governor
Date: April 27, 1992

BOARD OF YOUTH AND FAMILY SERVICES

Title of Regulation: VR 690-15-001. Regulations for State Reimbursement of Local Juvenile Residential Facility Costs.

Governor's Comment:

I withhold my final determination and comments until the public has had an opportunity to review and express their opinions.

/s/ Lawrence Douglas Wilder
Governor
Date: April 27, 1992

GENERAL NOTICES/ERRATA

Symbol Key †
† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

NOTICE

Notices of Intended Regulatory Action are published as a separate section at the beginning of each issue of the Virginia Register.

DEPARTMENT OF HEALTH

Public Notice

The State Health Commissioner, acting on behalf of the Board of Health, has established in § 3.7 C of the proposed Alternative Discharging Sewage Treatment System Regulations for Individual Single Family Dwellings a minimum standard to which sewage effluent discharged to a dry ditch or intermittent streams must be treated. This treatment standard requires effluent quality not to exceed 10 mg/l of BOD5 (Five Day Biochemical Oxygen Demand), 10 mg/l of suspended solids and a fecal coliform level of less than or equal to 100 per 100 ml.

The purpose of this notice is to request public comments on the appropriateness of this proposed standard taking into consideration public health factors, ground water protection factors, nuisance factors, as well as environmental resource factors. Comments as to other appropriate standards necessary to reduce risks to public health, abate nuisances, or reduce the impact to environmental resources are also requested.

The preferred point of discharge is an all weather stream where sewage effluent can be readily diluted at least 10:1 as measured during a 7 consecutive day average of a 10 year low flow (7-Q-10) and thereby minimize public health and water quality impacts. The State Water Control Board's General Permit establishes discharge limitations of 30 mg/l of BOD5, 30 mg/l of suspended solids, and a fecal coliform bacteria level of less than or equal to 200 per 100 ml. If these limitations remained the same for discharges to dry ditches or intermittent streams then comments are requested on the requirement that a polishing sand filter or similar device be added to the treatment facility. The purpose of this requirement is to reduce the risks to public health and the impact on groundwater and other environmental resources and to minimize nuisances, where partially treated effluent is not diluted.

Comments on these proposals should be submitted to

Donald J. Alexander, Director, Bureau of Sewage and Water Services, Virginia Department of Health, P.O. Box 2448, Richmond, Virginia 23218. Comments must be received by May 29, 1992.

† Notice

Maternal and Child Health Services Block Grant Application Fiscal Year 1993

The Virginia Department of Health will transmit to the federal Secretary of Health and Human Services by July 15, 1992, the Maternal and Child Health Services Block Grant Application for the period October 1, 1992 through September 30, 1993, in order to be entitled to received payments for the purpose of providing Maternal and Child Health services on a statewide basis. These service include:

- preventive and primary care services for pregnant women, mothers, and infants up to age 1
- preventive and primary care services for children and adolescents
- family-centered, community-based, coordinated care and the development of community-based systems of services for children with special health care needs

The Maternal and Child Health Services Block Grant Application makes assurance to the Secretary of Health and Human Services that the Virginia Department of Health will adhere to all the requirements of Section 505, Title V-Maternal and Child Health Services Block Grant of the Social Security Act, as amended. To facilitate public comment, this notice is to announce a period from June 1 through June 15, 1992 for review and public comment on the Block Grant Application. Copies of the document will be available as of June 1, 1992, in the office of the Director of each county and city health department. Individual copies of the document may be obtained by contacting Ms. Rosanne Kolesar at the following address; written comments must be addressed to Ms. Kolesar and received by June 15, 1992 at the following address: Virginia Department of Health, Health Care Services, 1500 East Main Street, Room 104B, Richmond, Virginia 23219-2448, (804) 786-5214.

DEPARTMENT OF LABOR AND INDUSTRY

Notice to the Public

Notice is hereby given that the Department of Labor and Industry has revised the procedures to be followed by Labor Law Division staff for investigation, collection of wages, and assessment of civil monetary penalties under the Virginia Payment of Wage Law, § 40.1-29 of the Code of Virginia. These procedures became effective January 1, 1992, with revisions effective February 10, 1992. They are published solely for public information.

Labor Law Division Policy Statement 89-5, published in The Virginia Register, Volume 5, Issue 19, page 2738, "Procedures for Assessment of Civil Money Penalty for Violations of the Virginia Payment of Wage Law, § 40.1-29," has been rescinded effective January 1, 1992. The matters covered in the rescinded Policy Statement 89-5 are now covered by Labor Law Division Policy Statement 91-1.

For information contact: Dennis G. Merrill, Director, Labor Law Division, Department of Labor and Industry, Powers-Taylor Building, 13 South Thirteenth Street, Richmond, Virginia 23219, telephone (804) 786-2386.

I. Purpose

II. Scope

III. Background

IV. Policy

A. Employer Notification of Wage Claim Received

B. Notification of Representative's Determination

C. Informal Conference

D. Notification of Supervisor's Determination

E. Employer's Right to Trial in Court

F. Filing Suit When Notice of Contest Is Filed

G. Entry of Final Order

H. Assessment of Penalties after Court Judgment for Wages, Or Where Wages are Paid Without Legal Action

I. Certification of Final Order

J. Recording Final Orders and Closure of Case

K. Collection of Civil Monetary Penalties, Wages, Interest and Attorneys' Fees

L. Write-Off Request for Civil Monetary Penalty

M. Prejudgment Attachments

N. Penalty Calculations; Waiver of Penalties

O. Interest Calculation

P. Attendance by Representatives at Court Hearings; Subpoenas

Q. Claimant Authorization for Collection and Deduction of Attorneys' Fees

APPENDIX - Section 40.1-29 of the Code of Virginia as effective July 1, 1991

ATTACHMENTS - Division Policy Statement 91-1 Forms

Revised February 10, 1992

TO: All Staff, Labor Law Division

FROM: Dennis G. Merrill, Director

SUBJECT: Procedures for Adjudication of Wage Claims and Assessment of Civil Monetary Penalty for Violations of the Virginia Payment of Wage Law, § 40.1-29

EFFECTIVE DATE: January 1, 1992

I. Purpose:

The purpose of this policy is to establish the procedures to be followed by the Virginia Department of Labor and Industry, Labor Law Enforcement Division, when deciding wage claims and assessing civil money penalties for violations of the Virginia Payment of Wage Law, § 40.1-29, Code of Virginia (1950).

II. Scope:

These procedures shall be followed by all Division staff members and shall apply whenever pertinent in the enforcement of § 40.1-29, Code of Virginia (1950).

III. Background:

This policy statement institutes a major revision of policy relating to informal settlement and adjudication of wage claims and civil monetary penalties for violations of § 40.1-29. This policy replaces Labor Law Division Policy 89-5, "Procedures for Assessment of Civil Money Penalty for Violations of the Virginia Payment of Wage Law, § 40.1-29," which is being rescinded.

The Payment of Wage Law of the Code of Virginia is set out as the Appendix to this Policy Statement.

IV. Policy:

Labor Law Division Representatives shall investigate complaints alleging a violation of § 40.1-29 according to procedures established by Division policy.

In obtaining initial information from the employer, the representative shall attempt to ascertain the legal entity responsible, and the number of employees at the time of the investigation. This information is necessary in order to calculate the reduction-for-size portion of the Civil Monetary Penalty ("CMP") Calculation Report.

General Notices/Errata

Representatives and supervisors shall, to the extent possible, conduct investigations by telephone and mail. Travel shall be limited to those situations in which an investigation cannot otherwise be pursued effectively or reasonably.

A. Employer Notification of Wage Claim Received

Upon receipt of a wage claim, the employer shall be notified with the form letter, LLA(91-1)-1, sent by both certified mail, return receipt requested and regular first class mail.

B. Notification of Representative's Determination

1. If the representative is uncertain as to the validity of the claim, he shall request advice from the supervisor as to how to proceed.
2. If the representative determines that the claim is clearly not valid, he shall so notify all parties using form letter LLA(91-1)-2.
3. If the representative determines that the claim is valid and that the Code of Virginia has been violated, he shall notify the employer with form letter LLA(91-1)-3, or, if a repeat offense, LLA(91-1)-3(A). This letter shall be mailed both by first class mail and by certified mail, return receipt requested. Where appropriate, the representative may attempt to personally deliver this letter to the employer in lieu of service by mail. If personal service is made, delivery by mail is not required.

Before preparing this letter, the representative shall complete the CMP Calculation Report.

In accordance with the terms of LLA(91-1)-3 and LLA(91-1)-18 (Consent Agreement Form), the Civil Monetary Penalty will be waived if the wages are paid within 15 calendar days of the employer's receipt of LLA(91-1)-3, and the employer signs the Consent Agreement Form.

Whenever under this Policy an act is required to be done within 15 days of receipt of a notice which has been sent both by certified mail and first class mail, and the certified letter is not signed for, the deadline shall be calculated by adding 3 days to allow for mail delivery time. In such a case, therefore, the deadline will be the 18th day following the date the notice was mailed.

Employers shall be instructed to whom checks are payable, and where they are to be sent. Generally, checks for both wages and CMPs should be sent to the regional office before final orders are issued, and both are to be sent to the Central Office after they are issued. Please note that if an attorney is involved and his fees are to be collected, the attorney may request that checks be made jointly to the attorney and the employee or the Commonwealth, as appropriate.

C. Informal Conference

On written request of the employer, an informal conference shall be held. The conference shall be scheduled as soon as possible after the employer's request is received. If the employer fails to agree to a conference date within 5 working days from the time he is asked to agree to a date, a date for the conference shall be unilaterally selected by the Department and the employer shall be notified in writing of the scheduled time for the conference, and the Department's efforts to schedule the conference shall be thoroughly documented in the Case Diary Log. A reasonable effort shall be made to schedule informal conferences within 15 calendar days of the date the employer requests the conference. Both employer and employee shall be advised that no evidence presented after the informal conference shall be considered.

The conference will normally be held by the supervisor. In the conference, the parties shall be granted the following rights: (i) to have reasonable notice thereof, (ii) to appear in person, or by counsel or other qualified representative, for the informal presentation of factual data, argument, or proof, (iii) to have notice of any contrary fact basis or information in the possession of the agency which can be relied upon in making an adverse decision, (iv) to receive a prompt decision, and (v) to be informed, briefly and generally in writing, of the factual or procedural basis for an adverse decision in any case.

The complainant shall be invited to this conference, and a reasonable effort shall be made in scheduling the meeting to permit the complainant to attend. He shall be advised, however, that no evidence will be accepted after the conference. The representative should normally attend this conference, but need not at the discretion of the supervisor.

The supervisor may request security for an informal conference if he deems it necessary. The supervisor shall receive any information which either party may wish to submit. The supervisor shall prepare a memorandum to the case file, which may be hand-written, listing participants at the meeting, and succinctly summarizing the employer's defenses and any other matters discussed. This will be part of the record forwarded to Circuit Court if a Final Order is appealed, and shall be type written at that time if necessary.

D. Notification of Supervisor's Determination

Following the supervisor's informal conference the supervisor shall, if he finds the complaint to be invalid, inform the complainant in writing of his determination in the format illustrated in form LLA(91-1)-4. If he finds the complaint to be valid, he shall inform the employer in writing in the format LLA(91-1)-5, or, if a repeat offense, LLA(91-1)-5(A). This letter shall be sent both first class mail and certified mail, return receipt requested. The supervisor's letter need not be a formal or lengthy document. It shall, however, succinctly explain the reason

for his determination, and the reason why the employer's argument, if any, was not accepted.

