

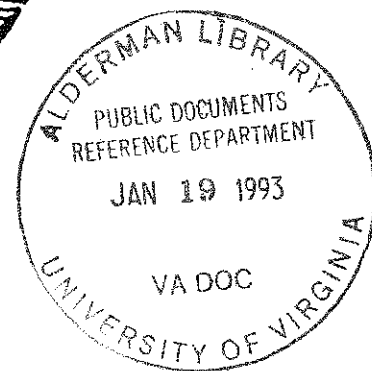
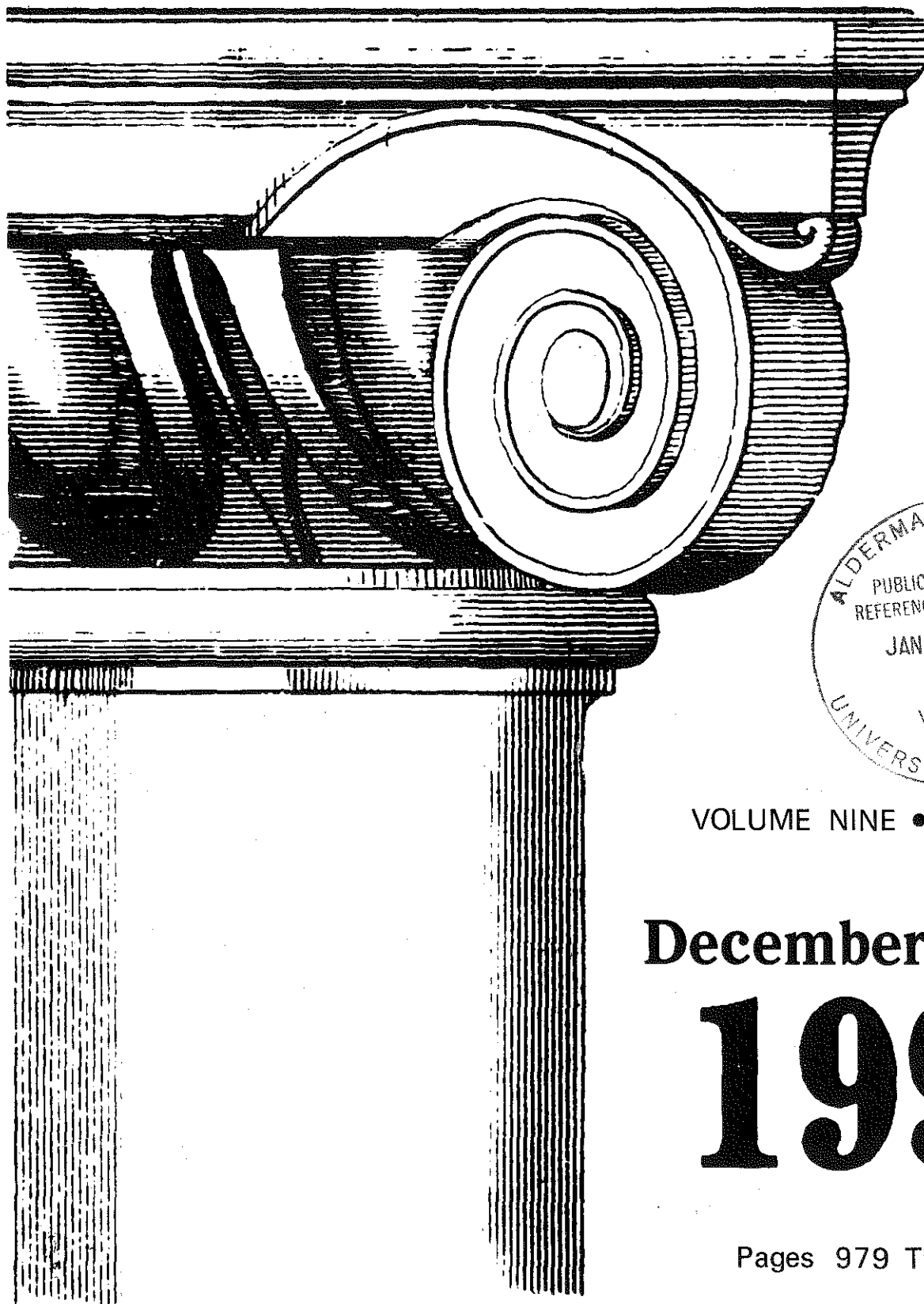
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THE VIRGINIA REGISTER

OF REGULATIONS

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December 28, 1992

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

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (STATE BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-04-12. Regulations for the Enforcement of the Virginia Gasoline and Motor Fuels Law.** The purpose of the proposed action is to review the regulation for effectiveness and continued need. Such review is necessary in the areas of labeling of dispensers, disclosure of information when petroleum products are transferred and specifications related to environmental requirements.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Written comments may be submitted until January 29, 1993.

Contact: J. Alan Rogers, Program Manager, Department of Agriculture and Consumer Services, Office of Weights and Measures, 1100 Bank St., P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-2476.

STATE AIR POLLUTION CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision GG).** The purpose of the proposed action is to establish an emission standard that will require the owners of municipal waste combustor (MWC) facilities to limit emissions of organics (such as dioxins/furans), metals (such as particulate matter), and acid gases (such as sulfur dioxide and hydrogen chloride) to a specified level necessary to protect public health and welfare.

A public meeting will be held by the department in Room D of the Monroe Building, 101 North 14th Street, Richmond, Virginia, at 10 a.m. on February 2, 1993, 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.

Needs and issues involved: MWC emissions are a "designated" pollutant under Section 111(d) of the Clean Air Act. Designated pollutants are pollutants which are not included on a list published under Section 108(a) of the Act ("criteria" pollutants), or Section 112(b)(1)(A) ("hazardous" pollutants), but for which standards of performance for new sources have been established under Section 111(b). When the U.S. Environmental Protection Agency (EPA) establishes a new source performance standard, states are required to develop standards for existing facilities based on EPA emission guidelines. Designated pollutant controls are critical for two reasons. First, only a limited number of air pollutants potentially harmful to human health are regulated at the federal level. Second, health risks from small exposures to designated air pollutants can be high, depending on the substances involved.

EPA has determined that MWC facilities should be regulated under Section 111 (New Source Performance Standards) of the Clean Air Act because:

1. MWC emissions may be reasonably anticipated to contribute to the endangerment of public health and welfare.
2. The range of health and welfare effects and the range and uncertainties of estimated cancer risks do not warrant listing MWC emissions as a hazardous pollutant under Section 112 of the Act.
3. Section 112 of the Act could not be used to address particular constituents or subgroups of emissions (such as hydrogen chloride).
4. Section 111(d) of the Act would permit a more thorough evaluation of existing MWCs at the state level than would be feasible in a general rulemaking at the federal level.

Currently, over 160 municipal waste combustor (MWC) facilities operate throughout the United States, 10 of which are located in Virginia. An MWC is a combustion unit that burns more than 50% municipal solid waste; most MWC facilities have at least two, and often as many as four MWC units. Municipal solid waste includes household, institutional, municipal, and some industrial waste, as well as refuse-derived fuel. As a result of municipal solid waste combustion, many substances of concern are emitted to the atmosphere: organics (including dioxins and furans), metals (including particulate matter), and acid gases (including sulfur dioxide and hydrogen chloride). This

Notices of Intended Regulatory Action

mixture is considered a composite pollutant, MWC emissions. The reduction of emissions in accordance with the guidelines will reduce dioxins/furans from existing MWCs by over 90% and metal emissions (except mercury, which would be less) by 97%. An overall 73% reduction would be realized in acid gas emissions.

Failure to develop an adequate program to control MWC emissions will have adverse impacts on public health and welfare. For example:

1. Dioxins and furans are among the most toxic chemicals known. Excessive exposure to dioxin, for example, can cause severe dermatological, cardiovascular, respiratory, pancreatic, and urinary disorders; dioxins and furans are also suspected carcinogens.
2. Particulate emissions can absorb heavy metals and organics and lodge in human lungs, acting as irritants and causing chronic health problems. Additionally, visibility deteriorates, due to haze, with increases of particulate matter emissions. This directly affects national parks, where clear visibility is at a premium.
3. In addition to causing eye and respiratory irritation, sulfur dioxide and hydrogen chloride also aggravate asthma and other chronic lung diseases. They may enhance the toxic effects of heavy metals. Acid gases also contribute to the development of acid rain, which has serious adverse effects on wildlife, vegetation, and property.

Regulatory alternatives:

1. Amend the regulations to satisfy the provisions of the Act and associated EPA regulations and policies.
2. Make alternative regulatory changes to those required by the Act, either one or more of the alternatives identified below:
 - a. Revise the regulations to include requirements more stringent than those required by the Act.
 - b. Revise the regulations to include requirements less stringent than the Act. or perhaps other suggested alternatives.
3. Take no action to amend the regulations.

Regulatory constraints: The 1990 Clean Air Act Amendments added a new Section 129 to the Act that applies to solid waste incinerators, including municipal waste combustors (MWCs), medical waste incinerators, and industrial waste incinerators. Section 129 of the Act and its associated standards were promulgated because EPA determined that incinerator emissions cause or contribute significantly to air pollution which may reasonably be expected to endanger public health and welfare. The intended effect of the standards and guidelines is to form

a basis for state action to develop state regulations controlling MWC emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, non-air quality health and environmental impacts, and energy requirements.

Section 129 of the Act directs that the standards and guidelines for MWCs be broadened, and provides the schedule for this activity. First, Section 129 directs EPA to promulgate these standards and guidelines for individual MWC units with a larger than 250 tpd capacity. Second, Section 129 requires EPA to review and revise these promulgated standards and guidelines within one year, to be fully consistent with Section 129. This will result in a number of additions to the standards and guidelines, including the addition of numerical emission limits for mercury, cadmium, and lead emissions. Third, Section 129 directs that standards and guidelines, fully consistent with Section 129, be promulgated for MWCs with a less than 250 tpd capacity within two years.

Regulating MWC emissions for new sources under Section 111(b) of the Act (New Source Performance Standards) establishes MWC emissions as a designated pollutant, and requires the EPA to promulgate guidelines under Section 111(d) for states to use in developing regulations to control pollutants from existing MWCs. Emissions guidelines for existing MWCs that began construction on or before December 20, 1989, have been promulgated under Sections 111(d) and 129 of the Act. In order for Sections 111 and 129 to be effected, the specific guidelines are promulgated in the Code of Federal Regulations (CFR) (subpart Ca 40 CFR Part 60). State regulations must be at least as stringent as the guidelines.

The guidelines subcategorize the population of existing MWCs into two size categories relative to air emission levels: very large (existing MWC units larger than 250 tpd capacity that are located at MWC facilities with an aggregate capacity to combust more than 1,100 tpd of municipal solid waste); and large (existing MWC units larger than 250 tpd capacity that are located at MWC facilities with an aggregate capacity to combust more than 250 tpd of municipal solid waste, but less than or equal to 1,100 tpd of municipal solid waste).

MWC emissions are subcategorized as organic, metal, and acid gas emissions. The guidelines establish emission limits for organic emissions (measured as dioxins and furans), metal emissions (measured as particulate matter), and acid gas emissions (measured as sulfur dioxide and hydrogen chloride).

The guideline limits require emission reductions from existing MWCs larger than 250 tpd capacity in two ways. First, proper combustion of municipal solid waste is required for all MWCs. Second, the guidelines limit the composite pollutant, MWC emissions, through specific maximum emission levels for organic, metal, and acid gas emissions. Compliance testing specifications and a good combustion practice requirement are also included.

Notices of Intended Regulatory Action

Tentative determinations: It has been tentatively determined that to meet the minimum requirements of the Act (as described in the regulatory constraints section), the following standards would have to be added to the regulations:

Emission Type	Guidelines	
	Large (less than or equal to) 1,100 tpd)	Very Large (greater than 1,000 tpd)
Organics	50 gr/Bdscf (100 for RDF stokers and mixed fuels)	24 gr/Bdscf
Metals	0.030 gr/dscf of PM and 10% opacity	.015 gr/dscf of PM and 10% opacity
Acid Gases		
HCl	50% reduction or 25 ppmv	90% reduction or 30 ppmv
SO ₂	50% reduction or 30 ppmv	70% reduction or 30 ppmv

gr/Bdscf = grams per billion dry standard cubic feet

RDF = refuse-derived fuel

PM = particulate matter

HCl = hydrogen chloride

SO₂ = sulfur dioxide

ppmv = parts per million volume

Applicable statutory provisions:

1. State. The legal basis for the regulation is § 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).

2. Federal.

a. The legal basis for the regulation is Section 110 of the Federal Clean Air Act (42 USC 7401 et seq., 91 Stat 685).

b. The regulatory basis for the regulation is Subpart L and Section 51.281 of 40 CFR Part 51.

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

Written comments may be submitted until February 2, 1993 to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

† 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 (Revision LL). The purpose of the proposed action is to amend the regulations to provide the latest edition of referenced documents and to incorporate newly promulgated federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP).

A public meeting will be held by the department in Room D of the Monroe Building, 101 North Fourteenth Street, Richmond, Virginia, at 10 a.m. on February 3, 1993, 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.

Needs and issues involved: The amendments are needed because the regulations must be current and timely which means that documents incorporated must be the most recent edition. The board must incorporate the newly promulgated NSPS and NESHAP in order for the department to obtain authority from the U.S. Environmental Protection Agency (EPA) to enforce these standards. The issue is whether the regulations should specify the most current edition of those documents incorporated by reference and whether the department should obtain delegation of authority to enforce the newly promulgated federal standards.

Regulatory alternatives: The regulatory alternative is not to adopt the intended regulatory amendments and continue using references that are outdated and not to incorporate the additional federal standards and, thus, allow the enforcement of these standards by EPA.

Regulatory constraints: None.

Applicable statutory provisions:

1. State. The legal basis for the regulation is § 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).

2. Federal.

a. The legal basis for the regulation is Section 110 of the Federal Clean Air Act (42 USC 7401 et seq., 91 Stat 685).

b. The regulatory basis for the regulation is Subpart L and Section 51.281 of 40 CFR Part 51.

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

Written comments may be submitted until February 3, 1993, to Director of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, Virginia 23240.

Notices of Intended Regulatory Action

Contact: Karen G. Sabasteanski, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

† 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 (Revision MM)**. The purpose of the proposed action is to amend the regulation to make it conform to the federal requirements for prevention of significant deterioration new source review programs.

A public meeting will be held by the department in Room D of the Monroe Building, 101 North Fourteenth Street, Richmond, Virginia, at 10 a.m. on February 4, 1993, 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.

Needs and issues involved: The primary goals of the Clean Air Act are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS.

The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, showing how the air pollution concentrations will be reduced to levels at or below these standards (i.e., attainment). Once the pollution levels are within the standards, the plan must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (i.e., maintenance). The Virginia State Implementation Plan was submitted to EPA in early 1972. Many revisions (mostly regulation revisions) to the plan have been made since the original submittal in 1972. Generally, the plan is revised, as needed, based upon changes in the Federal Clean Air Act and its requirements.

A state implementation plan is the key to the air quality programs. The Clean Air Act is specific concerning the elements required for an acceptable SIP. No state is required to prepare such a plan; but if it does not, or EPA does not approve a submitted plan, then EPA itself is empowered to take the necessary actions to attain and maintain the air quality standards.

A SIP revision for PSD is designed to protect air quality in areas where the air is cleaner than required by the NAAQS. The PSD program has three classifications for defining the level of allowable degradation. Class I is the most stringent classification, allowing for little additional

pollution, while Class III allows the most. All of Virginia is classified at the moderate level, Class II, with the exception of two Class I federal lands.

PSD's primary control strategy is New Source Review. Prior to the construction or expansion of industrial facilities, a permit must be obtained that demonstrates that a facility will not emit pollutants in sufficient quantity to make a significant contribution to the deterioration of air quality or to violate the NAAQS.

In 1972, EPA declared all state plans to control air pollution inadequate because they did not provide for prevention of significant deterioration of air quality. EPA issued its own PSD regulations in 1974, which provided for three area classifications which would allow for three different levels of degradation, and required that new or modified major sources obtain a permit from EPA to construct. By 1978, EPA updated its PSD regulations, which then underwent considerable revision and controversy.

Because the federal PSD regulations were frequently in litigation and it was difficult to develop stable plans, most states, including Virginia, opted to accept a federal implementation plan (FIP) in lieu of a SIP. EPA promulgated a FIP but, due to limited enforcement resources, allowed states to enforce it under a delegated program approach. Since that time, the program has stabilized, and the states have gained considerable experience in carrying out the program. Currently, 3 states operate under an approved SIP: 13 under full delegation and 6 under partial delegation.

Currently, Virginia has not submitted a SIP for PSD but operates under an EPA promulgated PSD plan. EPA's plan, which consists of New Source Review, has been delegated to the State Air Pollution Control Board. To implement the EPA plan the board currently has New Source Review regulations (contained in § 120-08-02 of VR 120-01) for a PSD program that are, in substance, the same as EPA's regulations. Virginia now wishes to abandon the delegated approach and submit a SIP revision giving the state full PSD authority. The board has taken the first step by approving an overall SIP revision and directing the department to submit the SIP revision to EPA. However, prior to including New Source Review regulations as part of the SIP revision, the board must make several changes, mainly procedural in nature, to make the regulations acceptable to EPA.

Regulatory alternatives:

1. Amend the regulations to satisfy the provisions of the Clean Air Act and associated EPA regulations and policies.
2. Make alternative regulatory changes to those required by the Act.
3. Take no action to amend the regulations an

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continue to operate under the federal implementation plan.

Regulatory constraints: A key strategy for managing the growth of new emissions is the permit program for new and modified stationary sources. The program is mandated by the Clean Air Act and requires that owners obtain a permit from the agency prior to the construction of a new industrial or commercial facility or the expansion of an existing one. Program requirements differ according to the facility's potential to emit a specified amount of a specific pollutant and the air quality status of the various areas within the state where the facility is or will be located. Requirements for facilities considered to be major due to their potential to emit a specified pollutant are more stringent than for less polluting facilities. Requirements for major facilities located or locating in nonattainment areas are considerably more stringent than for PSD areas. Permits issued in nonattainment areas require the facility owner to apply control technology that meets the lowest achievable emission rate and to obtain emission reductions from existing sources in the area such that the reductions offset the increases from the proposed facility by a ratio greater than one for the emissions contributing to the nonattainment situation. Permits issued in PSD areas require the facility owner to employ control technology that is the best available and, in some cases, to monitor ambient air quality at the site where the facility will be located to determine ambient air background levels of the pollutants to be emitted. Through the implementation of a new and modified source permit program, emission increases from new and expanding stationary sources can be managed so that affected areas can attain and maintain the air quality standards and accommodate growth.

Under the PSD permit program, certain information is required as part of the application, as follows:

- (1) an assessment of existing air quality, which requires one year of measurement data;
- (2) a description of the technology to be used to control emissions from the facility, which must be the best available control technology; and
- (3) an assessment of the impact of emissions from the facility on existing air quality, using complex mathematical models.

Development by the applicant and review and analysis by the state of this information is an extensive process. Prior to granting the permit, there must be a preconstruction review of projected pollution emission increases expected from the construction of a new industrial facility or the expansion of an existing industrial facility so as to insure that the emission increases are held to a minimum. The review consists of four phases.

The first phase of review is to determine if the proposed new or modified facility will be subject to the program. Only major industrial facilities are affected and the

regulations provide specific definitions that identify these particular facilities.

The second phase of review is to determine if the facility will be equipped with the best available control technology (BACT) to reduce its emissions in light of economic, environmental, and energy factors. BACT must be used on all pollutants that will be emitted in significant amounts.

The third phase of review is to determine if the emissions from the proposed new or modified facility will cause a violation of any air quality standard or the special incremental standards developed for the PSD program. The determination is made after an air quality impact analysis using current modeling techniques.

The final phase of review is to determine the impact of associated sources of pollution, such as commercial and other industrial development, resulting from the entry of the new facility into the area. This phase also requires an analysis of the impact of the increased emissions from the new or modified facility on impairment of visibility and the possible damage to soils and vegetation.

Applicable statutory provisions:

1. State. The legal basis for the regulation is § 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).
2. Federal.
 - a. The legal basis for the regulation is Section 110 of the Federal Clean Air Act (42 USC 7401 et seq., 91 Stat 685).
 - b. The regulatory basis for the regulation is Subpart L and Section 51.281 of 40 CFR Part 51.