In accordance with the terms of LLA(91-1)-5 and LLA(91-1)-18 (Consent Agreement Form), the Civil Monetary Penalty will be waived if the wages are paid within 15 calendar days of the employer's receipt of LLA(91-1)-5, and the employer signs the Consent Agreement Form.

When an employer fails to appear for a scheduled informal conference, and the supervisor is of the opinion that the claim is valid, he is not required to notify the employer of his determination with Forms LLA(91-1)-5 or LLA(91-1)-5(A), and may instruct the representative to prepare final orders for wages and a civil monetary penalty in accordance with Paragraph IV G of this policy.

E. Employer's Right to Trial in Court

In every case the employer shall be afforded the right to a de novo trial in the appropriate court. When the Department has determined that the claim against him is valid, and he is so notified with Form LLA(91-1)-3 or LLA(91-1)-3(A), he shall be granted 15 calendar days from the date he receives the notification to file a written notice of contest requesting the court hearing. In the alternative, at that time, he may request an informal conference. If such a conference is held, and it is determined that the claim is valid, he shall be notified with Form Letter LLA(91-1)-5 or LLA(91-1)-5(A), that he has 15 calendar days to file a notice of contest requesting a court hearing.

F. Filing Suit When Notice of Contest Is Filed

In any case in which an employer files a timely notice of contest, the notice shall be acknowledged with Form LLA(91-1)-6. Each such case shall be referred to the appropriate Commonwealth's Attorney for prosecution with Form Letter LLA(91-1)-7. Form Letter LLA(91-1)-7 shall be sent in each individual case, regardless of whether the Commonwealth's Attorney has advised us that he will not accept these cases. The purpose of this prosecution by the Commonwealth's Attorney is to establish that a violation of § 40.1-29 occurred and that the civil monetary penalty assessed is due and owing the Commonwealth.

When suit is brought, the Commonwealth's Attorney should be requested to initiate two warrants in debts, one for the wage claim and the other for the CMP. This is necessary since the Court is being requested to issue separate judgments in favor of the complainant and the Commonwealth. A copy of the Payment of Wage Civil Monetary Penalty Calculation Report, LLA(91-1)-8, shall always be sent to the Commonwealth's Attorney with the request that it be brought to the attention of the Court.

If the Commonwealth's Attorney refuses to accept and prosecute the case, the complainant will be notified of this fact, with Form Letter LLA(91-1)-9, and advised that he or

she may pursue the matter on his own in General District Court or by hiring his own private counsel and that if he decides to pursue it, our representative will appear as a witness on his behalf if subpoenaed.

If the Commonwealth's Attorney accepts the case and the Court rules in the Department's favor, but does not rule on the question of a Civil Monetary Penalty, the court judgment will be the basis for issuing a Final Order assessing a civil monetary penalty and will also be turned over to an attorney to collect the wages, interest, and attorneys' fee if not paid promptly.

G. Entry of Final Order

In appropriate cases under this policy, the representative shall prepare Final Orders. Separate orders shall be prepared for the payment of wages and interest and for assessing a civil monetary penalty and attorneys' fees. A wage order shall be prepared in the format illustrated by LLA(91-1)-10 (Order-Adjudication of Wages and Interest Due). A civil monetary penalty order shall be prepared in the format illustrated by forms LLA(91-1)-11 (Order - Assessment of Civil Monetary Penalty and Attorneys' Fees Without Court Judgment) or LLA(91-1)-13 (Order - Assessment of Civil Monetary Penalty and Attorneys' Fees Upon Court Judgment). (Both Forms LLA (91-1)-11 and (91-1)-13 are necessary because some courts may decline to rule on the Civil Monetary Penalty issue.) All Orders shall be printed on a letter quality printer. A Final Order Case Summary shall be prepared in the form illustrated in LLA(91-1)-14.

The Final Order Case Summary, the Wage Claim CMP Calculation Sheet, and Final Orders shall be sent to the Labor Law Director, and then to the Assistant Commissioner for Enforcement for review and approval, and then to the Commissioner for approval and signature. The Central Office shall mail a notarized true copy of the orders issued by the Commissioner to the employer by both certified mail, return receipt requested and regular first class mail with copies to the regional office.

Original copies of all orders issued by the Commissioner shall be entered into a Wage Claim Order Book maintained in chronological order by the Central Office. Appeals from Department Orders shall be to the Circuit Court for errors of law only.

H. Assessment of Penalties after Court Judgment for Wages, Or Where Wages are Paid Without Legal Action

In any case in which a court renders judgment in favor of the Department in a wage case, but does not decide the CMP issue, the representative shall notify the employer of the Department's right to assess a Civil Monetary Penalty, and of his right to a hearing, with Form LLA(91-1)-12. If properly requested, an informal conference shall be held in accordance with Division Policy Statement 89-9. If an informal conference is not requested, or if a Civil Monetary Penalty is to be assessed following the informal

General Notices/Errata

conference, a Final Order shall be prepared in accordance with Form LLA(91-1)-13, in the same manner described in Paragraph G above. Such an Order shall not be sent to the Labor Law Director until the court appeal period has expired, with no appeal having been taken.

In every case, after the investigation has been completed and Form LLA(91-1)-3 has been sent, the wages are paid without legal adjudication by a court or the Department, the representative shall obtain either payment of the civil monetary penalty or a consent agreement. In the event the employer refuses to do either, an informal conference shall be held in accordance with Policy Statement 89-9. Forms LLA(91-1)-12 and LLA(91-1)-13, with appropriate modifications, may be used to initiate and adjudicate such a hearing.

I. Certification of Final Order

After 33 calendar days have expired following the employer's receipt of a Final Order, the Central Office shall notify the representative of the expiration of the appeal period, and the representative shall prepare the Certification of Final Order of the Commissioner of Labor and Industry on a letter quality printer and forward it to the Labor Law Director. The Certification form shall be approved and signed by the Labor Law Director. The Certification shall be prepared in the format illustrated in form LLA(91-1)-15.

J. Recording Final Orders and Closure of Case

After the Certification Form has been returned to the representative, the representative shall record the Certification of Final Order with the circuit court in the jurisdiction(s) in which the employer conducted business, and in all other jurisdictions in which the employer may have real property. After recording the Orders, the representative shall close the case and send closure information to the Central Office.

K. Collection of Civil Monetary Penalties, Wages, Interest and Attorneys' Fees

After docketing the Final Order along with the certification form, collection activity shall be initiated, and shall be the responsibility of the Central Office. A Penalty Demand Letter shall be sent to the employer for collection of the civil monetary penalty, Form Letter LLA(91-1)-16. If the employer does not pay the penalty in accordance with the terms in the Demand Letter, the case will be referred to the Attorney General's Office or a private collection agency for collection. The case shall be referred to private counsel for collection of wages and interest due and attorneys' fees. If collection efforts of the Attorney General's Office, collection agency and private counsel fail to satisfy the Final Order because of one or more of the following conditions, the Central Office shall close the Division case file and no further action will be taken:

- The debtor employer has become bankrupt and

evidence of bankruptcy can be documented.

- The debtor employer has no assets which can be attached and this status can be independently verified and documented.

If collection efforts of the Attorney General's Office, collection agency and private counsel do not satisfy the final order in full, a case shall be written off in accordance with State and Department procedure.

ATTORNEYS' FEES: Each Final Order entered by the Commissioner will include an award of one-third of the judgment or CMP amount for attorneys' fees. It is important to note, however, that IN ANY CASE IN WHICH AN ATTORNEY IS NOT ENGAGED, THE ATTORNEY'S FEE WILL NOT BE COLLECTED, AND IF SENT TO THE DEPARTMENT, WILL BE RETURNED. In such a case, when full payment is received the Clerk's office where the Final Order is entered will be notified that the debt is fully satisfied, even though no attorneys' fees were paid.

L. Write-off Request for Civil Monetary Penalty

When advised by the Attorney General's Office, collection agency or private counsel that no assets are available to satisfy the final order, the Central Office will use the agency's write-off form to submit this information to the Accounts Receivable Coordinator to have the civil monetary penalty approved by the Assistant Commissioner and Commissioner for write off.

In addition to bankruptcy and establishment of the fact the employer has no assets to levy on, the Central Office shall also prepare a write-off request for the penalty when the employer cannot be located. The documentation should describe all efforts made by the Attorney General's Office or collection agency to locate the employer.

M. Prejudgment Attachments

If there is reason to believe the employer is attempting to hide or remove assets from the Commonwealth in an attempt to defraud the claimant(s), the representative should immediately bring the matter to the attention of the field supervisor. If the supervisor believes it is appropriate, he shall advise the Labor Law Director, who shall consult with the Assistant Commissioner for Enforcement to determine whether assistance of legal counsel shall be sought for the purpose of filing a pre-judgment attachment.

N. Penalty Calculations; Waiver of Penalties

A Civil Monetary Penalty shall be assessed in each case where an employer who knowingly fails to make payment of wages in accordance with § 40.1-29 of the Code of Virginia, unless waived under other provisions of Division policy. Ignorance of the law does not mean an employer "unknowingly" fails to make payment. If the employer is aware of the amount being paid to the employee, and if

that amount is insufficient under the law, the employer "knowingly" fails to make payment of wages in accordance with § 40.1-29.

Before calculating a civil monetary penalty, the representative shall check regional and central records and databases to determine whether the defendant has had a previous violation. A final Department Order, a final court judgment, or a previous consent agreement constitutes evidence of a previous violation.

All civil monetary penalties, shall be calculated by the Payment of Wage Civil Monetary Penalty Calculation Report, LLA(91-1)-8. A separate sheet shall be used for each claimant.

Each separate pay period 1) in which an employee works, and 2) is not paid on or before the established payday for that pay period, is a separate violation of the Payment of Wage Law. CMP's calculated with the calculation sheet where there are multiple pay period violations may result in inappropriately large CMP's, however. The field staff is requested to bring such cases to the Director's attention.

A "repeat offender" is a defendant for which there is a legally final court judgment or a Department of Labor and Industry Order adjudicating the defendant to be in violation of the Virginia Payment of Wage Law, or one who has previously signed a consent agreement. "Final" means all legal appeals have been exhausted. No such violation which occurred 3 years or earlier from the present violation, nor a violation occurring prior to January 1, 1992, shall be considered.

A repeat offender shall be assessed a civil monetary penalty of \$1000 per violation, and shall not be offered a waiver of the penalty for prompt payment of the wages.

The Civil Monetary Penalty as calculated on the Penalty Calculation Report, LLA(91-1)-8, shall be the standard penalty expected to be assessed. No greater amount shall be assessed. In the interest of justice, however, the regional supervisor may reduce a standard civil monetary penalty by no more than 50%. The Labor Law Director may, subject to review of the Assistant Commissioner for Enforcement, reduce a penalty by any amount, or may determine that no penalty shall be assessed.

In any case in which the standard civil monetary penalty is reduced, a written statement explaining the reasons for the reduction shall be placed in the file. Reasons for reducing a penalty include but are not limited to obvious or demonstrated financial hardship or inability to pay of the employer; the degree of good faith by the employer in attempting to comply with the law, and in attempting to properly compensate his employees; and whether the assessment of a penalty would serve the purpose of deterring the defendant or others from failing to obey the Payment of Wage Law in the future. One example of the latter would be where the culpable

employer is deceased or permanently disabled or, in the case of a corporation, where the corporation has ceased business and is unlikely to resume active status.

The Central Office shall track the assessment of collection activities and will provide the Division of Administrative Services with Accounts Receivable Reports and Penalty Collection Reports as required.

O. Interest Calculation

Interest may be calculated using the following method:

- Multiply the Wages Due by .08 (8%). The figure that results is the Yearly Interest.
- Divide the Yearly Interest by 365 (number of days in a year). This figure equals the Daily Interest amount.
- Multiply the Daily Interest amount by the number of days the wages are overdue.
- The result is the Total Interest Due the claimant.

Please note that if wage violations have occurred over more than one pay period, the correct amount of interest due must be determined by repeating the interest calculation for each affected pay period. Once the representative has completed a series of individual interest calculations, the separate interest due amounts must be added together to arrive at the total interest due the claimant.

All final orders must specify that interest shall accrue at eight (8) percent from the date the wages were legally owed to the complainant.

P. Attendance by Representatives at Court Hearings; Subpoenas

In cases prosecuted by a Commonwealth's Attorney, the Attorney General, or other attorney engaged by the Commonwealth, a representative shall appear at trial on request of the attorney whether or not a subpoena has been issued for the representative's appearance.

No representative shall appear at any other court hearing or trial unless he or she has received a subpoena from the court compelling attendance.

Q. Claimant Authorization for Collection and Deduction of Attorneys' Fees

In each case in which a Final Order of the Commissioner or a court judgment has been entered in favor of the claimant, and the case is sent to Richmond for collection, the representative shall obtain the signature of the claimant on Form LLA(91-1)-19 and send it to Richmond.

General Notices/Errata

APPENDIX TO DIVISION POLICY STATEMENT 91-1

§ 40.1-29. Time and medium of payment; withholding wages; written statement of earnings; agreement for forfeiture of wages; penalty for violation of section; proceedings to enforce compliance.— A. 1. All employers operating a business shall establish regular pay periods and rates of pay for employees except executive personnel. All such employers shall pay salaried employees at least once each month and employees paid on an hourly rate at least once every two weeks or twice in each month, except that a student who is currently enrolled in a work-study program or its equivalent administered by any secondary school, institution of higher education or trade school may be paid once each month if the institution so chooses. Upon termination of employment an employee shall be paid all wages or salaries due him for work performed prior thereto; such payment shall be made on or before the date on which he would have been paid for such work had his employment not been terminated.

2. Any such employer who knowingly fails to make payment of wages in accordance with subsection A of this section shall be subject to a civil penalty not to exceed \$1000 for each violation. The Commissioner shall notify any employer who he alleges has violated any provision of this section by certified mail. Such notice shall contain a description of the alleged violation. Within fifteen days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. In determining the amount of any penalty to be imposed, the Commissioner shall consider the size of the business of the employer charged and the gravity of the violation. The decision of the Commissioner shall be final.

B. Payment of wages or salaries shall be in lawful money of the United States or check payable at face value upon demand in lawful money of the United States.

C. No employer shall withhold any part of the wages or salaries of any employee except for payroll, wage or withholding taxes or in accordance with law, without the written and signed authorization of the employee. An employer, upon request of his employee, shall furnish the latter a written statement of the gross wages earned by the employee during any pay period and the amount and purpose of any deductions therefrom.

D. No employer shall require any employee, except executive personnel, to sign any contract or agreement which provides for the forfeiture of the employee's wages for time worked as a condition of employment or the continuance therein, except as otherwise provided by law.

E. An employer who willfully and with intent to defraud violates this section shall be guilty of a misdemeanor.

F. The Commissioner may require a written complaint of the violation of this section and, with the written and

signed consent of an employee, may institute proceedings on behalf of an employee to enforce compliance with this section, and to collect any moneys unlawfully withheld from such employee which shall be paid to the employee entitled thereto. In addition, following the issuance of a final order by the Commissioner or a court, the Commissioner may engage private counsel, approved by the Attorney General, to collect any moneys owed to the employee or the Commonwealth. Upon entry of a final order of the Commissioner, or upon entry of a judgment, against the employer, the Commissioner or the court shall assess attorneys' fees of one-third of the amount set forth in the final order or judgment.

G. In addition to being subject to any other penalty provided by the provisions of this section, any employer who fails to make payment of wages in accordance with subsection A of this section shall be liable for the payment of all wages due, plus interest at an annual rate of eight percent accruing from the date the wages were due.

H. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the State Treasurer. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner, the general district courts or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

FORMS INDEX

LLA(91-1)-1, Employer Notification of Wage Claim Received

LLA(91-1)-2, Notification of Representative's Determination - Invalid

LLA(91-1)-3, Notification of Representative's Determination - Valid

LLA(91-1)-3(A), Notification of Representative's Determination - Valid, Repeat Offense

LLA(91-1)-4, Notification of Supervisor's Determination - Invalid

LLA(91-1)-5, Notification of Supervisor's Determination - Valid And Notification or Order to be Entered

LLA(91-1)-5(A), Notification of Supervisor's Determination - Repeat Offense and Notification of Order To Be Entered

- LLA(91-1)-6, Acknowledgment of Notice of Contest
- LLA(91-1)-7, Letter of Referral to Commonwealth's Attorney
- LLA(91-1)-8, Payment of Wage Civil Money Penalty Calculation Report
- LLA(91-1)-9, Notification of Complainant of Commonwealth Attorney's Inability to Prosecute
- LLA(91-1)-10, Final Order - Adjudication of Wages and Interest Due
- LLA(91-1)-11, Final Order - Assessment of Civil Monetary Penalty and Attorneys' Fees Without Court Judgment
- LLA(91-1)-12, Notification of Order To Be Entered Upon Court Judgment
- LLA(91-1)-13, Final Order - Assessment of Civil Monetary Penalty and Attorneys' Fees Upon Court Judgment
- LLA(91-1)-14, Final Order Case Summary
- LLA(91-1)-15, Certification of Final Order of the Commissioner of Labor and Industry
- LLA(91-1)-16, Penalty Demand Letter
- LLA(91-1)-17, Sample Affidavit and Certification of Mailing
- LLA(91-1)-18, Payment of Wage Consent Agreement Form
- LLA(91-1)-19, Claimant's Authorization for Collection and Deduction of Attorneys' Fees

SECRETARY OF THE COMMONWEALTH

† Notice to Counties, Cities, Towns, Authorities, Commissions, Districts and Political Subdivisions of the Commonwealth

Notice is hereby given that pursuant to § 2.1-71 of the Code of Virginia, each county, city and town and each authority, commission, district or other political subdivision of the Commonwealth to which any money is appropriated by the Commonwealth or any of the above which levies any taxes or collects any fees or charges for the performance of public services or issues bonds, notes or other obligations, shall annually file with the Secretary of the Commonwealth a list of all bond obligations, the date and amount of the obligation and the outstanding balance therein, on or before June 30 of each year.

A copy of the form which may be photocopied for use herein described follows.

Statutory Authority: Section 2.1-71 of the Code of Virginia.

Contact: Sheila A. Evans, Conflict of Interest and Appointments Specialist, Post Office Box 1-D, Richmond, Virginia 23201, Old Finance Building, Capitol Square, Richmond, Virginia 23219, (804) 786-2441.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Change of Address: Our new mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you do not follow-up with a mailed copy. Our FAX number is: 371-0169.

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 HEALTH PROFESSIONS

Title of Regulation: VR 465-09-01. Certification for

General Notices/Errata

Optometrists to Prescribe for and Treat Certain Diseases or Abnormal Conditions of the Human Eye and Its Adnexa with Certain Therapeutic Pharmaceutical Agents.

Publication: 8:16 V.A.R. 2632 May 4, 1992.

Correction to Final Regulation:

Page 2632, § 1.1, after "is" add: "cut, altered, or otherwise infiltrated by mechanical or other means."

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

† May 19, 1992 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒ 0

A meeting to discuss possible revisions to board regulations and conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.



DEPARTMENT FOR THE AGING

Governor's Advisory Board on Aging

† June 10, 1992 - 10 a.m. - Open Meeting
† June 11, 1992 - 9 a.m. - Open Meeting
Richmond Airport Hilton, 5501 Eubank Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Committee and business meetings.

Contact: Catherine Saunders, Special Assistant to the Commissioner, Virginia Department for the Aging, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 225-2271, toll-free 1-800-552-3402 or (804) 225-2271/TDD ☎

Long-Term Care Ombudsman Advisory Council

† June 30, 1992 - 9:30 a.m. - Open Meeting
Virginia Department for the Aging, 700 E. Franklin Street, Richmond, Virginia.

Business will include continued discussion of an initiative with a local citizen's advocacy support group.

Contact: Mark C. Miller, State Ombudsman, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 225-3141, toll-free 1-800-552-3402 or (804) 225-2271/TDD ☎

VIRGINIA AGRICULTURAL COUNCIL

May 18, 1992 - 9 a.m. - Open Meeting
May 19, 1992 - 9 a.m. - Open Meeting
Holiday Inn-Airport, 5203 Williamsburg Road, Sandston, Virginia.

A meeting to (i) hear new project proposals which are properly supported by the Board of Directors of a Commodity Group; (ii) review financial statements; and (iii) discuss any other business that may come before the members of the council.

Contact: Henry H. Budd, Assistant Secretary, 7th Floor, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-0792.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

May 20, 1992 - 9 a.m. - Open Meeting
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒

A meeting to discuss legislation, regulations and fiscal matters and to receive reports from the staff on the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of other business, the board will review public comments for a period not to exceed 30 minutes.

Calendar of Events

Contact: Roy E. Seward, Secretary to the Board, Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-3501 or (804) 371-6344/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Cattle Industry Board

† July 9, 1992 - 10 a.m. - Open Meeting
Sheraton Red Lion Inn, Blacksburg, Virginia.

A meeting to review finances, hear research reports and updates on various ongoing projects. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Reginald B. Reynolds, Executive Director, Virginia Cattle Industry Board, P.O. Box 176, Daleville, VA 24083, telephone (703) 992-1009.

Virginia Farmer's Market Board

May 21, 1992 - 1 p.m. - Open Meeting
State Capitol Building, House Room 1, Richmond, Virginia.
☎ (Interpreter for deaf provided upon request)

A meeting to (i) review update on markets; (ii) review finances; (iii) discuss southwest farmer's market grand opening; and (iv) discuss upcoming tours of markets by special interest groups. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Nancy L. Israel, Farmers' Market Network, Program Director, 1100 Bank Street, Washington Building, Richmond, VA 23219, telephone (804) 371-6157.

Virginia Marine Products Board

† June 2, 1992 - 5:30 p.m. - Open Meeting
Nicks Steak and Spaghetti House, Route 17, Gloucester Point, Virginia. ☎

The board will meet to receive reports from the Executive Director of the Virginia Marine Products Board on: finance, marketing, past and future program planning, publicity/public relations, old/new business. At the conclusion of other business, the board will entertain public comments for a period not to exceed 30 minutes.

Contact: Shirley Estes Berg, 97 Main Street, Suite 103, Newport News, VA 23601, telephone (804) 594-7261.

Virginia Winegrowers Advisory Board

July 7, 1992 - 10 a.m. - Open Meeting
State Capitol Building, House Room 4, Richmond, Virginia.

A meeting to elect a new chairman and vice-chairman. In addition, the board will hear committee and project monitor reports.

Contact: Annette Ringwood, Secretary, Virginia Winegrowers Advisory Board, P.O. Box 1163, Richmond, VA 23209, telephone (804) 371-7685.

STATE AIR POLLUTION CONTROL BOARD

† July 1, 1992 - 10 a.m. - Public Hearing
Board of Supervisors Meeting Room, 205 Academy Drive, N.W., Abingdon, Virginia.

† July 1, 1992 - 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.

† July 1, 1992 - 10 a.m. - Public Hearing
Auditorium of the Recreation Center, 301 Grove Street, Lynchburg, Virginia.

† July 1, 1992 - 10 a.m. - Public Hearing
Department of Air Pollution Control, Northeastern Virginia Regional Office, 300 Central Road, Suite B, Fredericksburg, Virginia.