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

Written comments may be submitted until February 4, 1993, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1624.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech-Language Pathology intend to consider amending regulations entitled: **VR 155-01-2:1. Regulations of the Board of Audiology and Speech Pathology.** The

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purpose of the proposed action is to (i) delete licensure requirements that become ineffective on December 31, 1992, (ii) add the word "language" to all references of speech pathology, and (iii) incorporate legislative changes which became effective July 1, 1992.

Statutory Authority: §§ 54.1-2400 and 54.1-2602 of the Code of Virginia.

Written comments may be submitted until December 31, 1992.

Contact: Meredyth P. Partridge, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-7390.

BOARD OF COMMERCE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Commerce intends to consider repealing regulations entitled: **VR 190-02-1. Agency Rules of Practice for Hearing Officers.** The purpose of the proposed action is to repeal the current rules of practice to eliminate confusion, duplication or inconsistency with the statutes incorporated in the Administrative Process Act (APA.)

Statutory Authority: § 54.1-310 of the Code of Virginia.

Written comments may be submitted until January 13, 1993, to Bonnie S. Salzman, Director, Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230.

Contact: Peggy McCrerey, Regulatory Programs Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2194.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider amending regulations entitled: **VR 270-01-0014. Regulations Governing Management of the Student's Scholastic Records.** The purpose of the proposed action is to amend the regulations to incorporate changes required by the U.S. Department of Education, Virginia's Literacy Testing Passport Program and other requested changes.

Statutory Authority: §§ 22.1-16, 22.1-287.1, and 22.1-289 of the Code of Virginia.

Written comments may be submitted until January 13, 1993.

Contact: Robin L. Hegner, Policy Analyst, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2816.

VIRGINIA EMPLOYMENT COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Employment Commission intends to consider amending regulations entitled: **VR 300-01-1. Definitions and General Provisions.** The purpose of the proposed action is to clarify definitions, thereby making these regulations more functional for all users.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until December 31, 1992.

Contact: Michael Maddox, Legislative Analyst, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Employment Commission intends to consider amending regulations entitled: **VR 300-01-3. Benefits.** The purpose of the proposed action is to correct citations to law or other references.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until December 31, 1992.

Contact: Michael Maddox, Legislative Analyst, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Employment Commission intends to consider amending regulations entitled: **VR 300-01-4. Adjudication.** The purpose of the proposed action is to clarify language relating to the scheduling and conduct of hearings, and conform such language to that used in other VEC regulations.

Statutory Authority: § 60.2-111 of the Code of Virginia.

Written comments may be submitted until December 31, 1992.

Contact: Michael Maddox, Legislative Analyst, Virginia

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Employment Commission, P.O. Box 1358, Richmond, VA 23211, telephone (804) 786-1070.



DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to repeal regulations entitled: **Rules and Regulations Governing the Maternal and Neonatal High-Risk Hospitalization Program**. The purpose of the proposed action is to repeal the Rules and Regulations Governing the Maternal and Neonatal High-Risk Hospitalization Program. Appropriations for the program ended in FY 88.

Statutory Authority: § 32.1-12 of the Code of Virginia.

Written comments may be submitted until January 15, 1993.

Contact: Rosanne Kolesar, Health Programs Analyst, Department of Health, 1500 E. Main St., Room 213, Richmond, VA 23219, telephone (804) 786-4891.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to repeal regulations entitled: **VR 355-25-01. Rules and Regulations for the Reporting of Chemical Substances Manufactured or Used in Manufacturing**. The purpose of the proposed action is to repeal the Rules and Regulations for the Reporting of Chemical Substances Manufactured or Used in Manufacturing. These regulations are no longer needed as the 1992 General Assembly passed legislation eliminating the statutory requirements for reporting of toxic substances and the maintenance of the Toxic Substances Chemical Inventory.

Statutory Authority: § 32.1-12 of the Code of Virginia.

Written comments may be submitted until January 15, 1993.

Contact: Rosanne Kolesar, Health Programs Analyst, Department of Health, 1500 E. Main St., Room 213, Richmond, VA 23219, telephone (804) 786-4891.

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 of Historic Resources intends to consider promulgating regulations entitled: **VR 390-01-03.1. Evaluation Criteria and Procedures for Designations by the Board of Historic Resources**. The purpose of the proposed action is to (i) set out those criteria to be used by the board in designating Virginia landmarks, (ii) set out the requirements for public notice and public hearings prior to any designation, and (iii) set out the procedures by which property owners may object to and prevent designation.

Section 10.1-2205 of the Code of Virginia, as amended by the 1992 General Assembly, requires the board to promulgate regulations that set out its evaluation criteria and its procedures for the designation of Virginia landmarks. The same Code section requires that the regulations be consistent with the National Historic Preservation Act and its attendant regulations. Section 10.1-2206.1 of the Code sets out requirements for public notice and public hearings prior to any designation by the board, and it requires that any regulations adopted pursuant to § 10.1-2205 be consistent with those requirements. Finally, § 10.1-2206.2 of the Code makes any designations by the board dependent upon the lack of objection from the owner or majority of owners of the property proposed for designation. The applicable state laws, federal laws, and federal regulations may be reviewed at or obtained (at cost) from the Department of Historic Resources.

In order for the board to carry out its statutory mandate to designate Virginia landmarks, it must adopt regulations setting out criteria and procedures. No alternative to regulations is available. In considering all possible criteria and procedures to be set out in those regulations, the board must remain within the constraints set out in the preceding paragraph. These regulations would affect only those designations made by the board; action by the director of the Department of Historic Resources to nominate property to the National Park Service would be governed by a separate, parallel regulation.

The board requests comments on its intended regulatory action, including any ideas that would assist in the drafting and formation of the proposed regulation. The board also requests comments on the costs and benefits of adopting a regulation setting forth evaluation criteria and procedures; such comments may address the concept generically or they may assess the relative merits of specific alternatives.

The board will hold public meeting on December 16, 1992, at 2 p.m. in Senate Room A, General Assembly Building, Richmond, Virginia, to receive comments and respond to questions on this intended action. It is the board's intent to have a permanent regulation in place by September 1, 1993.

Statutory Authority: § 10.1-2205 of the Code of Virginia.

Written comments may be submitted until December 31,

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1992, to Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor Street, Richmond, Virginia 23219.

Contact: H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor St., 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 392-01-02.1. Evaluation Criteria and Procedures for Nomination of Property to the National Register or for Designation as a National Historic Landmark.** The purpose of the proposed action is to set out those criteria to be used by the director in nominating properties to the National Park Service for inclusion in the National Register or for designation as a National Historic Landmark, and to set out the requirements for public notice and public hearings prior to any nomination.

Section 10.1-2202 of the Code of Virginia, as amended by the 1992 General Assembly, authorizes the director of the department to promulgate regulations that set out evaluation criteria and procedures for nominating property to the National Park Service for inclusion in the National Register of Historic Places or for designation as a National Historic Landmark. The same Code section requires that the regulations be consistent with the National Historic Preservation Act and its attendant regulations. Section 10.1-2206.1 of the Code sets out requirements for public notice and public hearings prior to any nomination by the director, and it requires that any regulations adopted pursuant to § 10.1-2205 be consistent with those requirements. The applicable state laws, federal laws, and federal regulations may be reviewed at or obtained (at cost) from the Department of Historic Resources.

While the Code authorizes the director to promulgate regulations but does not explicitly require those regulations, the department finds that the 1992 General Assembly's intent in establishing that authorization was that regulations should be promulgated. The department consequently finds that no alternative to regulations is available. In considering all possible criteria and procedures to be set out in those regulations, the director must remain within the constraints set out in the preceding paragraph. These regulations would affect only those nominations made by the director to the National Park Service; action by the Board of Historic Resources to designate Virginia landmarks would be governed by a separate, parallel regulation.

The department requests comments on its intended regulatory action, including any ideas that would assist in

the drafting and formation of the proposed regulation. The department also requests comments on the costs and benefits of adopting a regulation setting forth evaluation criteria and procedures; such comments may address the concept generically or they may assess the relative merits of specific alternatives.

The department will hold a public meeting on December 16, 1992, at 2 p.m. in Senate Room A, General Assembly Building, Richmond, Virginia, to receive comments and respond to questions on this intended action. It is the department's intent to have a permanent regulation in place by September 1, 1993.

Statutory Authority: § 10.1-2202 of the Code of Virginia.

Written comments may be submitted until December 31, 1992, to Margaret T. Peters, Information Officer, Department of Historic Resources, 221 Governor Street, Richmond, Virginia 23219.

Contact: H. Bryan Mitchell, Deputy Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with agency's public participation guidelines that the Board of Medical Assistance Services intends to consider promulgating regulations entitled: **Selective Contracting of Inpatient Hospital Services.** The purpose of the proposed action is to provide hospital inpatient services to Medicaid recipients in the Tidewater Virginia area through contracting hospitals.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until January 11, 1993, to Kathryn Kotula, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, 600 E. Broad St., Department of Medical Assistance Services, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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**

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and Acupuncture. The purpose of the proposed regulation is to delete the commentary statement following § 2.2 A 3 d (6). The present language is ambiguous and lacks statutory authority.

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

Written comments may be submitted until January 15, 1993, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, 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 465-03-1. Regulations Governing the Practice of Physical Therapy.** The purpose of the proposed regulation is to amend § 9.1 to establish a fee to be retained by the board when an applicant withdraws their application.

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

Written comments may be submitted until January 15, 1993, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing intends to consider amending regulations entitled **VR 495-01-1. Board of Nursing Regulations.** The purpose of the proposed action is to conduct a biennial review of existing regulations as to cost of compliance and propose amendments which may result from the review. Included in the review are requests from (i) the Board of Education to reconsider certification and program approval of Nurse Aide Education Programs in the public schools, and (ii) Tidewater Tech for recognition of the Career College Association as an accrediting agency in § 2.2 A 2 of the regulations.

A public hearing to receive oral comments on the existing regulations will be held on January 27, 1993, at 1:30 p.m. at the Department of Health Professions, Conference Room, 6606 W. Broad Street, Richmond, VA.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Written comments may be submitted until January 27, 1993 at 5 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9909.

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 565-01-2. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to adjust fees, in accordance with § 54.1-113 of the Code of Virginia, to assure revenue is sufficient to cover board expenses.

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

Written comments may be submitted until January 28, 1993.

Contact: Evelyn B. Brown, Executive Director, or Jane Ballard, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **VR 615-43-4.1. Adoptee Application for Disclosure of Identifying Information on Birth Family in a Closed Adoption Record.** The purpose of the proposed action is to implement the changes in § 63.1-236 of the Code of Virginia, effective July 1, 1992, which allow adults adopted in Virginia to apply to the Commissioner of Social Services for identifying information on their birth families.

Emergency regulations were published in The Virginia Register on August 24, 1992.

Statutory Authority: §§ 63.1-25, 63.1-223, 63.11-226, 63.1-228, 63.1-229, 63.1-236 and 63.1-236.1.

Written comments may be submitted until January 4, 1993, to Sandra A. Sanroma, Foster Care and Adoption Unit, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia, 23229-8699.

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Contact: Margaret J. Friedenberg, Legislative Analyst, Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-10-1. Hazardous Waste Management Regulations.** The purpose of the proposed action is to incorporate changes to federal rules as related to wood preserving and drip pads to assure consistency and maintain equivalency between the Virginia program and the federal hazardous waste management program.

Statutory Authority: § 10.1-1402 (11) of the Code of Virginia.

Written comments may be submitted until January 14, 1993.

Contact: William F. Gilley, Environmental Regulation Consultant, Department of Waste Management, 101 N. 14th St., 11th Floor, Monroe Bldg., Richmond, VA 23219, telephone (804) 225-2966.

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: **VR 674-01-01. Public Participation Guidelines for Waste Management Facility Operators Board.** The purpose of the proposed action is to establish public participation guidelines for the Waste Management Facility Operators Board.

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

Written comments may be submitted until January 29, 1993.

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

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: **VR 680-14-01. Permit Regulation.** The proposed regulatory action is to consider repealing the Permit Regulation. The adoption of a new VPDES Permit Regulation will make the VPDES program conform in style and content to the federal program regulations. The VPA Permit Regulation will be separated from the VPDES permitting program in order to recognize the distinction between this wholly state run VPA program and the federal/state NPDES/VPDES permit program.

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program.

Need: The repeal of this regulation is being considered in order to eliminate any confusion and duplication of regulations which may result from the concurrent incorporation of the intent and purpose of the Permit Regulation into a Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (VR 680-14-01:1) and a Virginia Pollution Abatement (VPA) Permit Regulation (VR 680-14-21).

Estimated impact: The repeal of VR 680-14-01 would have no impact on the regulated community nor the environment as the purpose and scope of the regulation are being transferred into the VPDES Permit Regulation and the VPA Permit Regulation.

Alternatives: One alternative to the proposed repeal is to continue to administer the VPDES and VPA permit programs under the current regulation (VR 680-14-01).

Comments: The board seeks oral and written comments from interested persons on the proposed regulatory action and on the costs and benefits of the stated alternatives. To be considered, written comments should be directed to Ms. Doneva Dalton, Hearing Reporter, at the address below and must be received by 4 p.m. on Friday, February 12, 1993.

In addition, the board will hold public meetings at 2 p.m. on Wednesday, January 27, 1993, at the Prince William County Board of Supervisors Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William; at 2 p.m. on Thursday, January 28, 1993, at the Harrisonburg City Council Chambers, Municipal Building, 345 S. Main Street, Harrisonburg; at 2 p.m. on Tuesday, February 2, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m. on Thursday, February 4, 1993, at the Multi-Purpose Room, Municipal Office, 150 E. Monroe Street, Wytheville, to receive views and comments and to answer questions of the public.

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Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than January 11, 1993.

Applicable laws and regulations: State Water Control Law, Clean Water Act, Permit Regulation (VR 680-14-01).

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 12, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

† 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 680-14-01:1. Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation.** The proposed regulatory action is to consider adoption of a new regulation. This regulation will govern point source discharges of pollutants to surface waters within the boundaries of the Commonwealth of Virginia. These discharges are currently regulated under the VPDES permit program and the Permit Regulation (VR 680-14-01). The adoption of the proposed regulation will replace the VPDES portion of the existing Permit Regulation and it will make the VPDES program conform to the federal NPDES regulation. This action is being done concurrent with the repeal of VR 680-14-01.

Basis and authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; and §§ 62.1-44.16, 62.1-44.17, 62.1-44.18 and 62.1-44.19 authorize the board to regulate discharges of sewage, industrial wastes and other wastes.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the National Pollutant Discharge Elimination System permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum

of Understanding with the U.S. EPA. VR 680-14-01:1 will be the specific regulation governing this authorization.

Need: Any point source discharge of pollutants to surface waters is subject to regulation under a Virginia Pollutant Discharge Elimination System (VPDES) permit. The VPDES regulation will delineate the procedures and requirements to be followed in connection with VPDES permits issued by the board pursuant to the Clean Water Act and the State Water Control Law. In order to retain the authority to administer the VPDES permit program, the board must adopt regulations which are consistent with the federal program regulations. The current Permit Regulation (VR 680-14-01) does not reflect the latest revisions to the federal regulations and must be replaced.

Estimated impact: This regulation will impact all of the approximately 2,800 Virginia Pollutant Discharge Elimination System permittees in that the governing regulation will be replaced with an updated version. There will be no added costs to the permittees beyond those required under the existing regulation because the program operations will not change significantly from one to the other.

Alternatives: One alternative to the proposed regulation is to modify the existing Permit Regulation, rather than adopting a separate regulation for VPDES permits. Another alternative is to take no action and to continue to administer the VPDES permit program under the current regulation which is not up to date with changes in the federal regulations.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the states alternatives or other alternatives. Written comments should be directed to Ms. Doneva Dalton, Hearing Reporter, at the address below and must be received by 4 p.m. on Friday, February 12, 1993.

In addition, the board will hold public meetings at 2 p.m. on Wednesday, January 27, 1993, at the Prince William County Board of Supervisors Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William; at 2 p.m. on Thursday, January 28, 1993, at the Harrisonburg City Council Chambers, Municipal Building, 345 S. Main Street, Harrisonburg; at 2 p.m. on Tuesday, February 2, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m. on Thursday, February 4, 1993, at the Multi-Purpose Room, Municipal Office, 150 E. Monroe Street, Wytheville, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton at the address below or by telephone at (804) 527-5162 or TDD ((804) 527-4261. Persons needing

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interpreter services for the deaf must notify Ms. Dalton no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law, Clean Water Act.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 12, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

† 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: **VR 680-14-03. Toxics Management Regulation.** The proposed regulatory action is to consider repealing the Toxics Management Regulation. This action is being proposed in order to eliminate any confusion and duplication of regulations which may result from the concurrent adoption of a VPDES Permit Regulation (VR 680-14-01:1).

Basis and statutory authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program, and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Need: Repeal of the Toxics Management Regulation is necessary since the board intends to consider adoption of a VPDES Permit Regulation which will include language on the evaluation of effluent toxicity and the mechanisms for control of toxicity through chemical specific and whole effluent toxicity limitations.

Estimated impact: The repeal of this regulation would have no impact on the regulated community nor the environment as the intent and purpose of the regulation will be included in the new VPDES Permit Regulation. There should be no additional economic impact as a result of this action.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives. Written comments should be directed to Ms Doneva Dalton at the address below and must be received by 4 p.m. on Friday, February 12, 1993.

In addition, the board will hold public meetings at 2 p.m. on Wednesday, January 27, 1993, at the Prince William County Board of Supervisors Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William; at 2 p.m. on Thursday, January 28, 1993, at the Harrisonburg City Council Chambers, Municipal Building, 345 S. Main Street, Harrisonburg; at 2 p.m. on Tuesday, February 2, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m. on Thursday, February 4, 1993, at the Multi-Purpose Room, Municipal Office, 150 E. Main Street, Wytheville.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Doneva Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law, Clean Water Act, Permit Regulation (VR 680-14-01), Toxics Management Regulation (VR 680-14-03).

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 12, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

† 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 680-14-16. General Permit Regulation for Storm Water Discharges from Heavy Manufacturing.** The purpose of this proposed regulatory action is to adopt a general permit for storm water discharges from heavy manufacturing facilities. Heavy manufacturing facilities are defined as facilities classified as Standard Industrial Classification (SIC) 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, and 373 (Office of Management and Budget SIC Manual, 1987).

The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such

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regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including heavy manufacturing facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify

water quality impacts and support future permitting activities.

Estimated impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 1,250 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from heavy manufacturing facilities. One is to issue an individual VPDES permit to each of the estimated 1,250 heavy manufacturing facilities. The other is to adopt a general VPDES permit to cover this category of discharger.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Public meetings: The board will hold public meetings at 2 p.m., or as soon thereafter as possible, on Thursday, February 4, 1993, at the Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke; at 2 p.m., or as soon thereafter as possible, on Monday, February 8, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m., or as soon thereafter as possible, on Wednesday, February 10, 1993, in the Board Room at the State Water Control Board's office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Lori Jackson at the address below or by telephone at (804) 527-5163 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Jackson no later than Monday, January 11, 1993.

Notices of Intended Regulatory Action

Applicable laws and regulations: State Water Control Law; Clean Water Act; Permit Regulation (VR 680-14-01); NPDES Permit Application Regulations for Storm Water Discharges; NPDES Application Deadlines, General Permit Requirements and Reporting Requirements for Storm Water Discharges Associated With Industrial Activity (57 FR 11394); and NPDES General Permits for Storm Water Discharges.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 16, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

† 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 680-14-17. General Permit Regulation for Storm Water Discharges from Light Manufacturing.** The purpose of this proposed regulatory action is to adopt a general permit for storm water discharges from light manufacturing facilities. Light manufacturing facilities are defined as facilities classified as Standard Industrial Classification (SIC) 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25 (Office of Management and Budget SIC Manual, 1987).

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a

Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including light manufacturing facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 3,650 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

Notices of Intended Regulatory Action

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from light manufacturing facilities. One is to issue an individual VPDES permit to each of the estimated 3,650 light manufacturing facilities. The other is to adopt a general VPDES permit to cover this category of discharger.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Public meetings: The board will hold public meetings at 2 p.m., or as soon thereafter as possible, on Thursday, February 4, 1993, at the Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke; at 2 p.m., or as soon thereafter as possible, on Monday, February 8, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m., or as soon thereafter as possible, on Wednesday, February 10, 1993, in the Board Room at the State Water Control Board's office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Lori Jackson at the address below or by telephone at (804) 527-5163 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Jackson no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law; Clean Water Act; Permit Regulation (VR 680-14-01); NPDES Permit Application Regulations for Storm Water Discharges; NPDES Application Regulations, General Permit Requirements and Reporting Requirements for Storm Water Discharges Associated With Industrial Activity (57 FR 11394); and, NPDES General Permits for Storm Water Discharges Associated With Industrial Activity (57 FR 41236).