† July 1, 1992 - 10 a.m. - Public Hearing
Department of Air Pollution Control, State Capitol Regional Office, Arboretum Parkway, Suite 250, 9210 Arboretum Parkway, Richmond, Virginia.

† July 1, 1992 - 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.

† July 1, 1992 - 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 existing regulations entitled: **VR 120-01. Regulations for the Control an Abatement of Air Pollution - Documents Incorporated by Reference.** The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate recently promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP), which are found in Rules 5-5 and 6-1, respectively. The proposed amendments will update as well the consolidated list of documents incorporated by reference found in Appendix M of the agency's regulations. The proposed amendments will incorporate the 1991-1992 edition of the American Conference of Governmental Industrial

Hygienists' Handbook which forms the basis for the toxic pollutant rules, and three NSPS which were promulgated by EPA between July 1, 1990 and June 30, 1991.

STATEMENT

Purpose: The purpose of the proposed amendments is to change the board's regulations concerning documents incorporated by reference to provide the latest edition of referenced documents and incorporate recently promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP).

Substance: The amendments update the list of NSPS and NESHAP incorporated by reference and found in Rule 5 and Rule 6-1 of the agency's regulations. The amendments incorporate the most recent edition of the American Conference of Industrial Hygienists (ACGIH) Handbook, "Threshold Limit Values for Chemical Substances in the Work Environment Adopted by ACGIH with Intended Changes for 1990-1991." This handbook forms the basis for the significant ambient air guidelines in the board's toxic pollutant rules. The amendments update the consolidated list of documents incorporated by reference found in Appendix M of the agency's regulations. The list includes the name, reference number and edition for each document. The edition is being updated to reflect the latest available. Also included for each document is the name and address of the organization from whom it may be obtained.

Issues: The issue is whether the regulation should specify the most current edition of any documents incorporated by reference and whether the agency should obtain delegation of authority to enforce the newly promulgated federal standards.

Basis: The legal basis for the proposed regulation amendments is the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).

Impact: These regulations apply to the owner of any commercial/industrial facility that is subject to any emission standard within the regulation. The costs to affected entities is expected to be minimal. The documents incorporated fall into two broad categories: statutory (federal and state laws and regulations) and nonstatutory (all others, primarily consisting of technical and scientific reference documents). The impact of incorporating statutory documents is minimal because they are already in effect and incorporation simply allows state enforcement in lieu of federal enforcement. The impact of incorporating nonstatutory documents is minimal because they are used to form the basis to make technical evaluations needed to implement the regulations. The requirement for these technical evaluations already exists in the current regulations and the use of the latest edition ensures that such evaluations are soundly based. It is not expected that the regulation amendments will result in any

cost to the department beyond that currently in the budget.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Written comments may be submitted until July 17, 1992, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia.

Contact: Karen Sabasteanski, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

ALCOHOLIC BEVERAGE CONTROL BOARD

May 27, 1992 - 9:30 a.m. - Open Meeting

June 8, 1992 - 9:30 a.m. - Open Meeting

June 22, 1992 - 9:30 a.m. - Open Meeting

2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

BOARD FOR ARCHITECTS, LAND SURVEYORS, PROFESSIONAL ENGINEERS AND LANDSCAPE ARCHITECTS

May 21, 1992 - 9 a.m. - Open Meeting

Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from March 19, 1992, meeting; (ii) review correspondence; and (iii) review enforcement files.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Board for Land Surveyors

May 20, 1992 - 9 a.m. - Executive Meeting

Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An exam writing session.

An executive meeting only.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

Calendar of Events

ASAP POLICY BOARD - CENTRAL VIRGINIA

† May 20, 1992 - 7 p.m. - Open Meeting
Central Virginia ASAP, 2316 Atherholt Road, Suite 200,
Lynchburg, Virginia. ☒

A meeting regarding program activities and future operations.

Contact: L. T. Townes, Executive Director, P.O. Box 4345,
Fort Hill Station, Lynchburg, VA 24502, telephone (804)
528-4073.

AUCTIONEERS BOARD

May 19, 1992 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to conduct regulatory review and other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Board Administrator,
Department of Commerce, 3600 West Broad Street,
Richmond, VA 23230-8534, telephone (804) 367-8534.

DEPARTMENT OF AVIATION (VIRGINIA AVIATION BOARD)

June 19, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Aviation Board intends to repeal existing regulations entitled: VR 165-01-02. Rules and Regulations of the Virginia Aviation Board Governing the Licensing of Airmen, Aircraft and Airports, and the Operation of Aircraft and Airports in the State of Virginia, and promulgate new regulations entitled: VR 165-01-02:1. Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia. The proposed regulations address topical aviation areas in Virginia for the protection and enhancement of safe and efficient air transportation in the Commonwealth.

Statutory Authority: § 5.1-2 of the Code of Virginia.

Written comments may be submitted until June 19, 1992.

Contact: Keith F. McCrea, AICP, Aviation Planner, 4508 S. Laburnum Avenue, Richmond, VA 23235, telephone (804) 786-1365 or toll-free 1-800-292-1034.

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† May 22, 1992 - 10 a.m. - Open Meeting

Virginia Housing Development Authority, 601 Belvidere Street, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code; and (iii) approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 786-4751.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

June 4, 1992 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will approve local assistance grants for fiscal year 1993 and conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be heard in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by May 28, 1992.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☒

Central Area Review Committee

† May 18, 1992 - 10 a.m. - Open Meeting
Middle Peninsula PDC, Woodleaf Commons on Business 17 behind Mason Realty, Saluda, Virginia. ☒ (Interpreter for deaf provided upon request)

June 8, 1992 - 10 a.m. - Open Meeting
June 22, 1992 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☒

Northern Area Review Committee

May 27, 1992 - 10 a.m. - Open Meeting

June 10, 1992 - 10 a.m. - Open Meeting

June 24, 1992 - 10 a.m. - Open Meeting

General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

June 3, 1992 - 10 a.m. - Open Meeting

General Assembly Building, Senate Room B, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Regulatory Review Committee and Program Study Group

May 20, 1992 - 10 a.m. - Open Meeting

June 17, 1992 - 10 a.m. - Open Meeting

Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee and group will consider issues relating to Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01. Public comment will be heard at the end of the meeting.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

STATE BOARD FOR COMMUNITY COLLEGES

May 27, 1992 - 2 p.m. - Open Meeting

Williamsburg Lodge, Williamsburg, Virginia.

State board committee meetings will be held.

May 28, 1992 - 9 a.m. - Open Meeting

Williamsburg Lodge, Williamsburg, Virginia.

A regularly scheduled state board meeting. Agenda available by May 13, 1992.

Contact: Joy Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

COMPENSATION BOARD

May 28, 1992 - 5 p.m. - Open Meeting

June 25, 1992 - 5 p.m. - Open Meeting

Ninth Street Office Building, Room 913/913A, 9th Floor, 202 North Ninth Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A routine meeting to conduct business.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886.

DEPARTMENT OF CONSERVATION AND RECREATION (BOARD OF)

May 22, 1992 - 9 a.m. - Open Meeting

Conference Room B, First Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the board's intent to adopt VR 215-00-00. Regulatory Public Participation Guidelines.

May 22, 1992 - 9 a.m. - Open Meeting

Conference Room B, First Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the department's intent to repeal VR 215-01-00. Public Participation Guidelines and to adopt VR 217-00-00. Regulatory Public Participation Guidelines.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, Fax (804) 786-6141 or (804) 786-2121/TDD ☎

Virginia Soil and Water Conservation Board

May 20, 1992 - 6 p.m. - Open Meeting

Legend's Restaurant, 380 Broadview Avenue, Warrenton, Virginia.

A regular bi-monthly business meeting.
(Dinner Meeting)

Calendar of Events

Contact: Linda J. Cox, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2152.

May 22, 1992 - 9 a.m. – Open Meeting
Conference Room B, First Floor, James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the board's intent to consider repeal of VR 625-00-00. Public Participation Guidelines and to adopt VR 625-00-00:1. Regulatory Public Participation Guidelines.

Contact: Leon E. App, Executive Assistant, Virginia Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, Fax (804) 786-6141 or (804) 786-2121/TDD ☎

BOARD OF CORRECTIONS

† **June 17, 1992 - 10 a.m. – Open Meeting**
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented to the board.

Contact: Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3262.

BOARD FOR COSMETOLOGY

June 20, 1992 – 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 for Cosmetology intends to adopt regulations entitled VR 235-01-03. **Nail Technician Regulations.** The purpose of the proposed regulations is to protect the health and safety of those citizens obtaining manicures, pedicures or artificial nail services from disease or unsanitary practices by requiring the licensure of nail technicians, nail salons and those schools teaching these techniques. In licensing this profession, its practitioners are held to uniform standards for entry and conduct which is subject to disciplinary action by the Board for Cosmetology.

The regulations contain standards for entry into the profession as a nail technician, nail salon and nail school. In order to obtain a license as a nail technician one must complete 150 hours of education and pass a written and practical examination. Nail salons shall provide a current address and other information. Nail schools shall provide a copy of their proposed curriculum for approval by the board before

licensure. The regulations also set forth standards for renewal, and standards of sanitary practice and discipline.

Statutory Authority: §§ 54.1-201, 54.1-202, 54.1-1200 and 54.1-1202 B of the Code of Virginia.

Written comments may be submitted until June 20, 1992.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

BOARD OF DENTISTRY

June 20, 1992 - 8 a.m. – Open Meeting
Wytheville Community College, Wytheville, Virginia. ☒

Informal conferences. No public testimony will be received.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA, telephone (804) 662-9906.

DEPARTMENT OF ECONOMIC DEVELOPMENT

Small Business Advisory Board

† **May 20, 1992 - 1 p.m. – Open Meeting**
† **May 21, 1992 - 1 p.m. – Open Meeting**
Virginia Department of Economic Development, 1021 East Cary Street, 11th Floor, Richmond, Virginia. ☒

A meeting to develop work plan for the coming year.

Contact: David V. O'Donnell, Director of Small Business and Financial Services, Virginia Department of Economic Development, Office of Small Business and Financial Services, 1021 E. Cary Street, 11th Floor, Richmond, VA 23219, telephone (804) 371-8260.

STATE EDUCATION ASSISTANCE AUTHORITY

May 19, 1992 - 10 a.m. – Public Hearing
State Education Assistance Authority, 411 East Franklin Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Education Assistance Authority intends to amend existing regulations entitled VR 275-01-1. **Regulations Governing Virginia Administration of the Federally Guaranteed Student Loan Programs Under Title IV Part B of the Higher Education Act.** The purpose of the proposed amendments is to update and clarify the administration of the Title IV Part B Loan Programs.

Statutory Authority: § 23-38.64 of the Code of Virginia.

Written comments may be submitted until June 5, 1992, to Marvin L. Ragland, Jr., 411 E. Franklin Street, Richmond, VA 23219.

Contact: Lyn Hammond or Sherry Scott, Policy Analyst, 411 E. Franklin Street, Richmond, VA 23219, telephone (804) 775-4626, 775-4071 or toll-free 1-800-792-5626.

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May 19, 1992 - 10 a.m. - Public Hearing
State Education Assistance Authority, 411 East Franklin Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Education Assistance Authority intends to amend existing regulations entitled VR 275-02-1. **Regulations Governing the Edvantage Loan Program.** The purpose of the proposed amendments is to update and clarify the administration of the Edvantage Loan Program.

Statutory Authority: §§ 23-30.42, 23-38.33:1 and 23-38.64(2) of the Code of Virginia.

Written comments may be submitted until June 5, 1992, to Marvin L. Ragland, Jr., 411 E. Franklin Street, Richmond, VA 23219.