Statutory Authority: § 62.1-44-15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 16, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

† 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 680-14-18. General Permit Regulation for Storm Water Discharges from Transportation Facilities, Landfills, Land Application Sites and Open Dumps, Materials Recycling Facilities, and Steam Electric Power Generating Facilities.** The purpose of this proposed regulatory action is to adopt a general permit for storm water discharges from the facilities defined as follows: (1) transportation facilities classified as Standard Industrial Classification (SIC) 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations (Office of Management and Budget SIC Manual, 1987); (2) landfills, land application sites, and open dumps that receive or have received any industrial wastes including those that are subject to regulation under Subtitle D of RCRA (42 USC 6901 et seq.); (3) facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as SIC 5015 and 5093; and, (4) steam electric power generating facilities, including coal handling sites.

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Notices of Intended Regulatory Action

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including transportation facilities; landfills, land application sites and open dumps; materials recycling facilities; and steam electric power generating facilities. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each individual facility covered by this general permit. Facilities will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the industrial activity at the facility, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the industrial activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the industrial activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work and expense of obtaining a permit for the owners and operators in this category. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are approximately 1,500 facilities in this category of discharger that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits.

Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges from the facilities in this category. One is to issue an individual VPDES permit to each of the estimated 1500 facilities in this category. The other is to adopt a general VPDES permit to cover this category of discharger.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Public meetings: The board will hold public meetings at 2 p.m., or as soon thereafter as possible, on Thursday, February 4, 1993, at the Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke; at 2 p.m., or as soon thereafter as possible, on Monday, February 8, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m., or as soon thereafter as possible, on Wednesday, February 10, 1993, in the Board Room at the State Water Control Board's office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Lori Jackson at the address below or by telephone at (804) 527-5163 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Jackson no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law; Clean Water Act; Permit Regulation (VR 680-14-01); NPDES Permit Application Regulations for Storm Water Discharges; NPDES Application Deadlines, General Permit Requirements and Reporting Requirements for Storm Water Discharges Associated With Industrial Activity (57 FR 11394); and, NPDES General Permits for Storm Water Discharges Associated With Industrial Activity (57 FR 41236).

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 16, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

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† 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 690-14-19. General Permit Regulations for Storm Water Discharges from Construction Sites.** The purpose of this proposed regulatory action is to adopt a general permit for storm water discharges from construction sites that are defined as follows: construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale.

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: Most storm water runoff is discharged through conveyances, such as separate storm sewers, ditches, channels, pipes, etc., which are considered point sources under the Clean Water Act, and subject to regulation through the NPDES permit program. On November 16, 1990, EPA published the final NPDES Permit Application Regulations for Storm Water Discharges (55 FR 47990). This federal regulation established permit application requirements for certain municipal and industrial storm water discharges. Eleven categories of industrial activity were defined in the federal regulation including construction sites. Any facility covered by the federal regulation that discharges storm water through a point source to surface waters is required to file a storm water permit application.

Intent: The intent of this general permit regulation is to establish standard language for control of storm water discharges through the development of Storm Water Pollution Prevention Plans and to set minimum monitoring and reporting requirements. A site-specific Storm Water Pollution Prevention Plan will be required to be developed by the permittee for each construction site covered by this general permit. Owners/operators will be required to implement the provisions of the plan as a condition of the permit.

The Storm Water Pollution Prevention Plan will identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction activity at the site, and shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with the construction activity.

Monitoring and reporting requirements will be established based upon the pollution potential of the storm water discharges from the construction activity. Monitoring reports will assist in evaluating the effectiveness of pollution prevention measures and provide information to identify water quality impacts and support future permitting activities.

Estimated impact: Adoption of these regulations will allow for the streamlining of the permit process as it relates to construction activity permits. Coverage under the general permit would reduce the paper work required to obtain a permit for the owners/operators at construction sites. It will also reduce the time currently required to obtain coverage under the VPDES permitting system. The staff estimates that there are between 5,000 to 10,000 construction sites that may be required to apply for storm water permits. The board believes it would be impossible at this time to develop and issue individual permits in a timely manner to all applicants.

The board recognizes the need for storm water general permits to ease the burden on the regulated community and to facilitate the issuance of storm water permits. Issuance of general permits would improve the administrative efficiency of the board's permitting program and allow staff resources to be concentrated on developing individual permits for those facilities which have more potential for impacting water quality in Virginia.

Alternatives: There are two alternatives to comply with the federal requirements to permit storm water discharges. One is to issue an individual VPDES permit to each of the estimated 5,000 to 10,000 construction sites. The other is to adopt a general VPDES permit to cover this category of discharger.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives.

Notices of Intended Regulatory Action

Public meetings: The board will hold public meetings at 2 p.m., or as soon thereafter as possible, on Thursday, February 4, 1993, at the Roanoke County Administration Center, Community Room, 3738 Brambleton Avenue, S.W., Roanoke; at 2 p.m., or as soon thereafter as possible, on Monday, February 8, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m., or as soon thereafter as possible, on Wednesday, February 10, 1993, in the Board Room at the State Water Control Board's office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Lori Jackson at the address below or by telephone at (804) 527-5163 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Jackson no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law; Clean Water Act; Permit Regulation (VR 680-14-01); NPDES Permit Application Regulations for Storm Water Discharges; NPDES Application Deadlines, General Permit Requirements and Reporting Requirements for Storm Water Discharges Associated With Industrial Activity (57 FR 11394); and, NPDES General Permits for Storm Water Discharges Associated With Industrial Activity (57 FR 41236).

Statutory Authority: § 62.1-44-15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 16, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Cathy Boatwright, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316.

† 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 680-14-20. General Virginia Pollutant Discharge Elimination System Permit Regulation for Nonmetallic Mineral Mining.** General permits may be issued for categories of dischargers that: involve the same or similar types of operations, discharge the same or similar types of wastes, require the same effluent limitations or operating conditions, and require the same or similar monitoring. The purpose of this proposed regulatory action is to adopt a general permit for the category of industrial waste discharges associated with establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, except fuels. The intent

of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. No discharge would be covered by the General Permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Basis and statutory authority: The basis for these regulations is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters and § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the State Water Control Board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a General VPDES Permit Program.

Need: This proposed regulatory action is needed in order to establish appropriate and necessary permitting of industrial waste discharges associated with establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, except fuels.

Intent: The intent of this proposed general permit regulation is to establish standard language for the limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. As with an individual VPDES permit, the effluent limits in the general permit will be set to protect the quality of the waters receiving the discharge. No discharge would be covered by the General Permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances.

Estimated impact: There are approximately 90 establishments currently permitted under the individual

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VPDES permit program which may qualify for this proposed general permit. Adoption of these regulations will allow for the streamlining of the permit process as it relates to the covered categories of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category. Adoption of the proposed regulations would also reduce the manpower needed by the Water Control Board for permitting these discharges.

Alternatives: There are two alternatives for compliance with federal and state requirements to permit industrial waste discharges associated with establishments primarily engaged in mining or quarrying, developing mines or exploring for nonmetallic minerals, except fuels. One is the issuance of an individual VPDES permit to each establishment. The other is to adopt and issue a general VPDES permit to cover this category of discharges.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives.

Public meetings: The board will hold a public meeting at 2 p.m. on Friday, January 29, 1993, in the Board Room, State Water Control Board's offices, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, to receive views and comments and to answer questions of the public.

Accessibility to persons with disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Jackson at the address below or by telephone at (804) 527-5163 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Jackson no later than Monday, January 11, 1993.

Applicable laws and regulations: State Water Control Law, Clean Water Act, Permit Regulation (VR 680-14-01).

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 5, 1993, to Lori Jackson, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

† 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 680-14-21. Virginia Pollution Abatement Permit Regulation.** The proposed regulatory action is to consider adoption of a new regulation. This regulation will govern sources of pollutants within the boundaries of the

Commonwealth of Virginia that are not point source discharges to surface waters. These types of pollutant management activities are currently regulated under the VPA permit program and the Permit Regulation (VR 680-14-01). The VPA permit program is being separated from the Permit Regulation in order to recognize the distinction between this wholly state run permit program and the federal/state NPDES/VPDES permit program. This action is being done concurrent with the repeal of VR 680-14-01.

Basis and statutory authority: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the State Water Control Board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; and §§ 62.1-44.16, 62.1-44.17, 62.1-44.18 and 62.1-44.19 authorize the board to regulate discharges of sewage, industrial wastes and other wastes.

Need: Any pollutant management activity which does not result in a point source discharge to surface waters may be required to obtain a VPA permit in order to ensure that the activity does not alter the physical, chemical or biological properties of state waters. VPA permits may be utilized to authorize the land application of sewage, sludge or industrial waste or the complete reuse and recycle of wastewater. The VPA regulation will delineate the procedures and requirements to be followed in connection with VPA permits issued by the board pursuant to the State Water Control Law.

Estimated impact: This regulation will impact all of the approximately 1,500 holders of Virginia Pollution Abatement permits. However, there should not be a significant difference in the regulation of these permits or the costs incurred by permittees under the new regulation compared to the previous Permit Regulation (VR 680-14-01).

Alternatives: One alternative to the proposed regulation is to modify the existing Permit Regulation, rather than adopting a separate regulation for VPA permits. Another alternative is take no action and to continue to administer the VPA permit program under the current regulation.

Comments: The board seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of the stated alternatives or other alternatives. Written comments should be directed to Ms. Doneva Dalton at the address below and must be received by 4 p.m. on Monday, February 12, 1993.

In addition, the board will hold public meetings at 2 p.m. on Wednesday, January 27, 1993, at the Prince William County Board of Supervisors Room, 1 County Complex,

Notices of Intended Regulatory Action

McCourt Building, 4850 Davis Ford Road, Prince William; at 2 p.m. on Thursday, January 28, 1993, at the Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg; at 2 p.m. on Tuesday, February 2, 1993, at the James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg; and at 2 p.m. on Thursday, February 4, 1993, at the Multi-Purpose Room, Municipal Office, 150 East Monroe Street, Wytheville, Virginia.

Contact: Donald R. Carignan, Policy Coordinator, Department of Youth and Family Services, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

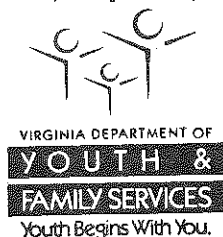
Accessibility to persons with disabilities: The meetings are being held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Ms. Dalton at the address below or by telephone at (804) 527-5162 or TDD (804) 527-4261. Persons needing interpreter services for the deaf must notify Ms. Dalton no later than January 11, 1993.

Applicable laws and regulations: State Water Control Law.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 12, 1993, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.



BOARD OF YOUTH AND FAMILY SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Youth and Family Services intends to consider promulgating regulations entitled: **Design and Construction Standards for Local Residential Care Facilities**. The purpose of the proposed action is to provide direction to localities for the design and construction of residential care facilities for which a locality will seek state reimbursement through the Board of Youth and Family Services and the Department of Youth and Family Services.

Statutory Authority: § 16.1-311 of the Code of Virginia.

Written comments may be submitted until January 8, 1993, to Daniel F. Moon, Capital Outlay Program Manager, Department of Youth and Family Services, P.O. Box 1110, Richmond, Virginia 23208.

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 HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-01-01. Public Participation Guidelines in the Formation and Development of Regulations. (REPEALED)

Title of Regulation: VR 355-01-100. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 32.1-12 of the Code of Virginia.

Public Hearing Date: March 1, 1993 - 2 p.m.

Written comments may be submitted through March 5, 1993.

(See Calendar of Events section for additional information)

Summary:

The Public Participation Guidelines (VR 355-01-100) as proposed are intended to replace in entirety the Public Participation Guidelines for the Formation and Development of Regulations (VR 355-01-01) first promulgated in November 1984. The new guidelines clarify the actions to be taken by staff of the Department of Health to ensure participation by the interested public in the process of regulation development as well as during the comment period that occurs after draft regulations are completed and published for review. The proposed guidelines also identify how the public may initiate consideration of regulation development or review.

VR 355-01-100. Public Participation Guidelines.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Board" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Department" means the Virginia Department of Health.

"Regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an authorized board or agency.

PART II. GENERAL INFORMATION.

§ 2.1. General information.

A. The procedures in Part III of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act (§ 9-6.14:4.1 A and B) or excluded from the operation of Article 2 of the Administrative Process Act (§ 9-6.14:4.1 C).

B. At the discretion of the approving authority or the agency, the procedures in Part III may be supplemented to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

D. Any person may petition the board for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

If the board determines not to act upon a petition it shall provide a written response to such petition.

Proposed Regulations

PART III. PUBLIC PARTICIPATION PROCEDURES.

§ 3.1. Interested parties lists.

A. Whenever the board so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

B. Programs within the department which are responsible for rule making will maintain a list of those persons and organizations who have demonstrated an interest in the adoption, amendment or repeal of specific program regulations.

C. Periodically, but not less than every two years, the department shall publish a notice in *The Virginia Register*, in a newspaper published at Richmond, and in other newspapers in Virginia localities to request that any individual or organization interested in participating in the development of specific rules and regulations so notify the office of the commissioner. Any persons or organizations identified in this process will be incorporated in the lists developed under this section. The commissioner may at any time remove from the lists persons or organizations that request to be removed or who fail to respond to any inquiry regarding continued interest.

§ 3.2. Notice of intent.

A. The department shall issue a Notice of Intended Regulatory Action (NOIRA) at the direction of the board whenever it considers the adoption, amendment or repeal of any regulation. The NOIRA shall include at least the following:

1. The title of the regulation to be developed or modified;
2. A summary of the subject matter including a brief statement as to the need for regulatory action;
3. A request for comments on the intended regulatory action, to include any ideas to assist the department in the drafting and formation of any proposed regulation developed pursuant to the NOIRA;
4. The program contact person, mailing address and telephone number; and
5. The date by which comments must be received.

B. The public comment period for NOIRAs under this section shall be no less than 30 days after publication of the NOIRA in the *Virginia Register*.

C. The department shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for

publication in the *Virginia Register*; and

2. Distribution by written notice to persons on the list(s) established under § 3.1 of this part.

§ 3.3. Proposed regulations.

A. After consideration of public input, the department may prepare the draft proposed regulation and any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the board.

B. Upon approval of the draft proposed regulation by the board, the department may publish a Notice of Public Comment (NOPC) and the proposal for public comment.

C. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location where copies of the draft may be obtained and a name, address and telephone number of the individual to contact for further information about the proposed regulation.
2. A request for comments on the costs and benefits of the proposal.
3. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.
4. A statement that an analysis of the estimated impact has been conducted by the agency and is available to the public upon request. The statement of estimated impact should include the following:
 - a. Number and types of regulated entities or persons affected.
 - b. Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. In those instances where the department is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.
 - c. Projected cost to the department for implementation and enforcement.
 - d. The beneficial impact the regulation is designed

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to produce.

e. An explanation of the need for the proposed regulation and potential consequences that may result in the absence of the regulation.

f. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

g. A statement assessing in what manner the department believes the proposed regulation is the least burdensome alternative to the regulated community that fully meets the state purpose of the proposed regulation.

h. A schedule setting forth when and how the department will evaluate the regulation for effectiveness and continued need.

5. The date, time and place of at least one public hearing, if needed, held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. The hearing(s) may be held at any time during the public comment period. The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

6. The public comment period shall close no fewer than 60 days after publication of the NOPC in the Virginia Register.

7. The department shall disseminate the NOPC to the public via the following:

a. Distribution to the Registrar of Regulations for publication in the Virginia Register and for publication in a newspaper of general circulation published at the state capitol and such other newspapers as the department may deem appropriate.

b. Distribution by mail to persons on the list(s) established under § 3.1 of this part.

8. The department shall prepare a summary of comments received in response to the NOPC and submit it or, if requested, submit the full comments to the board. Both the summary and the comments shall become a part of the department's file.

§ 3.4. Completing adoption process.

Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

PART IV. TRANSITION.

§ 4.1. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to the effective date of this regulation shall be processed in accordance with the VR 355-01-01 Public Participation Guidelines in the Formation and Development of Regulations.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to the effective date of this regulation shall be processed in accordance with this regulation (VR 355-01-100).

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: VR 615-01-43. Aid to Families with Dependent Children (AFDC) Program—Fifth Degree Specified Relative.

Statutory Authority: §§ 63.1-25 and 63.1-110 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted through March 1, 1993.

(See Calendar of Events section for additional information)

Summary:

This proposed regulation adopts the option set forth in the Administration for Children and Families (ACF) Action Transmittal 91-33 dated December 12, 1991, issued by the Department of Health and Human Services (HHS), which allows all states when making a determination of the specified relative under Section 402 of the Social Security Act, to recognize a specified caretaker relative to be any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child. This document from HHS further states that it intends to use the civil law method of determining degrees of kinship which has been adopted in most jurisdictions by statute or court decision. The federal action transmittal interprets the federal regulation, 45 CFR 233.90 (c) (1) (V) (A) (1), to recognize a specified caretaker relative to be any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child as determined by the civil law method of computing degree of kinship. However, until these federal regulations are revised and issued, this proposed regulation will remain an option to states.

VR 615-01-43. Aid to Families with Dependent Children (AFDC) Program - Fifth Degree Specified Relative.

PART I. DEFINITIONS.

§ 1.1. Definitions.

Proposed Regulations

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

"Aid to Dependent Children (AFDC) Program" means the program administered by the Virginia Department of Social Services through which a relative can receive monthly cash assistance for the support of his eligible children.

"Specified relative" means the degree of relationship which must exist between a caretaker and a dependent child in order for the caretaker relative to qualify for assistance under this program.

PART II. FIFTH DEGREE RELATIVE OF SPECIFIED DEGREE.

§ 2.1. Specified relatives.

The relative with whom the child is living, who is designated as the caretaker, must be one of the following:

1. A blood relative. Mother; father, including the father who is not married to the child's mother when evidence of paternity exists as described in Section 201.4 of the Virginia Department of Social Services Aid to Families with Dependent Children Manual; brother; sister; uncle; nephew; niece; first cousin. This definition includes the above relatives, if of half-blood, and those of preceding generations as denoted by prefixes of grand, great, or great great.
2. A stepmother, stepfather, stepbrother, or stepsister.
3. A relative by adoption following entry of the interlocutory order: the same relatives, by adoption, as listed in the two preceding groups.
4. A relative by marriage. The spouse of any person specified in the three preceding groups even after the marriage is terminated by death or divorce.
5. Any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child. Such relationships include great great great grandparents, great great uncle or aunt or a first cousin once removed, etc.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-14-01. Permit Regulation.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

NOTICE: Based on action taken at the State Water Control Board's meeting on December 7, 1992, the Board is **WITHDRAWING** the amendments to VR 680-14-01 Permit

Regulation proposed in 6:18 VA.R. 2859 June 4, 1990.

* * * * *

Title of Regulation: VR 680-14-03. Toxics Management Regulation.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

NOTICE: Based on action taken at the State Water Control Board's meeting on December 7, 1992, the Board is **WITHDRAWING** the proposed repeal of VR 680-14-03 Toxics Management Regulation published in 6:21 VA.R. 3320-3321 July 16, 1990.

* * * * *

Title of Regulation: VR 680-14-03. Toxics Management Regulation.

Statutory Authority: § 62.1-44.15 (10) of the Code of Virginia.

NOTICE: Based on action taken at the State Water Control Board's meeting on December 7, 1992, the Board is **WITHDRAWING** the proposed amendments to VR 680-14-03 Toxics Management Regulation published in 5:24 VA.R. 3668-3679 August 28, 1989.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

GENERAL.

Title of Regulation: VR 394-01-2. Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen.

Statutory Authority: §§ 36-98, 36-98.3, 36-99.1, and 36-137 of the Code of Virginia.

Effective Date: March 1, 1993.

Summary:

The Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen is a statewide uniform regulation that must be used by every local governing body that chooses to require certification of plumbers, building-related mechanical workers and electricians; building officials and building code enforcement personnel; persons responsible for the use of explosives; and amusement device inspectors.