Contact: Lyn Hammond or Sherry Scott, Policy Analyst, 411 E. Franklin Street, Richmond, VA 23219, telephone (804) 775-4626, 775-4071 or toll-free 1-800-792-5626.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

May 28, 1992 - 8 a.m. - Open Meeting

June 24, 1992 - 8 a.m. - Open Meeting

James Monroe Building, 101 North Fourteenth Street, Conference Rooms D and E, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Dr. Margaret Roberts, Executive Director, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

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May 23, 1992 - 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 Education intends to amend regulations entitled VR 270-01-0012. **Regulations Establishing Standards for Accrediting Public Schools in Virginia.** These regulations establish the basis for accrediting public schools. Such accreditation is required by the Standards of Quality.

Statutory Authority: § 22.1-253.13:3 B of the Code of Virginia.

Written comments may be submitted until May 23, 1992.

Contact: Lin Corbin-Howerton, Lead Specialist, Policy Analysis, Department of Education, P.O. Box 6-Q, Richmond, VA 23216-2060, telephone (804) 225-2543.

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

† **June 10, 1992 - 6 p.m. - Open Meeting**
Alexandria Sanitation Authority, 835 South Payne Street, Alexandria, Virginia. ☒

A meeting with committee members and facility emergency coordinators to conduct business in accordance with SARA Title III, Emergency Planning and Community Right-to-Know Act of 1986.

Contact: Charles W. McRorie, Emergency Preparedness Coordinator, 900 Second Street, Alexandria, VA 22312, telephone (703) 838-3825 or (703) 838-5056/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

June 4, 1992 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Linda G. Furr, Assistant Emergency Services, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - HENRICO COUNTY

† **May 20, 1992 - 7 p.m. - Open Meeting**
The Henrico County Public Safety Building, Division of Fire, Parham and Hungary Spring Road, Richmond, Virginia. ☒

A meeting to (i) review the membership needs of the LEPC; (ii) discuss potential new membership; (iii) review the SARA Title III Plan; (iv) review SARA

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Title III submittals for 1991; and (v) discuss training of the Henrico County Hazardous Incident Team.

Contact: W. Timothy Liles, Assistant Emergency Services Coordinator, Division of Fire, P.O. Box 27032, Richmond, VA 23273, telephone (804) 672-4900.

LOCAL EMERGENCY PLANNING COMMITTEE - PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY

May 18, 1992 - 1:30 p.m. - Open Meeting

June 15, 1992 - 1:30 p.m. - Open Meeting

1 County Complex Court, Potomac Conference Room, Prince William, Virginia. ☒

A multi-jurisdictional local emergency planning committee to discuss issues related to hazardous substances in the jurisdictions. SARA Title III provisions and responsibilities for hazardous material emergency response planning.

Contact: John E. Medici, Hazardous Materials Officer, 1 County Complex Court, Internal Zip MC470, Prince William, VA 22192, telephone (703) 792-6800.

BOARD OF FORESTRY AND REFORESTATION BOARD

May 20, 1992 - 9 a.m. - Open Meeting

Roslyn Conference Center, 8727 River Road, Richmond, Virginia. ☒

A meeting to discuss general business and to review accomplishments and budgets followed by a joint meeting of the two boards.

Contact: Phil T. Grimm, Assistant Chief, Forest Management or Barbara A. Worrell, Administrative Staff Specialist, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555/TDD ☒

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

May 18, 1992 - 7 p.m. - Open Meeting

May 19, 1992 - 9 a.m. - Open Meeting

1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular board meeting. Public comment period will be during the first 30 minutes of the meeting.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9907 or (804) 662-7197/TDD ☒

BOARD FOR GEOLOGY

June 4, 1992 - 10 a.m. - Open Meeting

Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

June 5, 1992 - 10 a.m. - Open Meeting

Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☒

GOVERNOR'S ADVISORY COMMISSION ON THE DILLON RULE AND LOCAL GOVERNMENT

May 19, 1992 - 10 a.m. - Public Hearing

Blue Ridge Community College, Auditorium, Weyers Cave Exit, I-81, Harrisonburg, Virginia.

May 20, 1992 - 10 a.m. - Public Hearing

Loudoun County Courthouse, Board Room, Leesburg, Virginia.

May 26, 1992 - 10 a.m. - Public Hearing

General Assembly Building, Senate Room A, Richmond, Virginia.

The Commission has been established to study the application of the Dillon Rule as it affects local government authority to operate in an efficient and effective manner.

Contact: Paul Grasewicz, Department of Housing and Community Development, 205 North Fourth Street, Richmond, VA 23219, telephone (804) 786-7893.

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

May 18, 1992 - 10:30 a.m. - Open Meeting

The Hyatt Hotel, 6624 West Broad Street, Richmond, Virginia. ☒

A general meeting.

Contact: Abria M. Singleton, Executive Secretary, 4615 W. Broad Street, The Commonwealth Building, Third Floor, Richmond, VA 23230, telephone (804) 367-9816.

HAZARDOUS MATERIALS TRAINING COMMITTEE

† May 28, 1992 - 10 a.m. - Open Meeting

Department of Emergency Services, Training Center, 308 Turner Road, Richmond, Virginia.

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A meeting to discuss curriculum course development and review existing hazardous materials courses.

Contact: Roger D. Raines, 108 B. Courthouse Lane, P.O. Box 447, Bowling Green, VA 22427, telephone (804) 633-9831.



DEPARTMENT OF HEALTH (STATE BOARD OF)

May 18, 1992 - 7 p.m. – Public Hearing
Wise County Health Department, 134 Roberts Street, S.W., Wise, Virginia.

May 19, 1992 - 7 p.m. – Public Hearing
J. Robert Jamison Memorial Library, Main Street, Appomattox, Virginia.

May 20, 1992 - 7 p.m. – Public Hearing
Council Chambers Room, City Hall, 715 Princess Anne Street, Fredericksburg, Virginia.

May 21, 1992 - 7 p.m. – Public Hearing
112 South Main Street, Board Meeting Room, Woodstock, Virginia.

May 27, 1992 - 7 p.m. – Public Hearing
Peninsula Health Center, Auditorium, J. Clyde Morris Boulevard, Newport News, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **VR 355-34-400. Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings.** These regulations govern the construction and operation of sewage treatment systems serving individual, single family homes with flows of 1,000 gallons per day or less.

Statutory Authority: §§ 32.1-12, 32.1-163 and 32.1-164 of the Code of Virginia.

Written comments may be submitted until June 5, 1992.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-3559.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

May 18, 1992 - 7 p.m. – Open Meeting

Syndicated Collection Agency, Board Room, 43 Reserve Avenue, Roanoke, Virginia.

The meeting will begin with a public comment period. Those wishing to address the impact of health care institutions' commercial diversification or any issue that may be addressed by the council are welcomed. Comments should be limited to three minutes and written statements are requested.

† **June 23, 1992 - 9:30 a.m. – Open Meeting**
Blue Cross/Blue Shield of Virginia, 2015 Staples Mill Road, Richmond, Virginia. ☒

A regular monthly meeting.

Contact: Kim Schulte Barnes, Information Officer, 805 East Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☒

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May 22, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** Section 6.3 of the regulation is being amended to specify when amendments or modifications to currently filed charge schedules would have more than a minimal impact on revenues and would therefore have to be filed at least 60 days in advance of their effective date.

Statutory Authority: §§ 9-161(D) and 9-164(2) of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☒

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† **July 20, 1992 – Written comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The proposed regulatory change to §§ 6.1 and 6.2 of the regulations would allow health care institutions which neither receive Medicare nor Medicaid reimbursement for patients to develop their own methodology to ascertain nursing home costs and

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to eliminate the requirement that these facilities utilize the allocation methodology used for cost reports filed with the Virginia Department of Medical Assistance Services or for the Medicare program.

STATEMENT

Analysis: Effective January 1, 1992, the council had adopted regulations requiring that health care institutions break out the cost of the nursing home component if they also operated or were directly associated with a hospital, continuing care retirement community, or operated home for adult beds. Several facilities that neither participate in the Medicare nor the Medicaid program have now indicated that it is burdensome administratively and financially to complete the cost report utilized for DMAS or the Medicare program. The council has now indicated that for the small number of facilities that operate in this manner, they wish to allow them to develop their own methodology to break out the cost of the nursing home component. It is estimated that there are nine health care institutions that neither receive Medicare nor Medicaid.

Estimated Impact: The proposed change will ensure that the staff of the council will still receive accurate and updated information concerning the nursing home component of these types of facilities. However, it will also allow the facilities to avoid high administrative and financial cost by allowing them to utilize their own methodology to break out the costs.

Forms: There will be no new forms needed to implement this regulatory change.

Assurance: Representatives from the hospital and nursing home industries who serve on the council were among those who supported this change when it was adopted at the council's April 1992 meeting. Staff of the council will work closely with the Virginia Hospitals Association as well as the Virginia Health Care Association and the Virginia Non-Profit Homes for the Aging during the public comment period. Each of these organizations was notified of this proposed change prior to the April 1992 council meeting.

Statutory Authority: §§ 9-158 and 9-164 of the Code of Virginia.

Written comments may be submitted until July 20, 1992, to G. Edward Dalton, Virginia Health Services Cost Review Council, 805 E. Broad St., Richmond, VA 23219.

Contact: John A. Rupp, Executive Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371. 1/3

BOARD FOR HEARING AID SPECIALISTS

May 18, 1992 - 8:30 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street,

Richmond, VIRGINIA. ☐

A meeting to (i) administer examination to eligible candidates; (ii) review enforcement cases; and (iii) consider other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230-8534, telephone (804) 367-8534.

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

May 27, 1992 - 10 a.m. – Open Meeting
Department of Historic Resources, Board Room, 221 Governor Street, Richmond, Virginia.

A meeting to receive views and comments and to answer questions of the public on the board's intent to consider adopting VR 390-01-01:1, Public Participation Guidelines.

† **June 18, 1992 - 2 p.m. – Open Meeting**
Department of Historic Resources, Board Room, 221 Governor Street, Richmond, Virginia.

A meeting to receive views and comments and to answer questions of the public on the department's intent to consider adopting VR 390-01-01:2, Public Participation Guidelines.

Contact: H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☐

HOPEWELL INDUSTRIAL SAFETY COUNCIL

June 2, 1992 - 9 a.m. – Open Meeting
July 7, 1992 - 9 a.m. – Open Meeting
Hopewell Community Center, Second & City Point Road, Hopewell, Virginia. ☐ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

May 19, 1992 - 11 a.m. – Open Meeting
601 S. Belvidere Street, Richmond, Virginia. ☐

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes

from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

May 18, 1992 - 7 p.m. - Open Meeting
Fairfax City Hall, City Council Chambers, 10455 Armstrong Street, Fairfax, Virginia. ☐

May 19, 1992 - 7 p.m. - Open Meeting
Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, Roanoke, Virginia. ☐

May 20, 1992 - 7 p.m. - Open Meeting
State Capitol, House Room 1, Richmond, Virginia. ☐

May 21, 1992 - 7 p.m. - Open Meeting
Norfolk Technical Vocational Center, 1330 North Military Highway, Norfolk, Virginia.

A meeting to hear comments on the proposed amendment to VR 425-01-26, Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia, § 6, Deregistration Procedure.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

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July 16, 1992 - 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 Apprenticeship Council intends to amend regulations entitled: VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia. This amendment provides criteria and procedure for deregistration of apprenticeship programs.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Written comments may be submitted until July 6, 1992.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

July 16, 1992 - Immediately following public hearing beginning at 10 a.m. - Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

A regular quarterly meeting.

Contact: Robert S. Baumgardner, Director, Apprenticeship Division, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219, telephone (804) 786-2381.