The proposed amendments to this regulation respond to public comment submitted to the Board of Housing and Community Development since the effective date of the 1990 edition of the regulation and deal specifically with the certification of blasters and divides the certification into two categories, restricted and unrestricted. A restricted blaster is limited to conducting blasting operations involving five pounds of explosives or less per shot with instantaneous blasting caps. These changes permit an applicant for certification as a restricted blaster to utilize a competency test commensurate with that type of blasting operation instead of the comprehensive test previously required for all blasters. Applicants for the restricted certification have to meet experience requirements by working under a certified unrestricted or restricted blaster for at least one year. Applicants for the unrestricted certification have to meet experience requirements by working under the supervision of a certified unrestricted blaster for at least one year.

No changes, substantive or otherwise, were made from the proposed amendments to the final regulation.

VR 394-01-2. Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen.

PART I.

§ 1.1. Definitions.

The terms used in these standards shall have the following meaning:

"Agent" means the person designated by the county, city, or town, according to local ordinance, to examine and determine an applicant's qualifications for certification.

"Agricultural blasting" means any blasting operation which is conducted on real estate devoted to agricultural or horticultural use as defined in § 58.1-3230 of the Code of Virginia, and no less than five acres in area.

"Apprentice" means a person who assists tradesmen while gaining knowledge of the trade through on-the-job training and related instruction in accordance with the Voluntary Apprenticeship Act, § 40.1-120 of the Code of Virginia.

"Approved" means approved by the Department of Housing and Community Development.

"Blaster" ~~(shot firer)~~ or "shot firer" means the qualified person in charge of, and responsible for, the loading and firing of an explosive or blasting agent.

"Board" means the Board of Housing and Community Development.

"Building official" means the executive official in charge of the local building department.

"Building-related mechanical worker" means a tradesman who does building-related mechanical work, including heating, air conditioning, and ventilation.

"Contractor" means a person licensed according to § 54.1-1100 of the Code of Virginia who for a fixed price, commission, fee or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing or superintending the construction, removal, repair or improvement of any building or structure owned, controlled or leased by another person.

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

"Division" means a limited certification subcategory within any of the trades, as approved by the department.

"Electrical work" consists of, but is not limited to the

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following: (i) plan and layout of detail for installation or modifications of electrical apparatus and controls, preparation of sketches showing location of wiring and equipment; (ii) measures, cuts, bends, threads, assembles and installs electrical conduits; (iii) performs maintenance on electrical systems and apparatus; (iv) observation of installed systems or apparatus to detect hazards and need for adjustments, relocation or replacement; (v) repairs faulty systems or apparatus.

"Electrician" means a tradesman who does electrical work including, but not limited to, installing, repairing and maintaining electrical systems and equipment.

"Formal vocational training" means courses in the trade administered at an accredited educational facility; or formal training, approved by the department, conducted by trade associations, businesses, military, correspondence schools, or other similar training organizations.

"Gasfitter" means a tradesman who does gasfitting related work as a subdivision within the building-related mechanical or plumbing trades.

"Helper" or *"laborer"* means a person who assists a tradesman certified according to these standards.

"Inspector" means a person authorized by the building official to perform the inspections required in the Virginia Uniform Statewide Building Code.

"Journeyman" means a person who possesses the necessary ability, proficiency and qualifications to install, repair and maintain specific types of materials and equipment, utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code and according to plans and specifications.

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

"Master" means a person who possesses the necessary ability, proficiency and qualifications to plan and lay out the details for installation and supervise the work of installing, repairing, and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Uniform Statewide Building Code.

"Plumber" means a tradesman who does plumbing work.

"Plumbing work" means the practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage facilities, the venting system and the public or private water-supply systems within or adjacent to any building or structure.

"Supervision" means monitoring of the work in progress to assure that the final installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code.

"Supervisor" means the certified master tradesman who has the responsibility to determine that the final installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code.

"Technical assistant" means any person employed by, or under contract to, a Virginia governing body as an inspector for determining compliance with the building, electrical, plumbing, mechanical or fire protection provisions, including plans examination, of the Virginia Uniform Statewide Building Code.

"Testing organization" means an independent testing organization whose main function is to develop and administer examinations.

"Trade" means any of the following: plumbing, building-related mechanical or electrical work, and divisions within them.

"Tradesman" means a person who engages in or offers to engage in, for the general public or for compensation, any of the trades covered by these standards.

§ 1.2. Authority.

A. The tradesmen standards are adopted under authority granted by Chapter 1, § 15.1-11.4 of the Code of Virginia for use by counties, cities, and towns to be used for the certification of plumbing, building-related mechanical and electrical workers. These standards are not intended to affect licensing by local governments under other provisions of the Code of Virginia.

B. The building official, technical assistants, and amusement device inspectors standards are adopted under authority granted by Chapter 6, §§ 36-137(6) and 36-98.3 of the Code of Virginia for the certification of building officials, technical assistants and amusement device inspectors.

C. The certification standards for blasters are adopted under Chapter 9 of Title 27 of the Code of Virginia.

D. These standards were adopted by order of the Board of Housing and Community Development on November 19, 1990. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development and is available for public inspection.

E. The 1990 edition of these standards replaces previous editions. It shall become effective on March 1, 1991. Persons already enrolled in a certification program shall remain subject to the edition in effect at the time o

enrollment. Subsequent enrollment shall be subject to the pertinent provisions of the standards in effect at the time of such action.

F. The Department of Housing and Community Development shall be the administrative agency providing advisory interpretations concerning the application of these standards.

G. The Department of Housing and Community Development may utilize testing organizations that develop and administer examinations based on the current provisions of the Virginia Uniform Statewide Building Code, Virginia Statewide Fire Prevention Code, Virginia Amusement Device Regulations, and the model codes and standards referenced by those regulations including standards for plumbing, building-related mechanical and electrical work. The department may designate divisional examinations within these trades.

PART II. CERTIFICATION OF TRADESMAN STANDARDS.

§ 2.1. Exemption from certification.

A. Plumbers, plumber-gasfitters, building-related mechanical workers, building-related mechanical gas-fitters or electricians who were certified or licensed prior to July 1, 1978, in accordance with the certification or license provisions of the Commonwealth or any local government, shall be exempt from any further local certification requirement for the same trade.

B. Helpers or laborers who assist certified tradesmen shall be exempt.

C. Any person that performs plumbing, plumbing gas-fitting, building-related mechanical gas-fitting, building-related mechanical, or electrical work on their own property rather than for the general public or for compensation shall be exempt from local certification.

D. Any person who installs television or telephone cables, or lightning arrestor systems shall be exempt from certification as an electrician. Installers of wood stove equipment, masonry or prefabricated chimneys, or duct systems shall be exempt from certification as a building-related mechanical worker.

§ 2.2. Temporary certification.

A. Upon initial adoption of the Tradesmen Certification Standards, a locality shall be entitled to issue temporary journeymen and master tradesmen certificates to applicants that furnish evidence documenting their competence to perform work at their desired level of certification.

B. Temporary journeymen and master tradesmen certificates shall be effective for a period of six months from the date of issuance. Localities may extend a

temporary tradesmen certificate for no longer than one additional six-month period, if the locality determines that the certificate holder is making an effort towards certification or special circumstances exist, or both.

C. Temporary journeymen and master tradesmen certificates shall be valid only in the jurisdiction of the issuing locality.

D. A temporary journeymen or master tradesmen certificate shall entitle the certificate holder to take the corresponding journeymen or master tradesmen certification examination.

E. Should the holder of a temporary journeymen or master tradesmen certificate fail to pass the appropriate certification examination by the expiration date of their temporary certificate, the individual shall be subject to the requirements of § 2.3 of these standards.

§ 2.3. Evidence of ability and proficiency.

A. Applicants for examination as a journeyman shall furnish evidence that one of the following experience and education standards have been attained:

1. Four years of practical experience in the trade, and 240 hours of formal vocational training in the trade; however, experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 80 hours of formal training, but not to exceed 200 hours; or

2. Successful completion of a Registered Apprenticeship Program established in accordance with the Virginia Voluntary Apprenticeship Act; or

3. A Bachelor's Degree in an engineering curriculum related to the trade for which certification is desired, and one year of practical experience in the trade for which certification is desired; or

4. Ten years of practical experience in the trade for which certification is desired.

B. Applicants desiring to obtain certification as a Master shall furnish evidence that they have one year of experience as a certified journeyman.

C. Individuals who have successfully passed the Class A contractors exam prior to January 1, 1991, administered by the Virginia Board for Contractors in a certified trade shall be deemed qualified as a master in that trade in accordance with these standards.

§ 2.4. Application and issuance of certificates.

A. An applicant must successfully complete an examination to be issued a card and deemed certified.

B. The local agent or board shall receive and review

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applications and forward applications to the national testing organizations designated by the department.

C. The applicant shall present to the local agent or board evidence of successful completion of an examination based on the current edition of the Virginia Statewide Building Code.

D. The local agent or board shall issue certificates provided by the department to applicants successfully completing the examination.

E. Apprentices that completed a program prior to July 1, 1981, shall make application for certification with a locality; apprentices completing programs after July 1, 1981, shall make application with the Department of Labor and Industry, Apprenticeship Division.

§ 2.5. Revocation of certification.

A. Certification may be revoked for misrepresentation or a fraudulent application, or for incompetence as demonstrated by an egregious or repeated violations of the Virginia Uniform Statewide Building Code.

B. The Department of Housing and Community Development shall be notified by the local board or agent when a certification has been revoked in accordance with provisions of these standards.

§ 2.6. Reciprocity.

Individuals certified as a journeyman or master by governing bodies located outside the Commonwealth of Virginia shall be considered to be in compliance with these standards, if the Department of Housing and Community Development has determined the certifying system to be equivalent to the Virginia system.

§ 2.7. Appeals.

A. Each local governing body shall establish a board of appeals. The local board of appeals shall consist of not less than five members appointed by the local government. Members shall be selected on the basis of their ability to render fair and competent decisions. Employees or officials of the local government appointing the board of appeals shall not serve as members. The agent shall designate an employee to serve as secretary to the board of appeals, who shall keep a detailed record of all proceedings. The board of appeals shall hear appeals concerning the application of these standards or from a decision of the local agent or certification board. Application for appeals shall be in writing and made within 90 days of receipt of the decision of the agency or certification board. The appeals board must meet within 20 working days of the filing of an appeal. All hearings shall be public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14:1 of the Code of Virginia.

B. Any person aggrieved by a decision of a local board of appeals may appeal to the State Building Code Technical Review Board in accordance with § 117.0 of the Uniform Statewide Building Code, Volume I.

PART III. CERTIFICATION PROGRAM FOR BUILDING OFFICIALS AND INSPECTORS.

§ 3.1. Exemption from certification.

A. An individual employed as the building official in any locality in Virginia prior to April 1, 1983, shall be exempt from certification while employed as the building official in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction, or a change in area of inspection discipline.

B. An individual employed as the building, electrical, plumbing, mechanical, fire protection systems inspector or plans examiner in Virginia prior to March 1, 1988, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment as a technical assistant in another jurisdiction.

§ 3.2. Certification.

To be eligible for certification an applicant shall meet the following criteria:

1. The applicant shall be qualified according to Volume I of the Uniform Statewide Building Code (USBC).

2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A.

3. The applicant shall complete designated programs of the Virginia Code Academy.

4. The applicant shall submit an Application for Certification along with a copy of examination results from the testing agency to the Professional Services Office.

§ 3.3. Maintenance of certification.

A. A certificate issued under the Virginia Certification Standards shall expire three years from January 1 of the year in which the certificate is issued.

B. To maintain certification a certificate holder shall attend programs of instruction approved by the Department of Housing and Community Development after each code change cycle of the Uniform Statewide Building Code (USBC) and Virginia Statewide Fire Prevention Code (VFPC).

C. Certificate holders are responsible for notifying the

Department of Housing and Community Development of address changes prior to the renewal date of their certification.

§ 3.4. Revocation of certification.

The board may revoke the certification for any of the following:

1. Any willful misrepresentation in obtaining or renewing the certification.
2. Gross negligence or continued incompetence in the practice of the profession.

§ 3.5. Appeals.

Any person aggrieved by a decision based upon these certification standards may appeal that decision, in writing, in accordance with the appeals process outlined in §§ 116.0 and 117.0 of the Virginia Uniform Statewide Building Code, Volume I.

PART IV. BLASTER CERTIFICATION.

§ 4.1. Exemption from certification.

Individuals conducting agricultural blasting operations on their own property are not required to be certified as a blaster.

§ 4.2. Certification.

Certification shall be in the following two classifications:

1. *Unrestricted blaster.* A person classified as a certified unrestricted blaster shall be qualified to conduct appropriate blasting without limit as to size of shot or type of detonation devices. An applicant for unrestricted blaster certification shall successfully complete an examination developed and administered by a recognized and approved testing agency listed in Appendix A.

2. *Restricted blaster.* A person classified as a certified restricted blaster shall be qualified to conduct blasting operations involving five pounds of explosives or less per shot and use only instantaneous blasting caps. An applicant for restricted blaster certification shall successfully complete an examination developed and administered by a recognized and approved testing agency listed in Appendix A.

§ 4.3. Qualifications of candidates.

An applicant for a blaster's certification shall meet the following criteria:

1. Be at least 21 years of age;

2. Be able to understand and give written and oral instructions in the English language;

3. *Unrestricted blaster certification.* Have worked at least one year under the direct supervision of a blaster certified by the Commonwealth of Virginia or another authority recognized by the Department of Housing and Community Development;

Restricted blaster certification. Have worked at least one year under the direct supervision of an individual certified as an unrestricted blaster or as a restricted blaster by the Commonwealth of Virginia or another authority recognized by the Department of Housing and Community Development.

NOTE: In no case shall a certified restricted blaster's supervision be acceptable for an unrestricted blaster's experience requirements.

4. Have a working knowledge of federal, state, and local laws and regulations pertaining to explosive materials.

§ 4.4. Temporary certification.

A temporary certificate may be issued to any person who meets the applicant criteria listed in § 4.3 and who was employed as a blaster prior to filing the application for the temporary certificate. Any temporary certificate issued before January 1, 1992, shall expire on January 1, 1993. Any temporary certificate issued after January 1, 1992, shall expire 12 months from the date of issuance. Temporary certifications shall not be renewed.

§ 4.5. Renewal.

A blasters certificate shall be renewed every three years. As a condition of renewal, proof of continued training or education in the use of explosives in an amount not less than 16 hours in three consecutive years shall be provided to the department. Requests for renewal shall be submitted on forms provided by the department.

§ 4.6. Revocation or suspension of certification.

The Department of Housing and Community Development may revoke or suspend certification issued under the provisions of this regulation if conditions of the certification have been violated, or if there has been any false statement or misrepresentation in the application on which the certification was based.

PART V. CERTIFICATION OF AMUSEMENT DEVICE INSPECTOR STANDARDS.

§ 5.1. Certification.

A. To be eligible for certification, an applicant shall meet the following criteria:

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1. The applicant shall have at least three years of experience in general building construction or any combination of education and experience which would confer equivalent knowledge and ability;

2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A; and

3. The applicant shall submit an Application for Certification and a copy of examination results from the testing agency to the Professional Services Offices.

B. Notwithstanding any regulations to the contrary, no exemption shall be permitted from the requirements for certification for any person, including local building officials and their representatives, to inspect amusement devices.

§ 5.2. Maintenance of certification.

A. A certificate issued under the Virginia Amusement Device Certification Standards shall expire three years from January 1 of the year in which the certificate is issued.

B. To maintain certification, a certificate holder shall attend programs of instruction approved by the Department of Housing and Community Development after each code change cycle of the Virginia Amusement Device Regulations.

C. Certificate holders are responsible for notifying the Department of Housing and Community Development of address changes prior to the renewal date of their certification.

§ 5.3. Revocation or suspension of certification.

The Department of Housing and Community Development may revoke or suspend certification issued under the provisions of this code if conditions of the certification have been violated, or if there has been any false statement or misrepresentation in the application on which the certification was based.

APPENDIX A. TESTING AGENCIES.

The following testing agencies have been approved by the Department of Housing and Community Development for administering the exams. Other exams may be approved on an individual basis. Requests for exam approval shall be submitted to the department.

Professional Code Administrator

Information and registration forms may be obtained from:

NAI, Inc.
National Assessment Institute

2817 Parham Road
Richmond, VA 23294
(804) 747-3297

Council of American Building Officials (CABO)
5203 Leesburg Pike
Suite 708
Falls Church, VA 22041
(703) 931-4533

Inspection Certification Program

Information and registration forms may be obtained from:

Certification Training and Education Services
BOCA International
4051 West Flossmoor Road
Country Club Hills, IL 60477
(708) 799-2300

Educational Testing Service
(National Certification Program for Construction Code Inspectors)
CN 6508
Princeton, New Jersey 08541-6508
(609) 921-9000

National Association of Elevator Safety Authorities
P.O. Box 15643
Phoenix, Arizona 85060
(602) 266-9701

Amusement Device Inspector Program

Information and registration forms may be obtained from:

NAI, Inc.
National Assessment Institute
2817 Parham Road
Richmond, VA 23294
(804) 747-3297

Blaster Certification Program

Information and registration forms may be obtained from:

NAI, Inc.
National Assessment Institute
2817 Parham Road
Richmond, VA 23294
(804) 747-3297

* * * * *

Title of Regulation: VR 394-01-4. Virginia Amusement Device Regulations/1990.

Statutory Authority: §§ 36-98, 36-98.3 and 36-137 of the Code of Virginia.

Effective Date: March 1, 1993.

Summary:

This regulation provides for mandatory, statewide requirements for the construction, maintenance, operation and inspection of amusement devices. The regulation supplements the provisions of the Uniform Statewide Building Code for the purpose of protecting the health, safety and welfare of amusement device users. The technical requirements of the regulation are based on standards developed by the American Society for Testing and Materials (ASTM). An administrative appeals system is established for the resolution of disagreements between building officials and amusement device owners or operators.

The amendments to this regulation respond to statutory changes made during the 1992 session of the General Assembly and review of public comment received by the Board of Housing and Community Development after the effective date of the 1990 edition of the regulation. The definition of "kiddie ride" was proposed to be divided into Type A and Type B to differentiate between those rides that require partial or complete reassembly and those which require little or none, and a change to § 1000.3(2) was proposed to limit the certificate of inspections validity from location to location to Type A kiddie rides. A proposed amendment to § 1100.1 required notification to the locality upon having an accident involving a serious injury or fatality and new provisions to §§ 1100.3 and 1500.3 proposed to require action by the building official prior to resuming service and a new certificate of inspection to be issued. A definition of "passenger tramway" was added to be consistent with new provisions in state law which group tramways as amusement devices, § 400.1 is modified to include tramways within the scope of the regulation, and an amendment to Appendix A, which lists the referenced standards, includes the ANSI B77.1-90 standard for use in inspecting passenger tramways.

The final regulation, however, deletes all amendments published in the proposed regulation except those incorporating regulations for passenger tramways. The board also relies on technical assistance from the Amusement Device Technical Advisory Committee, which is a board-appointed committee made up of persons affected by the regulations, including manufacturers, operators and enforcement personnel. At the request of the Amusement Device Technical Advisory Committee chairman, the board will hold the other changes in abeyance pending this committee's review and recommendations.

VR 394-01-4. Virginia Amusement Device Regulations/1990.

1990 EDITION.

VIRGINIA AMUSEMENT DEVICE REGULATIONS.

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as the Virginia Amusement Device Regulations ("VADR"). Except as otherwise indicated, VADR and regulations, as used herein, shall mean the Virginia Amusement Device Regulations.

100.2. Authority: The VADR is adopted under authority granted by the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia. The VADR is intended to supplement the provisions of the Virginia Uniform Statewide Building Code (USBC).

100.3. Adoption: The 1990 edition of the VADR was adopted by order of the Board of Housing and Community Development on November 19, 1990. This order was prepared according to requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.4. Effective date: The 1990 edition of the VADR shall become effective on March 1, 1991. The construction of any amusement device that was subject to a previous edition of the USBC when constructed, shall remain subject to the edition of the USBC in effect at the time of construction. Subsequent reconstruction, reassembly, maintenance, operation and inspection of such devices shall be subject to the pertinent provisions of the VADR in effect at the time of such action.

100.5. Application: The VADR shall govern the construction, maintenance, operation and inspection of amusement devices, whether mobile or permanently fixed to a site including kiddie rides defined by § 200.0 of these regulations. These regulations do not apply to any single passenger coin-operated ride, manually, mechanically, or electrically operated, which customarily is placed, singularly or in groups, in a public location and which does not normally require the supervision or service of an amusement ride operator and is not considered a kiddie ride for the purpose of these regulations, or to nonmechanized playground equipment, including swings, stationary spring-mounted animal features, rider propelled merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness devices except where an admission fee is charged for usage or an admission fee is charged to areas where such equipment is located. To the extent they are not superseded by the provisions of these regulations, all other state and local laws and regulations shall apply to amusement devices. The VADR does not supersede zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the construction, maintenance, operation and inspection of amusement devices.

SECTION 200.0. DEFINITIONS.

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

"Amusement attraction" means any building or structure around, over or through which people may move or walk, without the aid of any moving device integral to the building structure, that provides amusement, pleasure, thrills, or excitement.

"Amusement device" means a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion.

"Amusement park" means a tract or area used principally as a location for amusement devices permanently fixed to the site.

"ANSI" means American National Standards Institute.

"ASTM" means American Society for Testing and Materials.

"Board" means the Board of Housing and Community Development.

"Carnival" means an itinerant enterprise consisting principally of portable amusement devices temporarily situated at a site.

"Certificate of inspection" means a certificate issued by the building official, pursuant to § 1500.0 of these regulations.

"Committee" means the Amusement Device Technical Advisory Committee.

"Construction" means the initial construction or manufacture of amusement devices. "Construction" does not include reassembly of existing devices.

"Director" means the Director of the Department of Housing and Community Development or his designee.

"Fair" means an enterprise principally devoted to the periodic and recurring exhibition of products of agriculture, industry, education, science, religion, or the arts that has one or more amusement devices, either portable or permanently fixed to the site, operated in conjunction with the exhibition.

"First aid" means the one time treatment or subsequent observation of scratches, cuts not requiring stitches, burns, splinters, or a diagnostic procedure, including examination and X-rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed professional personnel.

"Inspector" means a person authorized by the building official to perform the inspections required herein.

"Kiddie ride [(Type A)]" means an amusement ride, designed primarily for use by children up to 12 years of age, that requires simple [*little or no simple*] reassembly procedures prior to operation ; and that does not require complex inspections prior to operation [, and that does not require complex inspections prior to operation].

[*Examples:*

1. *Trailer-mounted self-contained rides*

2. *Moon/space walks*

"Kiddie ride (Type B)" means an amusement ride designed primarily for the use by children up to 12 years of age that requires partial or complete reassembly/assembly procedures prior to operation.

Examples:

1. *Merry-go-rounds*

2. *Hampton type rides*

3. *Swings]*

"Major modification" means any change in either the structural or operational characteristics of the ride or device which will alter its performance or structural integrity from that specified in the manufacturer's design criteria.

"Minor injury" means sprains, abrasions, bruises, and lacerations less than three inches.

"Operator" means any person or persons actually engaged in or directly controlling the operation of an amusement device.

"Owner" means a person who owns an amusement device, including the state or its political subdivision, or in the event the amusement device is leased, the lessee, or the agent of either.

"Passenger tramway" means a device used to transport passengers, suspended in the air by the use of steel cables, chains or belts, or by ropes, and usually supported by trestles or towers with one or more spans.

"Permit" means written authorization given by the local building official to construct, reassemble or locate an amusement device so as to make ready for operation. Issuance of a permit does not give authority to operate without a certificate of inspection.

"Reassembly" means the act of placing the component parts of an existing device into a configuration which allows its use and operation.

"Review board" means the State Building Code Technical Review Board as established by § 36-108 of the

Code of Virginia.

"*Serious injury*" means an injury that requires medical treatment by a physician other than minor injuries or first aid.

SECTION 300.0. TECHNICAL ADVISORY COMMITTEE.

300.1. Membership: In appointing an Amusement Device Technical Advisory Committee, the board shall include representatives from the following groups:

1. Ride manufacturers,
2. Owners or operators of carnivals, amusement parks and fairs,
3. Mechanical or structural engineers,
4. Insurance underwriters, and
5. Members of the general public.

300.2. Term of membership: The members of the Technical Advisory Committee established by § 36-98.3(C) of the Code of Virginia, shall each serve for initial staggered terms of two and three years. Thereafter, appointments shall be for three years, with a provision for reappointment at the pleasure of the board.

SECTION 400.0. REFERENCE STANDARDS.

400.1. Adoption of standards: The construction, maintenance, operation and inspection of amusement devices and passenger tramways shall be done in accordance with the applicable referenced standards adopted by ASTM and which are set forth in Appendix A.

If a ride was manufactured prior to the development of the ASTM standards (1978), the information listed in the referenced edition of ASTM 698, §§ 3.1 through 3.6, shall be available at the time of inspection.

Where differences occur between provisions of the VADR and the referenced standards, the provisions of the VADR shall apply.

SECTION 500.0. ENFORCEMENT.

500.1. Responsibility of local governments: Enforcement of these regulations shall be the responsibility of the local building department in accordance with § 36-105 of the Code of Virginia. Inspections under these regulations shall be performed by:

1. The local building official or his representative when such official or representative has been certified by the board to inspect amusement devices pursuant to § 36-137(6) of the Code of Virginia; or, at the option of the owner or lessee or agent of either.

2. Persons from other departments of state government, local government, or private industry, when such personnel have been certified by the board to inspect amusement devices pursuant to § 36-137(6) of the Code of Virginia; or

3. Employees of insurance companies providing coverage for claims arising out of the use of the amusement device being inspected, when such personnel have been certified by the board to inspect amusement devices pursuant to § 36-137(6) of the Code of Virginia.

500.2. Qualifications of inspectors:

1. Any person seeking to become qualified to perform amusement device inspections pursuant to § 500.1 of these regulations shall successfully complete certification requirements in accordance with Part V of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen (VR 394-01-02).

2. Notwithstanding any regulation to the contrary, no exemption shall be permitted from the requirements for certification for any person including local building officials and their representatives to inspect amusement devices.

500.3. Credentials: The building official, state personnel, or any certified inspector shall carry proper credentials of authorization provided by the Department of Housing and Community Development when enforcing any provision of these regulations.

SECTION 600.0. DUTIES AND POWERS OF THE BUILDING OFFICIAL.

600.1. General: The building official shall enforce the provisions of the VADR as provided herein, and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

600.2. Applications and permits: The building official shall receive applications and issue permits for the construction, reassembly, operation and inspection of amusement devices.

600.3. Notices and orders: The building official shall issue necessary notices or orders to remove unsafe conditions, to require the necessary safeguards during construction or reassembly and to ensure compliance with all the VADR requirements for the health, safety and general welfare of the public.

600.4. Inspections: The building official shall make or cause the required inspections to be conducted in accordance with § 1000.0 of these regulations, or shall accept reports of inspection by individuals certified to perform amusement device inspections when the owner or lessee of the amusement device has exercised the option

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of using private inspectors. Reports of such inspections shall be in writing and signed by the certified individual.

600.5. Delegation of duties and powers: The building official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the VADR.

600.6. Fees: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals in accordance with § 36-105 of the Code of Virginia.

600.6.1. Fee schedule: A schedule of fees shall be established by the local government and shall be made available to the public upon request. The fee schedule adopted by the local government shall not exceed the fee schedule set by the Board of Housing and Community Development. The board shall review the fee schedule at least tri-annually and shall adjust the fee schedule as proven necessary. The fees shall be based on the actual cost of administrative activities and inspections performed by local government personnel. The local government shall not establish a fee schedule resulting in fees that exceed the actual costs of the activities performed by local government personnel. The fee schedule shall have provisions for fee reduction if private inspectors are utilized by the owner or lessee. When an inspector not an employee of the local governing body is retained by an owner, the owner shall pay the inspector's fees directly. When an inspector not an employee of the local governing body is retained by the local building department, that department shall pay the inspector's fees.

SECTION 700.0. APPLICATION FOR PERMIT.

700.1. When permit is required: Written application shall be made to the building official when a permit is required. A permit shall be issued by the building official before any of the following actions subject to the VADR may be commenced:

1. Constructing and operating an amusement device permanently fixed to a site.
2. Reassembling and operating any portable amusement device.

700.2. Who may apply for a permit: Application for a permit shall be made by the owner or lessee of the amusement device or agent of either.

700.3. Information for application: The application for a permit shall be submitted on forms supplied by the building official. The forms shall require the following information:

1. Name of the owner, lessee, or agent of either.
2. Identification of the person(s) authorized to accept

service of process on behalf of the owner or lessee.

3. A general description of the amusement devices, their location, and the work or operation proposed.

4. Proof of financial responsibility in a minimum amount of \$300,000 per occurrence. Such proof may be demonstrated by a bond or cash reserve, or certificate or policy of insurance providing coverage for liability arising out of the use or operation of the amusement device.

SECTION 800.0. MODIFICATION.

800.1. Modifications: If an owner or operator finds that compliance with the amusement device regulations or decision of the local building official presents a practical difficulty or undue hardship, the owner or operator may apply to the local building official for a modification of the regulation or decision. Such modification may be granted provided the spirit and intent of these regulations are observed, and public health, welfare and safety are assured.

800.2. Alternative design, materials, and equipment: Where there is an alternative design, material or equipment, the owner may apply to the local building official for a modification of the VADR relating to such design, material or equipment. Upon application of the owner, the building official may modify the provisions of the VADR relating to amusement device design or building materials, equipment, devices or assemblies provided the proposed alternatives are satisfactory and comply with the intent of the VADR and the standards incorporated therein, and are, for the purposes intended, at least the equivalent of that prescribed in the VADR for quality, strength, effectiveness, durability and safety.

800.3. Records: The application for modification and the final decision of the building official shall be in writing and shall be officially recorded with the copy of the certificate of inspection in the permanent records of the local building department.

SECTION 900.0. AMUSEMENT DEVICE PERMITS.

900.1. Action on application: The building official shall examine all applications for permits within five days after filing. If the application does not conform to the requirements of the VADR, the building official shall reject such application in writing, stating the reasons for rejection. If the building official is satisfied that the proposed work or operation conforms to the requirements of the VADR and all applicable laws and ordinances, a permit shall be issued as soon as practicable. For purposes of coordination, the local governing body may require reports to the building official by other departments as a condition for issuance of a permit and certificate of inspection. Such reports shall be based upon review of the application or inspection of the project as determined by the local governing body.

Note: Before issuing a permit, the building official should consider the effects of any applicable regulations of other governmental agencies so that proper coordination may be achieved before the work is commenced.

900.2. Signature on permit: The signature of the building official or his authorized representative shall be attached to every permit.

900.3. Annual permit: Instead of an individual permit for each reassembly of an already approved amusement device, the building official may issue an annual permit.

900.4. Revocation of permits: The building official may revoke a permit or approval issued under the provisions of the VADR in case of any false statement or misrepresentation of fact in the application on which the permit or approval was based.

SECTION 1000.0. INSPECTIONS.

1000.1. Preliminary inspection: Before issuing a permit, the building official may examine all sites for which an application has been filed for a permit to construct, reassemble or operate an amusement device.

1000.2. Required inspections: After issuing a permit, the building official shall conduct inspections from time to time during construction or reassembly or shall accept inspection reports from independent private inspectors employed by the owner or lessee, and may conduct inspections of the operation of amusement devices or may require the owner or lessee to provide reports from private inspectors for inspections conducted during operation of the amusement device(s). A record of such inspections shall be maintained by the building official.

1000.2.1. Right of entry: The building official may inspect amusement devices for the purpose of enforcing the VADR in accordance with the authority granted by §§ 36-105 and 36-98.3(D) of the Code of Virginia.

1000.3. Minimum inspections: As part of their inspections, inspectors shall perform, but are not limited to the following actions:

1. Inspect all amusement devices permanently fixed to a site,
 - a. Prior to each seasonal operation; and
 - b. Prior to operation following any major modification; and
 - c. At least once during the operating season.
2. Inspect all portable amusement devices after each reassembly and prior to operation except that the inspector may accept a valid certificate of inspection which was issued with respect to a [~~Type A~~] "kiddie

ride" by another inspector certified in Virginia. If an inspector chooses to inspect a kiddie ride which has a valid certificate of inspection, no fee shall be charged. If upon inspection, the inspector finds that a device is not in compliance with applicable standards, the certificate of inspection may be declared invalid.

3. Verify that nondestructive testing has been conducted by a recognized testing agency as prescribed by the device manufacturer and in accordance with ASTM.

4. At the discretion of the inspector, verify that the operation and maintenance of amusement devices is in accordance with the requirements of these regulations and the standards referenced therein.

5. Inspect any amusement device upon the request of the director or local building official following a report or other notification that the device or one of substantially similar design and construction has been involved in an accident resulting in a fatality or serious injury.

6. Investigate any report or other notification of a problem or a defect with respect to an amusement device and inspect the device at the request of the director or the building official to determine whether it poses a hazard or threat of injury to the public.

7. Upon completion of the amusement device, and before issuance of the certificate of inspection, a final inspection shall be made to ensure that the device conforms with the VADR.

1000.4. Notice of readiness for inspection: Every owner or operator of an amusement device shall notify the local building official when an amusement device or one that has undergone major modifications is scheduled to be ready and available for inspection.

In addition, every owner or operator of an amusement park shall notify the local building official when each amusement device located within the park is scheduled to be ready for inspection prior to its seasonal operation.

Every owner or operator of a carnival or fair shall notify the local building official of the date each amusement device is scheduled to be reassembled and ready for inspection on a site.

Note: Although no requirements are imposed on owners or operators with respect to time for giving notice of readiness for inspection, owners and operators are cautioned to refer to §§ 900.1 and 1000.5 of these regulations which require the building official to perform certain duties within five days of application or notice. Owners or operators failing to give at least five days notice of readiness for inspection will only be inspected by the building official or his authorized representative at their

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pleasure or convenience.

1000.5. Inspections to be prompt: The inspector shall respond to inspection requests without unreasonable delay. When given at least five days notice of readiness for inspection, the inspector shall inspect on the date designated by the owner or operator. The inspector shall approve the device or give written notice of defects to the owner or operator. Such defects shall be corrected and the amusement device reinspected before operation or proceeding with any work that would conceal the defects.

SECTION 1100.0. ACCIDENTS.

1100.1. Owner/operator to suspend operation: An owner or operator shall immediately suspend operation of any amusement device which is involved in an accident resulting in fatality or serious injury. *[The local authority as indicated on the certificate of inspection (see § 1500.4) shall be notified immediately.]*

1100.2. Reports: Every owner or operator of an amusement device shall report to the director and the local building official the details of any accident involving an amusement device which results in a fatality or serious injury. The report shall be submitted in writing to the local building official within 24 hours, and to the director the next working day. Such report shall include but is not limited to the following information:

1. A description of the amusement device including the name of the manufacturer, the serial number and the date the device was originally constructed, if available.
2. A description of the accident including the number of people involved, number and type of injuries, number of fatalities.
3. Cause of accident if determined.

1100.3. ~~Owner's~~ *[Owner's]* authority to resume operation: The owner, lessee or agent of either may resume operation of an amusement device following suspension of operation under this section if, after ~~conducting~~ *[conducting]* an investigation ; the ~~owner, lessee, or agent determines~~ *[, the owner, lessee, or agent determines has been completed, the local official determines]* that the incident was in no way the result of a failure or malfunction of the device or any of its operating or safety equipment. Any investigation conducted under this section shall include (i) examination of the accident scene, (ii) interviews with witnesses, if any, (iii) review of statements made by the injured person, if any, and (iv) trial operation and inspection of the amusement device. A written record of such investigation shall be made and submitted to the local building official or his designee.

The decision of the owner or operator not to resume operation of the amusement device shall not be construed as an admission that the incident was caused by the

failure or malfunction of the device. Nothing in this section shall be construed to waive the requirements of notification of the occurrence set forth in § 1100.2.

SECTION 1200.0. QUALIFICATION OF OPERATORS.

1200.1. Minimum age: No amusement device shall be operated by a person under 16 years of age, except that this provision shall not apply to a child under 16 years of age employed by his parents in an occupation not declared hazardous by the Commissioner of Labor and Industry.

1200.2. Requirements:

1. An operator may not operate more than one amusement device at a time unless the devices are within the sight of the operator and are operated by a common control panel or station, except that in the case of kiddie rides, two rides may be operated in unison under the continuous and common control of one operator provided that the farthest point of operation of either device is no more than 35 feet and the control is equipped with a positive pressure switch.
2. An amusement device shall be attended by an operator at all times during operation.

1200.3. Conduct; authority:

1. No amusement device shall be operated by an operator while under the influence of alcohol.
2. No amusement device shall be operated by an operator while under the influence of drugs which may affect the operator's judgment or ability to assure patrons' safety.
3. The operator has the authority to prohibit use of amusement devices by individuals who may present a safety threat to others or to themselves.

1200.4. Training: The ride operator shall be trained in the proper use and operation of the ride as required by ASTM F770 and ASTM F853 listed in Appendix A.

SECTION 1300.0. SUSPENSION OF OPERATION.

1300.1. When director or local building official may order: The director or local building official shall order, in writing, a temporary suspension of operation of an amusement device if the director or local building official has reason to believe that the device is hazardous or unsafe, or if the director or local building official receives a report or is otherwise notified that the amusement device has been involved in an accident resulting in fatality or serious injury.

The director or local building official may order, in writing, a temporary suspension of operation of an amusement device if (i) the director or local building

official receives a report or is otherwise notified that an amusement device or one of substantially similar design has been involved in an accident resulting in a fatality or serious injury; and (ii) an inspection conducted in accordance with § 1000.0 of these regulations reveals that the ride is hazardous or poses a threat to the safety of the public.

1300.2. When operation to resume: When the operation of an amusement device has been suspended under this section, such operation shall not resume until any hazardous or unsafe condition has been corrected and a certificate of inspection has been issued with respect to such device.

SECTION 1400.0. VIOLATIONS.

1400.1. Code violations prohibited: No person, firm or corporation shall construct, reassemble, maintain, operate or inspect any amusement device regulated by the VADR, or cause same to be done in conflict with or in violation of any of the provisions of the VADR.

1400.2. Notice of violation: The building official shall serve a notice of violation on the person responsible for the construction, reassembly, maintenance, operation or inspection of any amusement device in violation of the provisions of the VADR, or in violation of plans and specifications approved thereunder, or in violation of a permit or certificate issued under the provisions of the VADR. Such order shall direct the discontinuance and abatement of the violation.

1400.3. Prosecution of violation: If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require the removal or termination of the use of any amusement device in violation of the provisions of the VADR.

1400.4. Violation penalties: Violations are a misdemeanor in accordance with § 36-106 of the Code of Virginia. Violators, upon conviction, may be punished by a fine of not more than \$1,000.

1400.5. Abatement of violation: Conviction of a violation of the VADR shall not preclude the institution of appropriate legal action to prevent other violations or recurring violations of the VADR relating to construction, reassembly, maintenance, operation or inspection of any amusement device.

SECTION 1500.0. CERTIFICATES OF INSPECTION.

1500.1. When certificate required: No amusement device shall be operated unless a certificate of inspection has been issued with respect to that device. A copy of the certificate shall be affixed to the entrance of the device in plain view of riders or patrons.

1500.2. Requirements: A certificate of inspection shall be issued to an owner or operator after an inspection conducted pursuant to § 1000.0 of these regulations indicates that the device is in satisfactory working order and poses no hazard or threat to the safety of the public.

1500.3. Term: A certificate of inspection will be valid:

1. Until the device is disassembled except that a certificate of inspection issued with respect to a [~~Type A~~] portable kiddie ride shall be valid for one year after the issue date, regardless of whether the device is disassembled; or

2. Until any major modification or alteration is made to the device; or

3. Until the inspection required by § 1000.0 is conducted on fixed site devices; or

4. Until termination of the proof of financial responsibility required by § 1600.0 : [; ~~or~~ .]

[~~5. Until the device is involved in an accident that results in a serious injury or a fatality.~~]

1500.4. Contents of the certificate of inspection: When an amusement device is entitled thereto, the building official shall issue a certificate of inspection. When the certificate is issued, the device shall be deemed in compliance with the VADR. The certificate shall specify the use of the amusement device, the type of construction, the occupancy load of the device, the date on which the certificate was issued, the term of the certificate, and any special stipulations and conditions. The certificate shall also include the name of the building official or his representative and a telephone number where they may be reached in case of an emergency or accident.