LIBRARY BOARD

June 23, 1992 - 9:30 a.m. - Open Meeting
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ☐

A meeting to discuss administrative matters of the Virginia State Library and Archives.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

May 20, 1992 - 11 a.m. - Open Meeting
101 North 14th Street, James Monroe Building, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☐

A regular meeting subject to cancellation unless there are action items requiring the Council's consideration. Persons interested in attending should call one week prior to meeting date to ascertain whether or not the meeting is to be held as scheduled.

Contact: Art Bowen, Senior Debt Analyst, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4929.

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

† July 27, 1992 - 10 a.m. - Public Hearing
2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1

Calendar of Events

of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-01-2. Administration Regulations.** These proposed amendments will conform to legislative intent and make technical and housekeeping changes.

STATEMENT

Basis and Authority: Section 58.1-4007 of the Code of Virginia grants to the State Lottery Board the power to adopt regulations governing the establishment and operation of a lottery.

Purpose: The purpose of the proposed regulatory changes is to promulgate regulations to clarify procurement procedures, to conform to amendments to the Code and to adopt numerous technical and housekeeping requirements.

Summary and analysis: The proposed regulatory changes affect numerous sections of the administration regulations as follows:

1. Section 1.5 conforms to amendments to the Code by making any person under the age of 18 years ineligible to purchase or receive prizes of the lottery;
2. Section 1.7 identifies, in accordance to the Appropriation Act, the establishment of an interest-free line of credit available to the department by the State Comptroller;
3. Section 4.23 limits an employee's personal interest with a vendor to the department; and
4. Section 4.26 gives preference to Virginia products and firms during procurement activities.

There are numerous housekeeping changes, such as definition of terms, throughout each section of these regulations.

Impact: These changes will enable the department to comply with legislative requirements and to give preference to Virginia products and firms that participate in the procurement process. They should have no impact on the public at large.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until July 27, 1992.

Contact: Barbara L. Robertson, Staff Officer, 2210 W. Broad Street, Richmond, VA 23220, telephone (804) 367-9433.

† July 27, 1992 - 10 a.m. — Public Hearing
2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-02-1. Instant Game Regulations.** These amendments promulgate emergency regulations regarding prize payments, conform to legislative intent, and address housekeeping and technical changes.

STATEMENT

Basis and Authority: Section 58.1-4007 of the Code of Virginia grants to the State Lottery Board the power to adopt regulations governing the establishment and operation of a lottery.

Purpose: The purpose of the proposed regulatory changes is to promulgate emergency regulations for prize amounts to be paid by retailers, to conform to legislative intent, and to adopt numerous technical and housekeeping requirements.

Summary and analysis: The proposed regulatory changes affect numerous sections of instant game regulations as follows:

1. Sections 2.4 and 3.4 prohibit the payment or transfer of any prize or ticket to any person under the age of 18 years;
2. Section 2.8 prohibits a retailer from receiving compensation from any other source except that issued and approved by the lottery;
3. Section 3.2 conforms with legislative intent by providing anyone serving in active military service an exemption from the 180-day redemption requirement;
4. Section 3.8 clarifies that prizes may be paid according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the department; and
5. Sections 3.20, 3.25, 3.26, 3.30 and 3.32 clarify the amount of prize payments to be paid by lottery retailers.

Technical revisions are proposed regarding special licensing, prize structure variation, claims entered by groups and debt setoff payments.

There are numerous housekeeping changes, such as definition of terms, throughout each section of these regulations.

Impact: These changes will enable the department to comply with legislative requirements and enhance public convenience.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until July 27, 1992.

Contact: Barbara L. Robertson, Staff Officer, 2210 W. Broad Street, Richmond, VA 23220, telephone (804) 367-9433.

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† **July 27, 1992 - 10 a.m.** – Public Hearing
2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-02-2. On-Line Game Regulations.** These amendments promulgate emergency subscription regulations, conform to legislative intent, and make housekeeping and technical changes.

STATEMENT

Basis and Authority: Section 58.1-4007 of the Code of Virginia grants to the State Lottery Board the power to adopt regulations governing the establishment and operation of a lottery.

Purpose: The purpose of the proposed regulatory changes is to promulgate emergency regulations for the department to conduct a subscription program and to clarify prize amounts to be paid by retailers, to conform to legislative intent, and to adopt numerous technical and housekeeping requirements.

Summary and analysis: The proposed regulatory changes affect numerous sections of the on-line game regulations as follows:

1. Section 1.8 clarifies the prize amounts to be paid by lottery retailers;
2. Section 1.9 requires that lottery retailers provide prompt service to lottery customers waiting to purchase tickets and requires lottery retailers to report any single or aggregate transaction over \$10,000 to the IRS;
3. Sections 1.9 G, 3.1 and 3.9 conform to legislative intent by stating that no lottery ticket purchased by or transferred to an individual under 18 years of age shall be a winning ticket;
4. Sections 2.3, 3.10, 3.12, 3.23, 3.24, 3.28, 3.29, 3.36 and 3.38 clarify the prize amounts to be paid by lottery retailers;
5. Section 2.4 places a limit on ticket sales in excess of the retailer bond;
6. Section 3.7 conforms with legislative intent by providing anyone serving in active military service an exemption from the 180-day redemption requirement;
7. Section 3.13 clarifies that prizes may be paid

according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the department;

8. Section 3.38 clarifies procedures for the withholding of federal and state taxes from any winning ticket; and

9. Sections 4.1 through 4.17 establish procedures for the conduct of subscription services.

There are numerous housekeeping changes, such as definition of terms, throughout each section of these regulations.

Impact: These changes will enable the department to comply with legislative requirements, to formally implement a subscription program, and to reduce the potential of the purchase of large blocks of on-line lottery tickets. These regulations enhance public convenience.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until July 27, 1992.

Contact: Barbara L. Robertson, Staff Officer, 2210 W. Broad Street, Richmond, VA 23220, telephone (804) 367-9433.

ADVISORY COMMISSION ON MAPPING, SURVEYING AND LAND INFORMATION SYSTEMS

† **June 18, 1992 - 10 a.m.** – Open Meeting
1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ☒

Final meeting of the Advisory Commission.

Contact: Chuck Tyger, Chief Engineer, Systems and Software Management, Council on Information Management, 1100 Bank Street, Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☒

MARINE RESOURCES COMMISSION

May 26, 1992 - 9:30 a.m. – Open Meeting
June 23, 1992 - 9:30 a.m. – Open Meeting
July 28, 1992 - 9:30 a.m. – Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒ (Interpreter for deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The commission will hear and decide fishery

Calendar of Events

management items: regulatory proposals, fishery management plans, fishery conservation issues, licensing, shellfish leasing.

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☐

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† July 17, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-02-3.1400. Methods of Providing Transportation.** The purpose of the proposed action is to discontinue the prior authorization requirement for nonemergency transportation for recipients to and from other medical appointments.

STATEMENT

Basis and Authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services 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 promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. Subsequent to an emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA.

Purpose: The purpose of this proposal is to promulgate permanent regulations to supersede the existing emergency regulations which provide for the same policy.

Summary and Analysis: The section of the State Plan for Medical Assistance affected by this action is Attachment 3.1-D, Methods of Providing Transportation.

The Code of Federal Regulations, § 431.53, provides that a State Plan must specify that the Medicaid agency will assure necessary transportation for recipients to and from providers and that it will describe the methods that will

be used to meet this requirement. Also, § 440.170(a) defines transportation as including expenses for travel determined to be necessary by the agency to secure medical examinations and treatment for a recipient. Transportation may only be furnished by a provider to whom direct vendor payment can appropriately be made by the agency. Travel expenses may include the cost of transportation for the recipient by ambulance, taxicab, common carrier, or other appropriate means.

Prior to the emergency regulation, all nonemergency transportation had to be preauthorized by the local health department (in the locality in which the recipient resides) or by one of five pilot projects, working out of the local departments of social services. To obtain Medicaid payment for transportation, the recipient had to secure prior authorization by contacting the appropriate local agency. Once the local agency verified the recipient's current Medicaid eligibility and the recipient selected the desired provider, the local agency scheduled the trip. Prior to providing the service, the provider obtained his Medicaid billing invoice from the local agency. Once the transportation service had been rendered, the provider completed the mileage covered on the invoice and returned it to the local authorizing agency. The local agency verified that prior authorization was granted, signed the invoice and submitted it to the Medicaid fiscal agent for payment. In an evaluation of the costly preauthorization process conducted by local health departments and the pilot sites, it was determined that this process resulted in minimal denial of recipient requests for transportation. As a matter of fact, the DMAS Division of Client Appeals received only six appeals during 1991 because transportation was denied due to the preauthorization process.

Since the preauthorization process had not proven effective, DMAS saw no need to continue preauthorization of transportation. The agreements with the pilot sites expired December 31, 1991, so action was taken to discontinue preauthorization of transportation. To date, DMAS' experience with the emergency regulation has been positive with service providers, local health departments, and recipients.

With the Governor's approval, effective January 1, 1992, the requirements associated with prior authorization of nonemergency transportation were eliminated including the manual post-service verification of each claim by local health department staffs. The monitoring of claims payment is now being accomplished by system edits and ongoing monitoring by DMAS staff. Recipients requiring transportation to covered medical appointments now make their own arrangements with the provider of their choice.

Local health departments throughout the state under an interagency agreement between DMAS and the Department of Health assist those recipients who require help with locating transportation providers and distribute bus and toll tickets. It is the providers' responsibility to verify recipients' current Medicaid eligibility by reviewing

eligibility cards or by the use of the automated Recipient Eligibility Verification System (REVS) using the toll free number. Appropriate utilization of transportation services by both recipients and providers is being monitored by the DMAS' Division of Program Compliance as well as operation staff of the Division of Client Services.

Impact: This proposal eliminates most of the present administrative cost at the local level. Although there may be a slight increase in the use of transportation, DMAS estimates the net savings to the Commonwealth resulting from implementing this action to be \$800,000 (\$400,000 NGF; \$400,000 GF). These savings are included in the current budget.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted July 17, 1992, to C. Mack Brankley, Director, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

BOARD OF MEDICINE

- May 28, 1992 - 8 a.m. - Open Meeting
 - May 29, 1992 - 8 a.m. - Open Meeting
 - May 30, 1992 - 8 a.m. - Open Meeting
 - May 31, 1992 - 8 a.m. - Open Meeting
- Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) conduct general business; (ii) receive committee and board reports; and (iii) discuss any other items which may come before the board. The board will also review reports, interview licensees, and make case decisions on disciplinary matters. The board will entertain brief public comments at the pleasure of the President.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

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July 6, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.147.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-04-01. Regulations Governing the Practice of Respiratory Therapy Practitioners.** The proposed amendment is to establish biennial certification renewal to occur in the therapists' birth month each odd-numbered year, and

to make grammatical corrections to be consistent with the language of the Code of Virginia.

Statutory Authority: §§ 54.1-2400 and 54.1-2954 of the Code of Virginia.

Written comments may be submitted until July 6, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9923.

Credentials Committee

June 20, 1992 - 8 a.m. - Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) conduct general business; (ii) interview and review medical credentials of applicants applying for licensure in Virginia, in open and executive session; and (iii) discuss any other items which may come before the committee. Public comments will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9923.

Advisory Board on Physical Therapy

† **July 10, 1992 - 9 a.m. - Open Meeting**
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) review regulations, bylaws, and procedure manuals; (ii) receive reports; and (iii) discuss other items which may come before the advisory board. Public comments will be received at the pleasure of the chairperson.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

Advisory Committee on Physician's Assistants

† **June 26, 1992 - 10 a.m. - Open Meeting**
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to review the public comments on proposed regulations and develop recommendations to the full board for adoption and to review and discuss Senate Bill 192, for the purpose of developing regulations for prescriptive authority for physician's assistants. Public comments may be entertained by the chairman on SB 192 only.