SECTION 1600.0. FINANCIAL RESPONSIBILITY.

1600.1. Proof of financial responsibility: The owner shall provide proof of financial responsibility in a minimum amount of \$300,000 per occurrence. Such proof shall be demonstrated by a bond or cash reserve, or certificate of insurance providing coverage for liability arising out of the use or operation of the amusement device.

1600.2. Termination of financial responsibility: Each owner or operator of an amusement device shall report immediately to the director and to the local building official that the proof of financial responsibility required by this section will be terminated and shall include in the report the date of such termination.

SECTION 1700.0. APPEALS.

1700.1. Assistance from director: An owner of an amusement device aggrieved by a decision of the building official may request the director to assist the building official and the owner in resolving any questions arising

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from the interpretation and application of these regulations. The director may request advice or assistance from members of the Technical Advisory Committee in resolving any questions.

1700.2. Appeal to review board: When the questions cannot be resolved with the assistance of the director, the owner may appeal to the State Building Code Technical Review Board. Application for review shall be made to the review board within 15 days of the decision of the building official. The review board may request advice or assistance from members of the Technical Advisory Committee when rendering a decision.

1700.3. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the building official shall take immediate action in accordance with the decision.

1700.4. Court review: Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board may be presented to the court of the original jurisdiction in accordance with the provisions of the Administrative Process Act.

SECTION 1800.0. CONTINUATION OF COMPLIANCE.

1800.1. Continued compliance required: Amusement devices constructed or manufactured before the effective date of the VADR shall be maintained, reassembled, operated and inspected in accordance with the provisions of the VADR. The construction and manufacture of such devices shall remain subject to the previous edition of the USBC in effect at the time the device was constructed or manufactured.

APPENDIX A Referenced Standards

The following is a listing of the standards referenced in this code, the date of the applicable edition of the standard, and the promulgating agency of the standard.

ANSI - American National Standards Institute
1430 Broadway
New York, N.Y. 10018

B77.1-90

ASTM - American Society of Testing and Materials
1916 Race Street
Philadelphia, Pennsylvania 19103

F 698-88 Specification for Physical Information to be Provided for Amusement Rides and Devices

F 747-86 Definitions of Terms Relating to Amusement Rides and Devices

F 770-88 Practice for Operation Procedures for Amusement Rides and Devices

F 846-86 Guide for Testing Performance of Amusement Rides and Devices

F 853-86 Practice for Maintenance Procedures for Amusement Rides and Devices

F 893-87 Guide for Inspection of Amusement Rides and Devices

F 1159-88 Practice for the Design and Manufacture of Amusement Rides and Devices

F 1193-88 Practice for an Amusement Ride and Device Manufacturer Quality Assurance Program

* * * * *

Title of Regulation: VR 394-01-6. Virginia Statewide Fire Prevention Code/1990.

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

Effective Date: March 1, 1993.

Summary:

The purpose of this regulation is to provide minimum safety standards for the protection of life and property from the hazards of fire or explosion and for the handling, storage and use of explosives or blasting agents. The technical provisions of the regulations are adopted by reference from the BOCA National Fire Prevention Code/1990, and an administrative appeals system is provided for resolution of disagreements between fire officials, building officials and building owners or their agents.

The amendments to this regulation respond to public comment submitted to the Board of Housing and Community Development since the effective date of the First Amendment to the 1990 edition of the regulation. The amendments are to § F-102.0. A change to § F-102.1 requires a local governing body electing to locally enforce the SFPC to take official action to do so, and to provide notification by copy of the adopting ordinance or resolution to the State Fire Marshal's office. The existing modification provision for the Public Building Safety Regulations has been deleted and replaced by a general modification section applicable to any provision of the regulation. A new requirement for documentation of the modification and making it part of the records of the enforcing agency are also included. These changes are similar to provisions already contained in both Volume I and Volume II of the Uniform Statewide Building Code.

No changes, substantive or otherwise, were made from the proposed amendments to the final regulation.

VR 394-01-6. Virginia Statewide Fire Prevention Code/1990.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

SECTION F-100.0. GENERAL.

F-100.1. Title. These regulations shall be known as the Virginia Statewide Fire Prevention Code. Except as otherwise indicated, SFPC or code shall mean the 1990 edition of the Virginia Statewide Fire Prevention Code.

F-100.2. Authority. The SFPC is adopted according to regulatory authority granted the Board of Housing and Community Development by the Statewide Fire Prevention Code Act, Chapter 9, Title 27, §§ 27-94 through 27-101 of the Code of Virginia.

F-100.3. Adoption. The SFPC was adopted by order of the Board of Housing and Community Development on January 28, 1991. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development and is available for public inspection.

F-100.4. Effective date. The SFPC shall become effective on April 15, 1991.

F-100.5. Effect on other codes. The SFPC shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia. The SFPC shall supersede the fire prevention regulations previously adopted by local government or other political subdivisions. When any provision of this code is found to be in conflict with the Uniform Statewide Building Code, OSHA, or applicable laws of the Commonwealth, that provision of the SFPC shall become invalid. Wherever the words "building code" appear, it shall mean the building code in effect at the time of construction.

F-100.6. Purpose. The purpose of the SFPC is to provide statewide standards for optional local enforcement to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, wherever located.

F-100.7. Application to post-Uniform Statewide Building Code (USBC) buildings. Egress facilities, fire protection, built-in fire protection equipment, and other fire safety features in such buildings shall be maintained in accordance with the requirements of the USBC in effect at the time the building or structure was constructed.

F-100.8. Application to pre-Uniform Statewide Building Code (USBC) buildings. Pre-USBC buildings are those

buildings that were not subject to the USBC when constructed. Such buildings shall be maintained in accordance with the Virginia Public Building Safety Regulations (VR 394-01-05) which are hereby incorporated into this code by reference, and other applicable requirements of this code.

Note: The Virginia Public Building Safety Regulations (VR 394-01-05), which were formerly contained in Addendum 2 of this code, are available from the Professional Services Office (DHCD), 205 North Fourth Street, Richmond, VA 23219-1747.

F-100.9. Special provisions. The fire official shall require that buildings subject to the requirements of Section 109.0 of the Uniform Statewide Building Code, Volume II - Building Maintenance Code, 1990 Edition, shall comply with the provisions of that section.

F-100.10. Exemptions for farm structures. Farm structures not used for residential purposes shall be exempt from the provisions of the SFPC.

SECTION F-101.0. REFERENCED STANDARDS AND AMENDMENTS.

F-101.1. Adoption of model code. The following model code, as amended by Sections F-101.2 and F-101.3, is hereby adopted and incorporated in the SFPC.

The BOCA National Fire Prevention Code/1990 Edition, published by: Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60477.

F-101.2. Administrative and enforcement amendments to the referenced model code. All requirements of the referenced model code and standards that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the SFPC.

F-101.3. Other amendments to the referenced model code. The amendments noted in Addendum 1 shall be made to the specified articles and sections of the BOCA National Fire Prevention Code/1990 Edition.

F-101.4. Limitation of application of model code. No provision of the model code shall affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

SECTION F-102.0. ENFORCEMENT AUTHORITY.

F-102.1. Enforcement. Any local government may enforce the SFPC *after official action*. The local governing body may assign responsibility for enforcement of the SFPC to the local agency or agencies of its choice. The State Fire Marshal shall have authority to enforce the SFPC in jurisdictions in which the local governments do not enforce the code. The State Fire Marshal's office shall be notified

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by the local government in writing when the fire official has been appointed and shall provide a copy of the resolution or ordinance adopting the enforcement provisions of the SFPC. The terms "enforcing agency" and "fire official" apply to the agency or agencies responsible for enforcement. The terms "building official" or "building department" apply only to the local building official or building department.

F-102.1.1. Modifications. The fire official may grant modifications to any provisions of the Statewide Fire Prevention Code upon application of the owner or the owner's representative, provided that the spirit and intent of the code is observed and public health, welfare and safety are assured.

F-102.1.1.1. Records. The application for modification and the final decision of the fire official shall be in writing and shall be officially recorded.

F-102.1.2. Modifications to the Virginia Public Building Safety Regulations. In those localities enforcing the SFPC, the fire official shall have the same authority to grant modifications of the Virginia Public Building Safety Regulations as is delegated to the Chief Fire Marshal.

F-102.2. Alternative methods and materials. The provisions of this code are not intended to prevent the use of any material or method of work not specifically prescribed by this code, provided that such alternative shall comply with the intent of the provisions of this code. The material, method or work offered shall be, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

F-102.2.1. Supporting data. The fire official shall require that sufficient technical data be submitted to substantiate the proposed use of any material or assembly. If it is determined that the evidence presented is satisfactory proof of performance for the use intended, the fire official shall approve the use of such alternative subject to the requirements of this code. Supporting data, when required by the fire official to assist in the approval of all materials or assemblies not specifically provided for in this code, shall consist of duly authenticated research reports from approved sources.

F-102.2. F-102.3. Qualifications. The local government shall establish qualifications for the fire official and assistants.

Note: It is recommended that the fire official have at least five years of fire prevention experience. The certification programs offered by the Department of Housing and Community Development, Department of Fire Programs, and ETS/NFPA should be considered when establishing qualifications.

F-102.3. F-102.4. Maintenance inspections. The fire official may inspect all buildings, structures and premises to assure compliance with this code or any other ordinance

affecting fire safety.

Exceptions:

1. Single family dwellings.
2. Dwelling units in multi-family dwellings.

F-102.4. F-102.5. Right of entry. The fire official may enter any structure or premises when there is reasonable cause to believe that an unsafe condition exists. Proper credentials shall be presented before entering occupied structures or premises. Legal assistance may be requested if entry is refused.

F-102.5. F-102.6. Coordinated inspections. The fire official shall coordinate inspections and administrative orders with any other state and local agencies having related inspection authority, and shall coordinate with the local building department on those inspections required by the USBC, Volume I, for new construction, when involving provisions of the BOCA National Fire Prevention Code, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders. Whenever the fire official or an authorized representative observes an apparent or actual violation of the provisions of another law, ordinance or code, not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

Note: Section 110.6 of the USBC, Volume I, requires the building official to coordinate those inspections with the local fire official.

F-102.6. F-102.7. Records. The local fire official shall keep records of fires, inspections, notices, orders issued, and other matters as directed by the local government. Fire records shall include information as to the cause, origin and the extent of damage. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act, (a) after twenty years in the case of arson fires, (b) after five years in nonarson fires, and (c) after three years in the case of all other reports, notices, and orders issued.

F-102.7. F-102.8. Relief from personal responsibility. The local enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as an employee. The fire official or his subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the SFPC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as an employee, whether or not said costs are covered by

insurance. Any suit instituted against any officer or employee because of an act performed in the discharge of the SFPC may be defended by the enforcing agency's legal representative. The State Fire Marshal or his subordinates shall not be personally liable for damages or costs sustained by any person when the State Fire Marshal or his subordinates are enforcing this code as part of their official duties under Section F-102.1.

~~F-102.8.~~ *F-102.9.* Local regulations. Local governments may adopt fire prevention regulations that are more restrictive or more extensive in scope than the SFPC provided such regulations are not more restrictive than the USBC and do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure.

~~F-102.9.~~ *F-102.10.* Procedures or requirements. The local governing body may establish such procedures or requirements as may be necessary for the enforcement of the SFPC.

~~F-102.10.~~ *F-102.11.* Control of conflict of interest. The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

SECTION F-103.0. DUTIES AND POWERS OF THE FIRE OFFICIAL.

F-103.1. General. The fire official shall enforce the provisions of the SFPC as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

F-103.2. Notices and orders. The fire official shall issue all necessary notices or orders to ensure compliance with the SFPC.

F-103.3. Delegation of duties and powers. The fire official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with this code.

SECTION F-104.0. PERMITS.

F-104.1. General. The fire official may require notification prior to activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; or to conduct processes which produce conditions hazardous to life or property; or to establish a place of assembly.

F-104.1.1. State permits. The State Fire Marshal will not issue permits under the SFPC except that annual permits shall be issued under Article 26, Explosives, Ammunition and Blasting Agents.

F-104.1.2. Local permits. In those jurisdictions that enforce the SFPC, the Fire Official shall issue permits as required by Article 26, Explosives, Ammunition and Blasting Agents.

F-104.2. Permits required. The local fire official may require permits to be obtained as specified in the model code. Permits shall be made available to the fire official upon request.

F-104.3. Application for permit. Application for a permit shall be made on forms prescribed by the local fire official.

F-104.4. Issuance of permits. Before a permit is issued, the local fire official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made complies with the provisions of this code.

F-104.5. Conditions of permit. A permit shall constitute permission to store or handle materials, or to conduct processes in accordance with the SFPC and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until revoked, or for such period of time specified on the permit. Permits are not transferable.

F-104.6. Approved plans. Plans approved by the fire official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

F-104.7. Revocation of permit. The local fire official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

F-104.8. Suspension of permit. A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

F-104.9. Fees. Fees may be levied by the enforcing agency in order to defray the cost of enforcement and appeals. The fees listed in Table F-104.9 shall be levied on those permits issued in accordance with F-104.1.1.

Table F-104.9.

FEE SCHEDULE FOR EXPLOSIVES PERMITS ISSUED BY THE STATE FIRE MARSHAL

Type of Permit	Fee
To possess, store or dispose of explosives or blasting agents	\$50.00 per year
To use explosives or blasting agents	\$75.00 per year

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SECTION F-105.0. LOCAL BOARD OF APPEALS.

F-105.1. Local board of appeals. Each local government shall have a local board of appeals as required by § 27-98 of the Code of Virginia, or it shall enter into an agreement with the governing body of another county or municipality or with some other agency, or a state agency, approved by the Department of Housing and Community Development to act on appeals.

F-105.2. Membership. The local board of appeals shall consist of at least five members appointed by the local government. Members may be reappointed.

Note: In order to provide continuity, it is recommended that the terms of the local board members be staggered so that less than half of the terms expire in any one year.

F-105.3. Qualifications of board members. Board members shall be qualified by experience and training to rule on matters pertaining to building construction and fire prevention. Employees or officials of the local government appointing the board shall not serve as board members.

F-105.4. Officers of the board. The board shall select one of its members to serve as chairman. The agency enforcing the SFPC shall designate an employee from its agency to serve as secretary to the board. The secretary shall keep a detailed record of all proceedings in accordance with Section F-102.6.

F-105.5. Alternates and absence of members. The local government may appoint alternate members who may sit on the board in the absence of any regular members of the board and, while sitting on the board, shall have the full power and authority of the regular member. A procedure shall be established for use of alternate members in case of absence of regular members.

F-105.6. Control of conflict of interest. A member of the board shall not vote on any question involving their business or personal interests.

F-105.7. Notice of meeting. The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 30 calendar days of the filing of an appeal.

F-105.8. Application for appeal. The owner or occupant of any building, structure or premises may appeal a decision of the fire official, by submitting written application within 10 calendar days of the decision, when it is claimed that:

1. The fire official has refused to grant a modification of the provisions of the code;
2. The intent of the code has been incorrectly interpreted;

3. The provisions of the code do not fully apply;

4. The use of a form of compliance that is equal to or better than that specified in the code has been denied.

F-105.9. Hearing open to public. All hearings shall be open to the public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14:1 of the Code of Virginia.

F-105.10. Postponement of hearing. When a quorum (over 50%) of the board, as represented by members or alternates, is not present to consider a specific appeal, either the appellant, the fire official or their representatives may, prior to the start of the hearing, request a single postponement of the hearing of up to 14 calendar days.

F-105.11. Decision. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the fire official. Every action of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the fire official.

F-105.12. Enforcement of decision. The fire official shall take immediate action in accordance with the decision of the board.

SECTION F-106.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

F-106.1. Appeal to the State Building Code Technical Review Board. Any person aggrieved by a decision of the local Board of Appeals who was a party to the appeal may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 15 days of receipt of the decision of the local appeals board by the aggrieved party.

F-106.2. Appeal of decision of State Fire Marshal. Appeals concerning the application of the code by the State Fire Marshal shall be made directly to the State Building Code Technical Review Board.

F-106.3. Control of conflict of interests. A member of the board shall not vote on any question involving his business or personal interests.

F-106.4. Enforcement of decision. Upon receipt of the written decision of the State Building Code Technical Review Board, the fire official shall take immediate action in accordance with the decision.

F-106.5. Court review. Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board may be presented to the court of the original jurisdiction in accordance with the

provisions of the Administrative Process Act, Article 4 (§ 9-6.14:15 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia.

SECTION F-107.0. UNSAFE CONDITIONS.

F-107.1. General. The fire official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC:

1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure or endanger the occupants thereof.
2. Conditions which would interfere with the efficiency and use of any fire protection equipment.
3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the fire department in case of fire.
4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts.
5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.
6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.
7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.
8. Hazardous conditions arising from defective or improperly used or installed equipment for handling or using combustible, explosive or otherwise hazardous materials.
9. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.
10. All equipment, materials, processes or operations which are in violation of the provisions and intent of this code.

F-107.2. Maintenance. The owner shall be responsible for the safe and proper maintenance of any building, structure, premises or lot. In all new and existing buildings and structures, the fire protection equipment, means of egress, alarms, devices and safeguards required by the USBC shall be maintained in a safe and proper operating condition.

Note: Also see Sections F-501.4 and F-501.4.1 of this

code for further information.

F-107.3. Occupant responsibility. If an occupant of a building creates conditions in violation of this code, by virtue of storage, handling and use of substances, materials, devices and appliances, the occupant shall be held responsible for the abatement of said hazardous conditions.

F-107.4. Unsafe buildings. All buildings and structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe buildings or structures. A vacant building, or portion of a building, unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe buildings shall be reported to the building or maintenance code official who shall take appropriate action under the provisions of the USBC, Volume I - New Construction Code or Volume II - Building Maintenance Code, to secure abatement by repair and rehabilitation or by demolition.

F-107.5. Evacuation. When, in the opinion of the fire official, there is actual and potential danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire official may order the immediate evacuation of the building, structure or premises. All notified occupants shall immediately leave the building, structure or premises, and no person shall enter until authorized to do so by the fire official.

F-107.6. Unlawful continuance. It is deemed a violation of the SFPC for any person to refuse to leave, interfere with the evacuation of the other occupants or continue any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition.

F-107.7. Notice of violation. Whenever the fire official observes a violation of this code or ordinance under the fire official's jurisdiction, the fire official shall prepare a written notice of the violation describing the condition deemed unsafe and specifying time limits for the required repairs or improvements to be made to render the building, structure or premises safe and secure. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice of violation shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering it in person, by delivering it to and leaving it in the possession of any person in charge of the premises, or, in

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case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access; such procedure shall be deemed the equivalent of personal notice.

F-107.8. Failure to correct violations. If the notice of violation is not complied with in the time specified by the fire official, the fire official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate any notice of violation which is not complied with in the specified time or require removal or termination of the unlawful use of the building or structure. The local law enforcement agency of the jurisdiction shall be requested by the fire official to make arrests for any offense against this code or orders of the fire official affecting the immediate safety of the public when the fire official is not certified in accordance with § 27-34.2 of the Code of Virginia.

F-107.9. Issuing summons for violation. If certified in accordance with § 27-34.2 of the Code of Virginia, the fire official may issue a summons in lieu of the notice of violation.

F-107.10. Penalty for violation. Violations are a Class 1 misdemeanor in accordance with § 27-100 of the Code of Virginia. Each day that a violation continues, after a service of notice as provided for in this code, shall be deemed a separate offense.

F-107.11. Abatement of violation. Conviction of a violation of the SFPC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of the SFPC relating to use of the building or premises.

ADDENDUM 1. AMENDMENTS TO THE BOCA NATIONAL FIRE PREVENTION CODE/1990 EDITION.

As provided in Section F-101.3 of the SFPC, the amendments noted in this addendum shall be made to the BOCA National Fire Prevention Code/1990 Edition for use as part of the SFPC.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

1. Article 1, Administration and Enforcement, is deleted in its entirety and replaced with Article 1 of the SFPC.

ARTICLE 2. DEFINITIONS.

1. Change Section F-200.3 to read:

F-200.3. Terms defined in the other codes. Where terms are not defined in this code and are defined in the USBC, they shall have the meanings defined by the USBC.

2. Change the following definitions in Section F-201.0, General Definitions, to read:

"Blasting agent" means any explosive material that has been tested and approved in accordance with the provisions of DOT 49 CFR which includes that the finished product, as mixed for use and shipment, cannot be detonated by a No. 8 test blasting cap when unconfined.