Calendar of Events

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD)

May 27, 1992 - 10 a.m. – Open Meeting
Southside Community Service Board, South Boston, Virginia. ☐

A regular monthly meeting. The agenda will be published on May 20 and may be obtained by calling Jane V. Helfrich.

Tuesday: Informal Session - 8 p.m.

Wednesday: Committee Meetings - 9 a.m.

Wednesday: Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

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June 5, 1992 – 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 Mental Health, Mental Retardation and Substance Abuse Services Board intends to adopt regulations entitled: **VR 470-05-02. Regulations Governing Certification of Therapeutic Consultation and Residential Services.** These regulations establish the standards which must be met by individuals and facilities providing therapeutic consultation and residential support services under the Mental Retardation Waiver.

Statutory Authority: §§ 37.1-10, 37.1-179 of the Code of Virginia, and Items 466.F.5 and 478.F.1 of the 1990 Appropriations Act.

Written comments may be submitted until June 5, 1992, to Ben Saunders, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23229.

Contact: Rubyjean Gould, Director of Administrative Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

DEPARTMENT OF MINORITY BUSINESS ENTERPRISE

June 19, 1992 – 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 486-01-02. Regulations to Govern the Certification of Minority Business Enterprises.** The proposed regulations will provide rules governing the certification of a business as a bonafide minority business enterprise.

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

Written comments may be submitted until June 19, 1992.

Contact: Garland W. Curtis, Deputy Director, Department of Minority Business Enterprise, 200-202 N. 9th Street, 11th Floor, Richmond, VA 23219, telephone (804) 786-5560 or toll-free 1-800-223-0671.

DEPARTMENT OF MOTOR VEHICLES

Motor Vehicles Dealers' Advisory Board

† **May 21, 1992 - 9:30 a.m.** – Open Meeting
2300 West Broad Street, Richmond, Virginia. ☐ (Interpreter for deaf provided upon request)

The Department of Motor Vehicles will host a meeting of the Motor Vehicle Dealers' Advisory Board. The board will discuss issues and plans concerning the administration of the Motor Vehicle Dealer Licensing Act.

Contact: Jerome L. Stein, Manager, Dealer and Records, 2300 West Broad Street, Room 521, Richmond, VA, telephone (804) 367-0455 or (804) 367-1752/TDD ☐

BOARD OF NURSING HOME ADMINISTRATORS

June 4, 1992 - 8:30 a.m. – Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☐

A board meeting and formal conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9111.

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July 3, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing

Home Administrators intends to amend regulations entitled: **VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.** The board is amending regulations to delete outdated requirements, clarify continuing education requirements, provide an additional route to licensure, and revise reinstatement requirements.

Statutory Authority: §§ 54.1-2400 and 54.1-3101 of the Code of Virginia.

Written comments may be submitted until July 3, 1992.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9111.

BOARD OF OPTOMETRY

May 21, 1992 - 9 a.m. – Open Meeting
Williamsburg Hilton and National Conference Center, 50 Kingsmill Road, Williamsburg, Virginia.

A regular meeting. A formal hearing is scheduled for 2 p.m.

Contact: Lisa J. Russell, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9910.

VIRGINIA OUTDOORS FOUNDATION

† **June 1, 1992 - 10:30 a.m. – Open Meeting**
Panorama Farms, Albemarle County, Virginia. ☐

A general business meeting.

Contact: Tyson B. VanAuken, Executive Director, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-5539.

BOARD OF PHARMACY

† **May 28, 1992 - 9 a.m. – Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room #2, Richmond, Virginia.

Informal conferences.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

POLYGRAPH EXAMINERS ADVISORY BOARD

† **June 23, 1992 - 9 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street,

Richmond, Virginia. ☐

A meeting to administer the polygraph examiners licensing examination to eligible polygraph examiner interns and to consider other matters which may require board action.

Contact: Mr. Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8534.

BOARD OF PROFESSIONAL COUNSELORS

† **June 15, 1992 - 8 a.m. – Open Meeting**
† **June 16, 1992 - 8 a.m. – Open Meeting**
† **June 17, 1992 - 8 a.m. – Open Meeting**
† **June 18, 1992 - 8 a.m. – Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

Oral examinations for professional counselor licensure.

† **June 18, 1992 - 9 a.m. – Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

Informal conferences.

† **June 19, 1992 - 9 a.m. – Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

A board meeting to (i) discuss general board business; (ii) respond to committee report; and (iii) conduct regulatory review.

Contact: Evelyn B. Brown, Executive Director or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9912.

REAL ESTATE BOARD

May 20, 1992 - 10 a.m. – Open Meeting
Department of Commerce, Conference Room 3, 3600 West Broad Street, Richmond, Virginia.

The board will meet to conduct a formal hearing: File No. 90-02169, Real Estate Board v. Barbara A. Swank.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad Street, Fifth Floor, Richmond, VA 23230, telephone (804) 367-8524.

BOARD OF REHABILITATIVE SERVICES

May 19, 1992 - 10 a.m. – Open Meeting
† **May 26, 1992 - 10 a.m. – Open Meeting**
4901 Fitzhugh Avenue, Richmond, Virginia. ☐ (Interpreter

Calendar of Events

for deaf provided upon request)

A meeting to (i) receive department reports; (ii) consider regulatory matters; and (iii) conduct the regular business of the board.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5059/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Finance Committee

May 19, 1992 - 9 a.m. - Open Meeting

† May 26, 1992 - 9 a.m. - Open Meeting

4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review monthly financial reports and budgetary projections.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5059/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Legislation Committee

May 19, 1992 - 9 a.m. - Open Meeting

† May 26, 1992 - 9 a.m. - Open Meeting

4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

General Assembly legislative update.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5059/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Program and Evaluation Committee

May 19, 1992 - 9 a.m. - Open Meeting

† May 26, 1992 - 9 a.m. - Open Meeting

4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss appropriate program information relative to General Assembly issues.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0318, toll-free 1-800-552-5059/TDD and Voice ☎ or (804) 367-0280/TDD ☎

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

June 19, 1992 - 8:30 a.m. - Open Meeting

Office of the Coordinator, Interdepartmental Regulation, 1603 Santa Rosa Road, Tyler Building, Suite 208, Richmond, Virginia. ☒

A regular meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Coordinator, Interdepartmental Regulation, Office of the Coordinator, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-7124.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

May 20, 1992 - 2 p.m. - Open Meeting

May 21, 1992 - if necessary - 9 a.m. - Open Meeting

Cavalier Hotel, 42nd and Oceanfront, Virginia Beach, Virginia. ☒

June 17, 1992 - 2 p.m. - Open Meeting

June 18, 1992 - if necessary - 9 a.m. - Open Meeting

July 15, 1992 - 2 p.m. - Open Meeting

July 16, 1992 - if necessary - 9 a.m. - Open Meeting

Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ☒

A work session and formal business meeting of the aforementioned board.

Contact: Phyllis Sisk, Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

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June 19, 1992 - 10 a.m. - Public Hearing

Blair Building, Conference Room C, 8007 Discovery Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: VR 615-08-1. Virginia Energy Assistance Program. The purpose of the Virginia Energy Assistance Program is to provide assistance to eligible households to offset the costs of home energy that are excessive in relation to household income and to respond to energy-related, weather-related, and supply shortage emergencies.

The amendments to the crisis assistance component will clarify that routine maintenance such as chimney

cleaning and that supplemental heating equipment such as oil tanks and stands will be provided. The second amendment to the crisis assistance component will further clarify the intent to provide fuel to respond to the crisis situation of households who did not receive fuel assistance in the current program year.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until June 19, 1992, to Charlene H. Chapman, Department of Social Services, 8007 Discovery Drive, Richmond, VA.

Contact: Peggy Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

May 22, 1992 – 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 **repeal** regulations entitled: **VR 615-32-01. Administrative Procedures for Child Development Associate Scholarship Program.** This regulation addresses eligibility requirements and procedures to be used in applying for scholarships awarded through the federal Child Development Associate Scholarship Program, and is being repealed to allow for promulgation of new regulations which will address the availability of additional federal and state funding streams and different eligibility requirements for scholarship recipients. This current regulation is outdated.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF SOCIAL WORK

May 20, 1992 - 10 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to discuss current regulations for regulatory changes. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9914.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

May 20, 1992 - 2 p.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: John G. Milliken, Secretary of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

May 21, 1992 - 10 a.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: John G. Milliken, Secretary of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

June 11, 1992 - 9 a.m. – Public Hearing
Salem District Office, Harrison Avenue, North of Main Street and East of VA 311, Salem, Virginia. ☒ (Interpreter for deaf provided upon request)

A final hearing to receive comments on highway allocations for the coming year and on updating the Six-Year Improvement Program for the Interstate, Primary, and Urban Systems for the Bristol, Salem, Lynchburg, and Staunton Districts, as well as public transit.

June 18, 1992 - 9 a.m. – Public Hearing
Virginia Department of Transportation, Auditorium, 1221 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A final hearing to receive comments on highway allocations for the coming year and on updating the Six-Year Improvement Program for the Interstate, Primary, and Urban Systems for the Richmond, Fredericksburg, Suffolk, Culpeper, and Northern Virginia Districts, as well as public transit.

Calendar of Events

Contact: Mr. Albert W. Coates, Jr., Assistant Commissioner, Virginia Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-9950.

DEPARTMENT OF THE TREASURY (STATE TREASURER AND TREASURY BOARD)

May 20, 1992 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Belinda Blanchard, Assistant Investment Officer, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-2142.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

May 18, 1992 - 2 p.m. – Open Meeting
May 18, 1992 - 6:30 p.m. – Open Meeting
Virginia Rehabilitation Center for the Blind, Assembly Room, 401 Azalea Avenue, Richmond, Virginia. ☒ (interpreter for deaf provided upon request)

May 20, 1992 - 5 p.m. – Open Meeting
Lion's Eye Bank, 501 Elm Avenue, S.W., Roanoke, Virginia. ☒ (interpreter for deaf provided upon request)

A meeting to seek public input regarding amendments to the Vocational Rehabilitation State Plan to provide vocational rehabilitation services by the Department for the Visually Handicapped.

Contact: Jim Taylor, VR Program Specialist, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3111, (804) 371-3140/Voice/TDD ☎ or toll-free 1-800-622-2155.

Advisory Committee on Services

July 25, 1992 - 11 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (interpreter for deaf provided upon request)

A meeting to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

† **May 22, 1992 - 8:30 a.m. – Open Meeting**

† **June 12, 1992 - 8:30 a.m. – Open Meeting**
Virginia Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, Virginia Department of Commerce, 3600 W. Broad Street, Richmond, Virginia 23234, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

DEPARTMENT OF WASTE MANAGEMENT

May 20, 1992 - 2 p.m. – Open Meeting
State Water Control Board, Board Room, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the Waste Management Board's intent to consider repealing VR 672-01-1, Public Participation Procedures for Formation and Promulgation of Regulations, and adopting VR 672-01-1:1, Public Participation Guidelines.

Contact: Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 225-2966.

May 21, 1992 - 7 p.m. – Public Hearing
Amelia County High School Commons, Route 614, Amelia, Virginia.

Pursuant to the requirements of Part VII of the Virginia Solid Waste Management Regulations (Permitting of Solid Waste Management Facilities), the Department of Waste Management will hold a public hearing on the proposed draft permit for a Sanitary Landfill to be located along State Route 360 approximately five miles west of the Township of Amelia. The permit was drafted by the Department of Waste Management for Chambers Waste Systems of Virginia, Inc., in accordance with Part VII of the SWMR. The purpose of the public hearing will be to solicit comments concerning the technical merits of the permit as they pertain to the landfill design, operation and closure.