"Building code official" means the designated authority charged with the administration and enforcement of the USBC, Volume I - New Construction Code.

"Code official" means the designated authority charged with the administration and enforcement of the USBC, Volume II - Building Maintenance Code.

Note: When "code official" appears in the BOCA National Fire Prevention Code, it shall mean "fire official".

"Explosive" means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term "explosive" includes all materials classified as Class A, Class B, or Class C explosives by DOT regulations and includes, but is not limited to, dynamite, black powder, pellet powders, smokeless powder, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse igniters, fuse lighters, squibs, cordeau detonate fuse, instantaneous fuse, igniter cord and igniters.

"Fireworks" means any item known as firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air. The term "fireworks" does not include auto flares, caps for pistols, pinwheels, sparklers, fountains or Pharaoh's Serpents provided, however, these permissible items may only be used, ignited or exploded on private property with the consent of the owner of such property.

"Structure" means an assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

3. Add these new definitions to Section F-201.0, General Definitions:

"Agricultural blasting" means any blasting operation which is conducted on no less than five acres of real estate devoted to agricultural or horticultural use as defined in § 58.1-3230 of the Code of Virginia.

"Blaster" or "shot firer" means that qualified person in charge of, and responsible for, the loading and firing of an explosive or blasting agent.

"Building Code" means the building code in effect at the time of construction.

"Fire official" means the designated authority charged with the administration and enforcement of the SFPC.

"Peak particle velocity" means the maximum component of the three mutually perpendicular components of motion at a given point.

"Propellant-actuated power device" means any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge. (See special industrial explosive device.)

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight (and that of its own load) rests upon or is carried by another vehicle.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Transport" or "transportation" means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

4. Delete the following definitions from Section F-201.0, General Definitions:

Liquefied petroleum gas (LP-gas or LPG)

Liquefied petroleum gas equipment

ARTICLE 3. GENERAL PRECAUTIONS AGAINST FIRE.

1. Change Section F-301.1 to read:

F-301.1. General. Open burning shall be allowed in accordance with the laws and regulations set forth by the State Air Pollution Control Board, the Department of Forestry, and as regulated by the locality.

2. Delete Section F-318.0, Fire Safety During Construction, Alteration and Demolition.

ARTICLE 4. HAZARD ABATEMENT IN EXISTING BUILDINGS.

1. Delete Article 4, Hazard Abatement in Existing Buildings, as it is covered by Sections F-100.7 and F-100.8 of the SFPC and Volume I and Volume II of

the USBC.

ARTICLE 5. FIRE PROTECTION SYSTEMS.

1. Add new Section F-518.0, Smoke Detectors for the Deaf and Hearing-impaired, to read:

SECTION F-518.0. SMOKE DETECTORS FOR THE DEAF AND HEARING-IMPAIRED.

F-518.1. Audible and visual alarms. Audible and visual alarms, meeting the requirements of UL Standard 1638, and installed in accordance with NFPA/ANSI 72G, shall be provided in occupancies housing the hard of hearing, as required by § 36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be acceptable.

ARTICLE 7. EMERGENCY PLANNING AND PREPAREDNESS.

1. Add new Section F-706.4, Fire Exit Drills, to read:

F-706.4. Fire exit drills. Fire exit drills shall be conducted annually by building staff personnel or the owner of the building in accordance with the fire safety plan and shall not affect other current occupants.

ARTICLE 16. OIL AND GAS PRODUCTION.

1. Delete Article 16, Oil and Gas Production, as it is covered by the Virginia Gas and Oil Act, Title 45.1, Chapter 22.1 of the Code of Virginia.

ARTICLE 26. EXPLOSIVES, AMMUNITION AND BLASTING AGENTS.

1. Article 26, Explosives, Ammunition and Blasting Agents, is deleted in its entirety and replaced with Article 26 of the SFPC, as follows:

SECTION F-2600.0. GENERAL.

F-2600.1. Scope. The equipment, processes and operations involving the manufacture, possession, storage, sale, transportation and use of explosives and blasting agents shall comply with the applicable requirements of this code and the provisions of this article and shall be maintained in accordance with NFPA 495, NFPA 498, and DOT 49CFR listed in Appendix A except as herein specifically exempted or where provisions of this article do not specifically cover conditions and operations, and with the Institute of Makers of Explosives (IME) Safety Library Publications, with Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia

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Waste Management Board, and with the Virginia Motor Carrier Regulations.

F-2600.2. Exceptions. Nothing in this article shall be construed as applying to the following explosive uses:

1. The Armed Forces of the United States or of a state.
2. Explosives in forms prescribed by the official United States Pharmacopoeia.
3. The sale or use of fireworks which are regulated by Article 27.
4. Laboratories engaged in testing explosive materials.
5. The possession, storage and use of not more than five pounds (2.27 kg) of smokeless powder, black powder, and 1000 small arms primers for hand loading of small arms ammunition for personal use.
6. The manufacture, possession, storage and use of not more than five pounds (2.27 kg) of explosives or blasting agents in educational, governmental or industrial laboratories for instructional or research purposes when under the direct supervision of experienced, competent persons.
7. The transportation and use of explosives or blasting agents by the United States Department of Alcohol, Tobacco and Firearms, the United States Bureau of Mines, the Federal Bureau of Investigation, the United States Secret Service, the Virginia Department of State Police, or qualified fire and law enforcement officials acting in their official capacity in the discharge of their duties; nor to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia (Department of Mines, Minerals and Energy).

F-2600.3. Permit required. A permit shall be obtained from the code official for any of the following conditions or operations:

1. To possess, store, or otherwise dispose of explosives or blasting agents.
2. To use explosives or blasting agents:
 - a. A permit shall be issued for each project.
 - b. The permit shall specify the type of blasting and any special conditions. To the extent that blasting will occur within any waters of the Commonwealth or in any of the waters under its jurisdiction, evidence of a valid Marine Resources Commission permit, or "no permit necessary" authorization, will be required.
3. To operate a terminal for handling explosives or

blasting agents.

4. To manufacture explosives or blasting agents, providing the following conditions are met:

- a. Registration with the Department of Housing and Community Development;
- b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and
- c. Valid license to do business in the Commonwealth of Virginia.

5. To sell explosives and blasting agents, providing the following conditions are met:

- a. Registration with the Department of Housing and Community Development;
- b. Valid license from the Bureau of Alcohol, Tobacco and Firearms; and
- c. Valid license to do business in the Commonwealth of Virginia.

Exception: Annual permits for the use of explosives shall be issued to any state regulated public utility.

F-2600.3.1. Prohibited permits. Permits as required above shall not be issued for:

1. Liquid nitroglycerin and nitrate esters.
2. Dynamite (except gelatin dynamite) containing over 60% of liquid explosive ingredient.
3. Leaking, damaged, or defective packages or containers of high explosives.
4. Nitrocellulose in a dry and uncompressed condition to be shipped or transported.
5. Fulminate of mercury in a dry condition and fulminate of all other metals in any condition.

Exception. Fulminate of metals which is a component of manufactured articles not otherwise forbidden.

6. Explosive compositions that ignite spontaneously or undergo marked decomposition, rendering the products or their use more hazardous, when subjected for 48 consecutive hours or less to a temperature of 167°F (75°C).
7. New explosives until approved by DOT 49CFR listed in Appendix A, except for permits issued to educational, governmental or industrial laboratories for instructional or research purposes.
8. Explosives forbidden by DOT 49CFR listed in

Appendix A.

9. Explosives not packed or marked in accordance with the requirements of DOT 49CFR listed in Appendix A.

10. Explosives containing an ammonium salt and a chlorate.

F-2600.4. Certification required. The use of explosive materials shall be conducted or supervised on-site by blasters certified in accordance with Part IV of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen. The blaster shall carry proof of certification during the loading or firing of explosive materials.

Exception: Individuals conducting agricultural blasting operations on their own property.

F-2600.4.1. Certification fee. The Department of Housing and Community Development shall charge a \$20 fee to applicants for certification as a blaster.

F-2600.5. Liability insurance. The company or individual applying for a permit to blast, manufacture, or sell explosives shall provide proof of insurance in an amount determined by the fire official but in no case less than \$500,000.

Exception: Liability insurance shall not be required with an agricultural blasting permit when the blast is conducted on the applicant's personal property.

SECTION F-2601.0. GENERAL REQUIREMENTS.

F-2601.1. Storage. The storage of explosives and blasting agents is prohibited within the legal geographic boundaries of any district where such storage is prohibited by the authority having jurisdiction.

Exception: Temporary storage for use in connection with approved blasting operations; provided, however, this prohibition shall not apply to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material.

F-2601.2. Sale and display. Explosives shall not be sold, given, delivered, or transferred to any person or company not in possession of a valid permit. A person shall not sell or display explosives or blasting agents on highways, sidewalks, public property or in places of public assembly or education.

SECTION F-2602.0. STORAGE OF EXPLOSIVE MATERIALS.

F-2602.1. General. Explosives, including special industrial

high explosive materials, shall be stored in magazines which meet the requirements of this article. This shall not be construed as applying to wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive-actuated power tools in quantities involving less than 500 pounds (227 kg) of explosive material. Magazines shall be in the custody of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for compliance with all safety precautions.

F-2602.2. Control in wholesale and retail stores. Explosive materials shall not be stored within wholesale or retail stores. The storage of explosives for wholesale and retail sales shall be in approved outdoor magazines except that not more than 50 pounds of black or smokeless powder may be stored in a Type 4 indoor magazine.

F-2602.3. Magazine clearances. Magazines shall be located away from inhabited buildings, passenger railways, public highways and other magazines in conformance with Table F-2602, except as provided in Section F-2602.2.

F-2602.4. Magazine construction. Magazines shall be constructed and maintained in accordance with IME publication No. 1.

Note: Refer to Section F-2600.4 for the use of magazines.

F-2602.4.1. Magazine heat and light. Magazines shall not be provided with artificial heat or light, except that if artificial light is necessary, an approved electric safety flashlight or safety lantern shall be used.

F-2602.5. Safety precautions. Smoking, matches, open flames, spark producing devices and firearms shall be prohibited inside or within 50 feet (15.24m) of magazines. Combustible materials shall not be stored within 50 feet (15.24m) of magazines.

Table F-2602

TABLE OF DISTANCES FOR STORAGE OF
EXPLOSIVES

DISTANCES IN FEET					
QUANTITY OF EXPLOSIVE MATERIALS (Notes 1,2,3,4)		Inhabited Buildings (Note 9)		Public Highways Class A to D (Note 11)	
Pounds Over	Pounds Not Over	Barri- caded (6,7,8)	Unbarri- caded	Barri- caded (6,7,8)	Unbarri- caded
2	5	70	140	30	60
5	10	90	180	35	70

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200	250	189	378	23	46	100,000	110,000	1,437	2,000	195	390
250	300	201	402	24	48	110,000	120,000	1,479	2,000	205	410
300	400	221	442	27	54	120,000	130,000	1,521	2,000	215	430
400	500	238	476	29	58	130,000	140,000	1,557	2,000	225	450
500	600	253	506	31	62	140,000	150,000	1,593	2,000	235	470
600	700	266	532	32	64	150,000	160,000	1,629	2,000	245	490
700	800	278	556	33	66	160,000	170,000	1,662	2,000	255	510
800	900	289	578	35	70	170,000	180,000	1,695	2,000	265	530
900	1,000	300	600	36	72	180,000	190,000	1,725	2,000	275	550
1,000	1,200	318	636	39	78	190,000	200,000	1,755	2,000	285	570
1,200	1,400	336	672	41	82	200,000	210,000	1,782	2,000	295	590
1,400	1,600	351	702	43	86	210,000	230,000	1,836	2,000	315	630
1,600	1,800	366	732	44	90	230,000	250,000	1,890	2,000	335	670
1,800	2,000	378	756	45	90	250,000	275,000	1,950	2,000	360	720
2,000	2,500	408	816	49	98	275,000	300,000	2,000	2,000	385	770
2,500	3,000	432	864	52	104						
3,000	4,000	474	948	58	116						
4,000	5,000	513	1,026	61	122						
5,000	6,000	546	1,092	65	130						
6,000	7,000	573	1,146	68	136						
7,000	8,000	600	1,200	72	144						
8,000	9,000	624	1,248	75	150						
9,000	10,000	645	1,290	78	156						
10,000	12,000	687	1,374	82	164						
12,000	14,000	723	1,446	87	174						
14,000	16,000	756	1,512	90	180						
16,000	18,000	786	1,572	94	188						
18,000	20,000	813	1,626	98	196						
20,000	25,000	876	1,752	105	210						
25,000	30,000	933	1,866	112	224						
30,000	35,000	981	1,962	119	238						
35,000	40,000	1,026	2,000	124	248						
40,000	45,000	1,068	2,000	129	258						
45,000	50,000	1,104	2,000	135	270						
50,000	55,000	1,140	2,000	140	280						
55,000	60,000	1,173	2,000	145	290						
60,000	65,000	1,206	2,000	150	300						
65,000	70,000	1,236	2,000	155	310						
70,000	75,000	1,263	2,000	160	320						
75,000	80,000	1,293	2,000	165	330						
80,000	85,000	1,317	2,000	170	340						
85,000	90,000	1,344	2,000	175	350						
90,000	95,000	1,368	2,000	180	360						
95,000	100,000	1,392	2,000	185	370						

Numbers in () refer to explanatory notes

NOTE 1 - "Explosive materials" means explosives, blasting agents and detonators.

NOTE 2 - "Explosives" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. A list of explosives determined to be within the coverage of "18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials" is issued at least annually by the Director of the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury. For quantity and distance purposes, detonating cord of 50 grains per foot should be calculated as equivalent to eight pounds of high explosives per 1,000 feet. Heavier or lighter core loads should be rated proportionately.

NOTE 3 - "Blasting agents" means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive, provided that the finished product, as mixed for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

NOTE 4 - "Detonator" means any device containing any initiating or primary explosive that is used for initiating detonation. A detonator may not contain more than 10 grams of total explosives by weight, excluding ignition or delay charges. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous and delay blasting caps which use detonating cord, shock tube, or any other replacement for electric leg wires. All types of detonators in strengths through No. 8 cap should be rated at 1 1/2 lbs. of explosives per 1,000 caps. For strengths higher than No. 8 cap, consult the manufacturer.

NOTE 5 - "Magazine" means any building, structure, or container, other than an explosives manufacturing building, approved for the storage of explosive materials.

NOTE 6 - "Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen

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from the magazine when the trees are bare of leaves.

NOTE 7 - "Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of three feet.

NOTE 8 - "Barricaded" means the effective screening of a building containing explosive materials from the magazine or other building, railway, or highway by a natural or an artificial barrier. A straight line from the top of any sidewall of the building containing explosive materials to the eave line of any magazine or other building or to a point 12 feet above the center of a railway or highway shall pass through such barrier.

NOTE 9 - "Inhabited building" means a building regularly occupied in whole or part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.

NOTE 10 - "Railway" means any steam, electric, or other railroad or railway which carries passengers for hire.

NOTE 11 - "Highway" means any public street, public alley, or public road. "Public highways Class A to D" are highways with average traffic volume of 3,000 or less vehicles per day as specified in "American Civil Engineering Practice" (Abbett, Vol. 1, Table 46, Sec. 3-74, 1956 Edition, John Wiley and Sons).

NOTE 12 - When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and, in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines," except that the quantity of explosive materials contained in detonator magazines shall govern in regard to the spacing of said detonator magazines from magazines containing other explosive materials. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosive materials stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways, and highways.

NOTE 13 - Storage in excess of 300,000 lbs. of explosive materials, in one magazine is generally not required for commercial enterprises.

NOTE 14 - This table applies only to the manufacture and permanent storage of commercial explosive materials. It is not applicable to transportation of explosives or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

F-2602.5.1. Surrounding terrain. The land surrounding magazines shall be kept clear of brush, dried grass, leaves, trash and debris for a distance of at least 25 feet (7.62 m).

F-2602.5.2. Locking security. Magazines shall be kept locked except when being inspected or when explosives are being placed therein or being removed therefrom.

F-2602.5.3. Magazine housekeeping. Magazines shall be kept clean, dry and free of grit, paper, empty packages or rubbish.

F-2602.5.4. Separation of detonators and explosives. Blasting caps, electric blasting caps, detonating primers and primed cartridges shall not be stored in the same magazine with other explosives.

F-2602.5.5. Explosive unpacking. Metal or wooden packages of explosives shall not be unpacked or repacked in a magazine nor within 50 feet (15.24m) of a magazine.

F-2602.5.6. Magazine contents. Magazines shall not be used for the storage of any metal tools or of any commodity except explosives, but this restriction shall not apply to the storage of blasting agents, blasting supplies and oxidizers used in compound blasting agents.

F-2602.6. Unstable explosives. When an explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if liquid leaks from any explosive, then the person in possession of such explosive shall immediately report that fact to the code official and upon his approval shall proceed to destroy such explosives and clean floors stained with nitroglycerin or other such liquids in accordance with the instructions of the manufacturer. Only qualified, experienced persons shall do the work of destroying explosives.

Note: Disposal of explosives as "waste" should be in accordance with the Department of Waste Management regulations.

F-2602.7. Class I magazine warnings. Property upon which Class I magazines are located shall be posted with signs reading "Explosives - Keep Off." Such signs shall be located so as to minimize the possibility of a bullet traveling in the direction of the magazine if anyone shoots at the sign.

F-2602.8. Class II magazine warnings. Class II magazines shall be painted red and shall bear lettering in white, on all sides and top at least three inches (76 mm) high, "Explosives - Keep Fire Away."

SECTION F-2603.0. TRANSPORTATION OF EXPLOSIVES.

F-2603.1. General. The transportation of explosive materials shall comply with applicable provisions of the Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Waste Management Board.

F-2603.2. Enforcement. The Department of State Police, together with all law enforcement and peace officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs, and Office of Hazardous Materials Transportations, in federal safety

regulations and safety inspections procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of this section. Those officers shall annually receive in-service training in current federal safety standards and safety inspection procedures pertaining to the transportation of hazardous materials.

SECTION F-2604.0. STORAGE OF BLASTING AGENTS AND SUPPLIES.

F-2604.1. General. Blasting agents or oxidizers, when stored in conjunction with explosives, shall be stored in the manner set forth in Section F-2602.0 for explosives. The quantity of blasting agents and one half the quantity of oxidizers shall be included when computing the total quantity of explosives for determining distance requirements.

F-2604.2. Storage location. Buildings used for storage of blasting agents separate from explosives shall be located away from inhabited buildings, passenger railways and public highways in accordance with Table F-2602.

F-2604.3. Storage housekeeping. The interior of buildings used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, nitrates other than ammonium nitrate or similar materials shall not be stored in any building containing blasting agents unless separated therefrom by construction having a fire-resistance rating of not less than one hour. The provisions of this section shall not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

F-2604.4. Trailer storage requirements. Semitrailers or full trailers used for temporarily storing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-2602. Trailers shall be provided with substantial means for locking and trailer doors shall be kept locked except during the time of placement or removal of blasting agents.

F-2604.5. Oxidizers and fuels. Piles of oxidizers and buildings containing oxidizers shall be adequately separated from readily combustible fuels.

F-2604.6. Oxidizer handling. Caked oxidizer, either in bags or in bulk, shall not be loosened by blasting.

SECTION F-2605.0. HANDLING OF EXPLOSIVES.

F-2605.1. Mixing blasting agents. Buildings or other facilities used for mixing blasting agents shall be located away from inhabited buildings, passenger railways and public highways, in accordance with Table F-2602.

F-2605.2. Quantity of mixing agents. Not more than one

day's production of blasting agents or the limit determined by Table F-2602, whichever is less, shall be permitted in or near the building or other facility used for mixed blasting agents. Larger quantities shall be stored in separate buildings or magazines.

F-2605.3. Compounding standards. Compounding and mixing of recognized formulations of blasting agents shall be conducted in accordance with NFPA 495 and DOT 49CFR listed in Appendix A.

F-2605.4. Ignition protection. Smoking or open flames shall not be permitted within 50 feet (15.24m) of any building or facility used for the mixing of blasting agents.

F-2605.4.1. Unpacking tools. Tools used for opening packages of explosives shall be constructed of nonsparking materials.

Exception. Metal slitters may be used for opening paper and fiberboard containers.