The public comment period will extend until June 1, 1992. Comments concerning the draft permit must be in writing and addressed to Hassan Vakili, Permits Program Supervisor, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. Copies of the draft permit will be available for review in the Amelia County Administrator's Office, Room 106, Beopple Building, and the James L. Hamner Public Library during normal business hours. Copies of the draft permit may also be obtained by writing to Brian McReynolds of the Department of Waste Management

at the following address.

Contact: Brian McReynolds, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-2520.

June 9, 1992 - 9 a.m. - Open Meeting
General Assembly Building, House Room C, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting on the proposed amendments to the Solid Waste Management Regulations, VR 672-20-10.

June 9, 1992 - 10:30 a.m. - Open Meeting
General Assembly Building, House Room C, 9th and Broad Streets, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting on the proposed amendments to the Hazardous Waste Management Regulations, VR 672-10-1.

Contact: Michael P. Murphy, Environmental Programs Manager, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-0044 or (804) 371-8737/TDD ☎

June 11, 1992 - 7:30 p.m. - Open Meeting
West Point Town Hall, 6th and Main Streets, West Point, Virginia.

Pursuant to the requirements of Part VII, Permitting of Solid Waste Management Facilities, of the Virginia Solid Waste Management Regulations, the draft Solid Waste Disposal Facility Permit for the development of an industrial landfill proposed by Chesapeake Paper Products Company is available for public review and comment. The permit allows the proposed facility to accept only authorized, nonhazardous wastes which result from the operations of Chesapeake Paper Products Company. The proposal incorporates design elements for a synthetic cap which is not provided for in the regulations. Chesapeake Paper Products Company petitioned for these features pursuant to the requirements of Part IX of the regulations (Rulemaking Petitions and Procedures), and the Department of Waste Management has granted tentative approval.

Contact: Khoi T. Nguyen, Environmental Engineer Senior, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-0658 or (804) 371-8737/TDD ☎

STATE WATER CONTROL BOARD

May 20, 1992 - 2 p.m. - Open Meeting

State Water Control Board, Board Room, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

A meeting to receive views and comments and to answer questions of the public on the Waste Management Board's intent to consider repealing VR 680-41-01, Public Participation Guidelines, and adopting VR 680-14-01:1, Public Participation Guidelines.

Contact: Cindy M. Berndt, Policy and Planning Supervisor, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5158.

† **May 27, 1992 - 7 p.m. - Public Hearing**
Deltaville Community Center, Route 33, East of Saluda, Deltaville, Virginia. ☒

A meeting to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0087173 for Miller Enterprises, Post Office Box 56, Deltaville, Virginia 23043. The purpose of this hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the proposed discharge on water quality or beneficial uses of state waters.

Contact: Lori Freeman Jackson, Hearings Reporter, Office of Policy Analysis, State Water Control Board, 4900 Cox Road, P.O. Box 11143, Richmond, Virginia 23230-1143, telephone (804) 527-5163.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

June 25, 1992 - 10 a.m. - Public Hearing
Virginia Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.** The proposed regulation will adjust the fee structure of the board and bring the fee structure of the board in line with costs to cover the preparation of the examinations by an outside examination vendor.

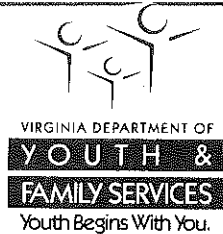
Statutory Authority: §§ 54.1-113, 54.1-201, 54.1-202, and 54.1-2301 B of the Code of Virginia.

Written comments may be submitted until June 22, 1992.

Contact: Mr. Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad Street, Richmond, Virginia 23230-4917, telephone (804) 367-8534.

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Calendar of Events



BOARD OF YOUTH AND FAMILY SERVICES

May 22, 1992 – Written comments may be submitted until this date.

Department of Youth and Family Services, 7th and Franklin Streets, 700 Centre, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Youth and Family Services intends to adopt regulations entitled: **VR 690-15-001. Regulations for State Reimbursement of Local Juvenile Residential Facility Construction.** The proposed regulation establishes Board of Youth and Family Services Standards for reimbursement of local juvenile residential facility construction costs.

Statutory Authority: §§ 16.1-313, 16.1-322.5 through 16.1-322.7 and 66-10 of the Code of Virginia.

Written comments may be submitted until May 22, 1992.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, Virginia 23208, telephone (804) 371-0700.

LEGISLATIVE

VIRGINIA CODE COMMISSION

† June 3, 1992 - 9:30 a.m. – Open Meeting
† June 24, 1992 - 9:30 a.m. – Open Meeting
General Assembly Building, 6th Floor Conference Room, Richmond, Virginia.

A general business meeting.

† July 15, 1992 - 9:30 a.m. – Open Meeting
General Assembly Building, 6th Floor Conference Room, Richmond, Virginia.

A general business meeting, including a review of the draft revision of Title 24.1 (Election Laws).

Contact: Joan W. Smith, Virginia Code Commission, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

Title 4 Revision Task Force

† June 22, 1992 - 10 a.m. – Open Meeting
General Assembly Building, 6th Floor Conference Room, Richmond, Virginia.

Working session on the revision of the alcohol beverage control laws. (SJR 242)

Contact: Maria Everett, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591.

SPECIAL ADVISORY COMMISSION ON MANDATED HEALTH INSURANCE BENEFITS

May 18, 1992 - 10 a.m. – Public Hearing
General Assembly Building, Senate Room B, First Floor, Richmond, Virginia.

The Advisory Commission's agenda includes consideration on House Bill 539 (1992) that would mandate coverage for autologous bone marrow transplants and House Bill 1089 (1992) that would require insurers to reimburse certified nurse midwives directly for services performed within the scope of their licenses. The Advisory Commission is also scheduled to complete its review of House Bill 178 (1990) which would revise the current mandated coverage of newborn children.

Contact: Hil Richardson, Bureau of Insurance, P.O. Box 1197, Richmond, VA 23209, telephone (804) 371-0388 or toll-free 1-800-552-7945.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

June 18, 1992 - 9:30 a.m. – Open Meeting
June 19, 1992 - 9:30 a.m. – Open Meeting
Roslyn Conference Center, Richmond, Virginia.

A meeting to discuss developing growth strategies at the local and regional levels.

Contact: Katherine L. Imhoff, Executive Director, General Assembly Building, Suite 519B, 910 Capitol Street, Richmond, VA 23219, telephone (804) 371-4949.

CHRONOLOGICAL LIST

OPEN MEETINGS

May 18
Agricultural Council, Virginia
† Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Emergency Planning Committee, Local - Prince William County, Manassas City, and Manassas Park City
Governor's Job Training Coordinating Council
Funeral Directors and Embalmers, Board of
Health Services Cost Review Council, Virginia
Hearing Aid Specialists, Board for

Calendar of Events

Labor and Industry, Department of
- Apprenticeship Council
Visually Handicapped, Department for the

May 19

† Accountancy, Board for
Agricultural Council, Virginia
Auctioneers Board
Funeral Directors and Embalmers, Board of
Housing Development Authority, Virginia
Labor and Industry, Department of
- Apprenticeship Council
Rehabilitative Services, Board of
- Finance Committee
- Legislation Committee
- Program and Evaluation Committee

May 20

Agriculture and Consumer Services, Board of
Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Land Surveyors (Executive Meeting)
† ASAP Policy Board - Central Virginia
Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study
Group
Conservation and Recreation, Department of
- Soil and Water Conservation Board
† Economic Development, Department of
- Small Business Advisory Board
† Emergency Planning Committee, Local - Henrico
County
Forestry and Reforestation Board
Labor and Industry, Department of
- Apprenticeship Council
Local Debt, State Council on
Real Estate Board
Social Services, State Board of
Social Work, Board of
Transportation Board, Commonwealth
Treasury Board
Virginia Racing Commission
Visually Handicapped, Department for the
Waste Management, Department of
Water Control Board, State

May 21

Agriculture and Consumer Services, Department of
- Virginia Farmers' Market Board
Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
Labor and Industry, Department of
- Apprenticeship Council
† Motor Vehicles, Department of
- Motor Vehicle Dealers' Advisory Board
Optometry, Board of
Social Services, State Board of
Transportation Board, Commonwealth

May 22

† Building Code Technical Review Board, State

Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
† Waste Management Facility Operators, Board for

May 26

Marine Resources Commission
† Rehabilitative Services, Board of
- Finance Committee
- Legislation Committee
- Program and Evaluation Committee

May 27

Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Community Colleges, State Board for
Historic Resources, Board of
Mental Health, Mental Retardation and Substance
Abuse Services Board, State

May 28

Community Colleges, State Board for
Compensation Board
Education, Board of
† Hazardous Materials Training Committee
Medicine, Board of
† Pharmacy, Board of

June 1

† Outdoors Foundation, Virginia

June 2

† Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
Hopewell Industrial Safety Council

June 3

Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
† Code Commission, Virginia

June 4

Chesapeake Bay Local Assistance Board
Emergency Planning Committee, Local - Chesterfield
County
Geology, Board for
Nursing Home Administrators, Board of

June 5

Geology, Board for

June 8

Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Central Area Review Committee

June 9

Waste Management, Department of

June 10

† Aging, Department for the

Calendar of Events

- Governor's Advisory Board on Aging
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Emergency Planning Committee, Local - City of Alexandria

June 11

† Aging, Department for the
- Governor's Advisory Board on Aging
Waste Management, Department of

June 12

† Waste Management Facility Operators, Board for

June 15

† Code Commission, Virginia
Emergency Planning Committee, Local - Prince William County, Manassas City, and Manassas Park City
† Professional Counselors, Board of

June 16

Labor and Industry, Department of
- Apprenticeship Council
† Professional Counselors, Board of

June 17

Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study Group
† Corrections, Board of
† Professional Counselors, Board of
Social Services, State Board of

June 18

† Historic Resources, Department of
Population Growth and Development, Commission on
† Mapping, Surveying and Land Information Systems, Advisory Commission on
† Professional Counselors, Board of
Social Services, State Board of

June 19

Interdepartmental Regulation of Residential Facilities for Children
- Coordinating Committee
Population Growth and Development, Commission on
† Professional Counselors, Board of

June 20

Dentistry, Board of
Medicine, Board of
- Credentials Committee

June 22

Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
† Code Commission, Virginia

June 23

† Health Services Cost Review Council, Virginia
Library Board
Marine Resources Commission
† Polygraph Examiners Advisory Board

June 24

Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Code Commission, Virginia
Education, Board of

June 25

Compensation Board

June 26

† Medicine, Board of
- Advisory Committee on Physician's Assistants

June 30

† Aging, Department for the
- Long-Term Care Ombudsman Advisory Council

July 7

Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
Hopewell Industrial Safety Council

July 9

† Agriculture and Consumer Services, Department of
- Virginia Cattle Industry Board

July 10

† Medicine, Board of
- Advisory Board on Physical Therapy

July 15

Social Services, State Board of

July 16

Social Services, State Board of

July 25

Visually Handicapped, Department for the
- Advisory Committee on Services

July 28

Marine Resources Commission

PUBLIC HEARINGS

May 11

Cosmetology, Board for

May 13

Youth and Family Services, Board of

May 18

Health, Department of

Special Advisory Commission on Mandated Health
Insurance Benefits

May 19

Education Assistance Authority, State
Health, Department of

May 20

Health, Department of

May 21

Health, Department of
Waste Management, Department of

May 27

Health, Department of
† Water Control Board, State

June 11

Transportation, Department of

June 18

Transportation, Department of

June 19

Social Services, Department of

June 25

Waterworks and Wastewater Works Operators, Board
for

July 1

† Air Pollution Control Board, State

July 4

Medicine, Board of

July 16

Labor and Industry, Department of
- Apprenticeship Council

July 27

† Lottery Department, State

Calendar of Events