F-2605.5. Waste disposal. Empty oxidizer bags shall be disposed of daily by burning in a safe manner (in an open area and at a safe distance from buildings or combustible materials).

F-2605.5.1. Packing material disposal. Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved, isolated location out-of-doors, and any person shall not be closer than 100 feet (30.48 m) during the course of said burning.

F-2605.6. Control. Explosives shall not be abandoned.

SECTION F-2606.0. BLASTING.

F-2606.1. Time. Blasting operations shall be conducted during daylight hours except when otherwise approved.

F-2606.2. Personnel. The handling and firing of explosives shall be performed by the person certified as a blaster under Section F-2600.2.3 of this code or by employees under that person's direct on-site supervision who are at least 21 years old.

1. A person shall not handle explosives while under the influence of intoxicants or narcotics.

2. A person shall not smoke or carry matches while handling explosives or while in the vicinity thereof.

3. An open flame light shall not be used in the vicinity of explosives.

F-2606.3. Clearance at site. At the site of blasting operations, Class II magazines shall be located as far away as practicable from neighboring inhabited buildings,

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railways, highways, and other magazines.

F-2606.4. Notice. Whenever blasting is being conducted within 200 feet of gas, electric, water, fire, alarm, telephone, telegraph or steam utilities, the blaster shall notify the appropriate representatives of such utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice. This time limit shall not be waived except in an emergency as determined by the code official.

F-2606.5. Responsibility. Before a blast is fired, the person in charge shall make certain that all surplus explosives are in a safe place, all persons and vehicles are at a safe distance or under sufficient cover, and a warning signal has been sounded.

F-2606.6. Precautions. Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radio or radar transmitters, lightning, adjacent power lines, dust storms or other sources of extraneous electricity. These precautions shall include:

1. *The* suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electrical storm;
2. *The* posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet (106.75m) of the blasting operations; and
3. Compliance with NFPA 495 listed in Appendix A when blasting within 1-1/2 miles (2.41 km) of broadcast or highpower short wave radio transmitters.
4. Misfires shall be handled as directed by equipment manufacturers with no one entering the blasting site, except the blaster, until the loaded charges have been made to function or have been removed.

F-2606.7. Congested areas. As required by the fire official, when blasting is done in congested areas or in close proximity to a building, structure, railway, highway or any other installation susceptible to damage, the blast shall be covered before firing, with a mat or earth, or both, so that it is capable of preventing rock from being thrown into the air out of the blast area.

F-2606.8. Blast records. A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the fire official. These records shall contain the following minimum data:

1. Name of contractor.
2. Location and time of blast.
3. Name of certified blaster in charge.
4. Type of material blasted.

5. Number of holes bored and spacing.
6. Diameter and depth of holes.
7. Type and amount of explosives.
8. Amount of explosives per delay of eight milliseconds or greater.
9. Method of firing and type of circuit.
10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building.
11. Weather conditions.
12. Whether or not mats or other precautions were used.
13. Type of detonators and delay periods.
14. Type and height of stemming.
15. Seismograph records where indicated.

SECTION F-2607.0. STANDARDS FOR CONTROL OF AIRBLAST AND GROUND VIBRATION.

F-2607.1. Airblast. This section shall apply to airblast effects as recorded at the location of any private dwelling, public building, school, church, and community or institutional building not owned or leased by the person conducting or contracting for the blasting operation. If requested by a property owner registering a complaint and deemed necessary by the fire official, measurements of three consecutive blasts, using approved instrumentation, shall be made near the structure in question.

F-2607.1.1. Maximum airblast. The maximum airblast at any inhabited building, resulting from blasting operations, shall not exceed 130 decibels peak, or 140 decibels peak at any uninhabited building, when measured by an instrument having a flat frequency response (+3 decibels) over a range of at least six to 200 Hertz.

F-2607.2. Ground vibration. This section shall provide for limiting ground vibrations at structures that are neither owned nor leased by the person conducting or contracting for the blasting operation. Engineered structures may safely withstand higher vibration levels based on an approved engineering study upon which the fire official may then allow higher levels for such engineered structures.

Note: Each Table, F-2607A to F-2607C, has an increasing degree of sophistication and each can be implemented either by the fire official as a result of complaints or by the contractor to determine site specific vibration limits. The criteria in Tables F-2607 A, B, and C and Section F-2607.3 are intended to

protect low-rise structures including dwellings.

F-2607.2.1. Blasting without instrumentation. Where no seismograph is used to record vibration effects, the explosive charge weight per delay (eight milliseconds or greater) shall not exceed the limits shown in Table F-2607A. When charge weights per delay on any single delay period exceed 520 lbs., then ground vibration limits for structures shall comply with Tables F-2607B, F-2607C, or Section F-2607.3.

F-2607.2.2. Monitoring with instrumentation. Where a blaster determines that the charge weights per delay given in Table F-2607A are too conservative, he may choose to monitor (at the closest conventional structure) each blast with an approved seismograph and conform to the limits set by Tables F-2607B, F-2607C, or Section F-2607.3.

Note: From this point on, the explosive charge weight per delay may be increased, but the vibration levels detailed in Tables F-2607B, F-2607C, or Section F-2607.3 shall not be exceeded.

**Table 2607 A(a)
CHARGE WEIGHT PER DELAY DEPENDENT ON
DISTANCE**

Distance to a Building		Weight of Explosives per Delay	Distance to a Building		Weight of Explosives per Delay
Feet over	Feet not over	Pounds	Feet over	Feet not over	Pounds
0	5	1/4	250	260	45
5	10	1/2	260	280	49
10	15	3/4	280	300	55
15	60	Note (b)	300	325	61
60	70	6	325	350	69
70	80	7 1/4	350	375	79
80	90	9	375	400	85
90	100	10 1/2	400	450	98
100	110	12	450	500	115
110	120	13 3/4	500	550	135
120	130	15 1/2	550	600	155
130	140	17 1/2	600	650	175
140	150	19 1/2	650	700	195
150	160	21 1/2	700	750	220
160	170	23 1/4	750	800	240
170	180	25	800	850	263
180	190	28	850	900	288
190	200	30 1/2	900	950	313
200	220	34	950	1000	340

220	240	39	1000	1100	375
240	250	42	1100	1200	435
			1200	1300	493

Note a. Over 60 feet this table is based upon the formula:

$$W = D^{1.5/90}$$

Note b. One tenth of the pound of explosive per foot of distance to a building.

**Table 2607 B
PEAK PARTICLE VELOCITY DEPENDENT ON
DISTANCE**

Distance		Peak Particle Velocity of Any One Component/a/
Feet over	feet not over	Inches per second
0	100	2.00
100	500	1.50
500	1000	1.00
over	1000	0.75

Note a. The instrument's transducer shall be firmly coupled to the ground.

F-2607.3. Response spectra. A relative velocity of 1.5 inches per second or less, within the 4 to 12 Hertz range of natural frequencies for low rise structures, shall be recorded as determined from an approved response spectra.

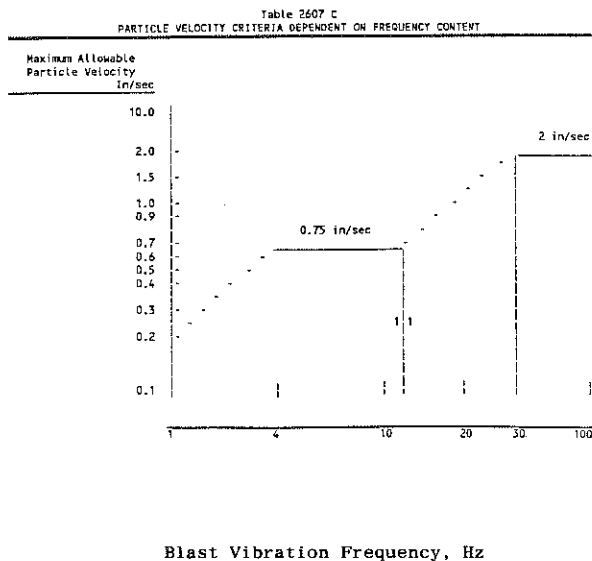
F-2607.4. Instrumentation. A direct velocity recording seismograph capable of recording the continuous wave form of the three mutually perpendicular components of motion, in terms of particle velocity, shall be used and shall have the following characteristics:

1. Each seismograph shall have a frequency response from two to 150 Hertz or greater and a velocity range from 0.0 to 2.0 inches per second or greater, and shall adhere to design criteria for portable seismographs outlined in U.S. Bureau of Mines RI 5708, RI 6487, and RI 8506.

2. All field seismographs shall be capable of internal dynamic calibration and shall be calibrated according to the manufacturers' specifications at least once per year.

3. All seismographs shall be operated by competent people trained in their correct use and seismographs records shall be analyzed and interpreted as may be required by the fire official.

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Note: This criteria is derived from the U.S. Bureau of Mines - RI 8507 (Appendix B) and provides a continuously variable particle velocity criteria dependent on the frequency content of the ground motion. The method of analysis shall be approved by the Fire Official and shall provide an analysis showing all the frequencies present over the 1-50 Hertz range.

F-2607.5. Seismographic records. A record of each blast shall be kept. All records, including seismograph reports, shall be retained for at least three years and shall be available for inspection. Records shall include the following information:

1. Name of company or contractor.
2. Location, date and time of blast.
3. Name, signature and social security number of blaster in charge.
4. Type of material blasted.
5. Number of holes bored and spacing.
6. Diameter and depth of holes.
7. Type of explosives used.
8. Total amount of explosives used.
9. Maximum amount of explosives per delay period of eight milliseconds or greater.
10. Method of firing and type of circuit.

11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting.

12. Weather conditions including such factors as wind direction, etc.

13. Height or length of stemming.

14. Type of protection, such as mats, that were used to prevent flyrock.

15. Type of detonators used and delay period used.

16. The exact location of the seismograph and the distance of the seismograph from the blast.

17. Seismograph readings, where required, shall contain:

a. Name and signature of person operating the seismograph.

b. Name of person analyzing the seismograph records.

c. Seismograph reading.

18. The maximum number of holes per delay period of eight milliseconds or greater.

SECTION F-2608.0. THEFT OR DISAPPEARANCE OF EXPLOSIVES.

F-2608.1. Reports of stolen explosives. Pursuant to § 27-97.1 of the Code of Virginia, any person holding a permit for the manufacture, storage, handling, use or sale of explosives issued in accordance with this code shall report to the State Police and the local law enforcement agency any theft or other disappearance of any explosives or blasting devices from their inventory. In addition, notification shall be made to the fire official having issued the permit.

F-2608.2. Reports of injuries or property damage. The fire official shall be immediately notified of injuries to any person or damage to any property as a result of the functioning of the explosive.

F-2608.3. Relationship of local fire official and State Fire Marshal. The local fire official shall relay information obtained from reports required by Sections F-2608.1 and F-2608.2 to the Office of the State Fire Marshal.

ARTICLE 27. FIREWORKS.

1. Change Section F-2700.1 to read:

F-2700.1. Scope. The manufacture, transportation, display,

sale or discharge of fireworks shall comply with the requirements of Chapter 11 of Title 59 of the Code of Virginia.

- 2. Delete Section F-2701.1, General.
- 3. Delete Section F-2701.3, Exemptions.

ARTICLE 28.
FLAMMABLE AND COMBUSTIBLE LIQUIDS.

- 1. Change Section F-2803.5 to read as follows:

F-2803.5. Fuel dispensing outside the building. Fuel dispensers outside the building shall be located a minimum of 10 feet (3048 mm) from the lot line and five feet (1524 mm) from any building opening. Where fuel is dispensed to motor vehicles, the motor vehicle being served shall be located on the premises.

ARTICLE 30.
LIQUEFIED PETROLEUM GASES.

- 1. Change Section F-3000.1 as follows and delete the remainder of Article 30:

F-3000.1 Scope. The equipment, processes and operation for storage, handling, transporting by tank truck or tank trailer, and utilizing LP gases for fuel purposes, and for vaporization of LP gases shall comply with the Virginia Liquefied Petroleum Gas Regulations in effect at the time of construction as provided for in Chapter 7 of Title 27 of the Code of Virginia.

* * * * *

Title of Regulation: VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1990.

Statutory Authority: §§ 36-98, 36-99 and 36-102 of the Code of Virginia.

Effective Date: March 1, 1993.

Summary:

This regulation governs the construction of new buildings and structures and provides for enforcement by local governments. The technical provisions of the regulations are adopted by reference from the BOCA National Building Code/1990, and an administrative appeals system is provided for resolution of disagreements between building officials and building owners or their agents.

The amendments to this regulation respond to statutory changes made during the 1991 and 1992 sessions of the General Assembly and to public comment submitted to the Board of Housing and Community Development since the effective date of

the Second Amendment to the 1990 edition of the regulation. Section 105.6 is amended to contain more specific requirements for plans review response; § 112.3 is changed to require the building official to institute proceedings to prosecute persons who have been served notices of violation for failure to obtain construction permits three or more times within the same calendar year; § 112.4 sets the penalty for violations in accordance with state law; an amendment to § 115.6 authorizes the building official to revoke or suspend a certificate of occupancy under certain conditions; and §§ 120.1 and 120.3 add provisions by which certain structures deemed to be either unsafe buildings or public nuisances may be abated or removed. Amendments to the technical provisions of the BOCA and CABO Codes are located in Addenda 1 and 2 of the regulation and includes a definition of "public nuisance." Section 512.2 is amended to exempt from handicapped accessibility requirements buildings used exclusively for religious or private club activities consistent with the Americans With Disabilities Act, and a new § 512.2.1 is added to specify accessible parking space identification requirements mandated by state law. Section 1300.4 identifies .06% by weight as the level of lead content in lead based paint not to be exceeded in new paint applications, amendments to §§ 2700.5 and R-220 require two-pair twisted wire cable to be used in prewiring for all telephone outlets, amendments to § P-1503.8 (Addendum 1) and P-2301 (Addendum 2) provide alternative standards for elective local enforcement where water conservation plumbing fixtures and fittings are necessary due to a lack of present or future water supply, and P-2206.8.2 is amended to add specific requirements for grinder pumps.

Two substantive changes were made to the final regulation. The proposed definitions of family day care and small family day care and the new § 309.4.1.1 which was proposed to classify as Use Group R-3 family day care homes and small family day care homes licensed or registered by the Department of Social Services, is being held in abeyance pending upcoming applicable legislative activity. In response to public comment, the final regulation amends the proposed change to § 112.3 to clarify provisions for instituting legal proceedings for the prosecution of violations.

VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1990.

ARTICLE 1.
ADOPTION, ADMINISTRATION AND ENFORCEMENT.

SECTION 100.0.
GENERAL.

100.1. Title. These regulations shall be known as Volume I - New Construction Code of the 1990 edition of the

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Virginia Uniform Statewide Building Code. Except as otherwise indicated, USBC, and code, as used herein, shall mean Volume I - New Construction Code of the 1990 edition of the Virginia Uniform Statewide Building Code.

Note: See Volume II - Building Maintenance Code for maintenance regulations applying to existing buildings.

100.2. Authority. The USBC is adopted under authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia.

100.3. Purpose and scope. The purpose of the USBC is to ensure safety to life and property from all hazards incident to building design, construction, use, repair, removal or demolition. Buildings shall be permitted to be constructed at the least possible cost consistent with nationally recognized standards for health, safety, energy conservation, water conservation, adequate egress facilities, sanitary equipment, light and ventilation, fire safety, structural strength, and physically handicapped and aged accessibility. As provided in the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia, the USBC supersedes the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies, relating to any construction, reconstruction, alterations, conversion, repair or use of buildings and installation of equipment therein. The USBC does not supersede zoning ordinances or other land use controls that do not effect the manner of construction or materials to be used in the construction, alteration or repair of a building.

100.4. Adoption. The 1990 edition of the USBC was adopted by order of the Board of Housing and Community Development on November 19, 1990. This order was prepared according to requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.5. Effective date. The 1990 edition of the USBC shall become effective on March 1, 1991.

100.6. Application. The USBC shall apply to all buildings, structures and associated equipment which are constructed, altered, repaired or converted in use after March 1, 1991. Buildings and structures that were designed within one year prior to March 1, 1991, shall be subject to the previous edition of the code provided that the permit application is submitted by March 1, 1992. This provision shall also apply to subsequent amendments to this edition of the code based on the effective date of the amendments.

Exception: Buildings and structures for which a permit application is submitted after February 1, 1992, shall comply with applicable provisions of Section 512.0.

100.6.1. Industrialized buildings and manufactured homes.

Industrialized buildings registered under the Virginia Industrialized Building Safety Law and manufactured homes labeled under the Federal Manufactured Housing Construction and Safety Standards shall be exempt from the USBC; however, the building official shall be responsible for issuing permits, inspecting the site work and installation of industrialized buildings and manufactured homes, and issuing certificates of occupancy for such buildings when all work is completed satisfactorily.

100.7. Exemptions. The following buildings, structures and equipment are exempted from the requirements of the USBC:

1. Farm buildings and structures not used for residential purposes; however, such buildings and structures lying within a flood plain or in a mudslide-prone area shall be subject to the applicable flood proofing or mudslide regulations.
2. Equipment installed by a provider of publicly regulated utility service and electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights; however, the buildings, including their service equipment, housing such public service agencies shall be subject to the USBC.
3. Manufacturing and processing machines and equipment; however, the buildings, including service equipment, housing such machinery and equipment shall be subject to the USBC.
4. Parking lots and sidewalks; however, parking lots and sidewalks which form part of an accessible route, as defined by ANSI A117.1 - 1986 shall comply with the requirements of Section 512.0.
5. Recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps, and similar equipment when such equipment is a residential accessory use not regulated by the Virginia Amusement Device Regulations.

SECTION 101.0.

REFERENCE STANDARDS AND AMENDMENTS.

101.1. Adoption of model codes and standards. The following model building codes and all portions of other model codes and standards that are referenced in this Code are hereby adopted and incorporated in the USBC. Where differences occur between provisions of the USBC and the referenced model codes or standards, the provisions of the USBC shall apply. Where differences occur between the technical provisions of the model codes and their referenced standards, the provisions of the model code shall apply.

The referenced model codes are:

THE BOCA NATIONAL BUILDING CODE/1990 EDITION

(also referred to herein as BOCA Code)

Published by:

Building Officials and Code Administrators
International, Inc.
4051 West Flossmoor Road
Country Club Hills, Illinois 60478-5795
Telephone No. (708) 799-2300

Note: The following major subsidiary model codes are among those included by reference as part of the BOCA National Building Code/1990 Edition:

BOCA National Plumbing Code/1990 Edition

BOCA National Mechanical Code/1990 Edition

NFPA National Electrical Code/1990 Edition

The permit applicant shall have the option to select as an acceptable alternative for detached one and two family dwellings and one family townhouses not more than three stories in height and their accessory structures the following standard:

CABO ONE AND TWO FAMILY DWELLING CODE/1989 EDITION and 1990 Amendments (also referred to herein as One and Two Family Dwelling Code)

Jointly published by:

Building Officials and Code Administrators
International, Inc.

Southern Building Code Congress and International
Conference of Building Officials.

101.2. General administrative and enforcement amendments to referenced codes. All requirements of the referenced model codes that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing buildings, existing structures, certification of compliance, approval of plans and specifications and other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Article 1 of the USBC.

Note: The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of the USBC.

101.3. Amendments to the BOCA Code. The amendments noted in Addendum 1 of the USBC shall be made to the specified articles and sections of the BOCA National Building Code/1990 Edition for use as part of the USBC.

101.4. Amendments to the One and Two Family Dwelling Code. The amendments noted in Addendum 2 of the USBC shall be made to the indicated chapters and sections of the One and Two Family Dwelling Code/1989 Edition and 1990 Amendments for use as part of the USBC.

SECTION 102.0. LOCAL BUILDING DEPARTMENTS.

102.1. Responsibility of local governments. Enforcement of the USBC Volume I shall be the responsibility of the local building department in accordance with § 36-105 of the Code of Virginia. Whenever a local government does not have such a building department, it shall enter into an agreement with another local government or with some other agency, or a state agency approved by the Virginia Department of Housing and Community Development for such enforcement. The local building department and its employees may be designated by such names or titles as the local government considers appropriate.

102.2. Building official. Each local building department shall have an executive official in charge, hereinafter referred to as the building official.

102.2.1. Appointment. The building official shall be appointed in a manner selected by the local government having jurisdiction. After appointment, he shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority. The local government shall notify the Office of Professional Services within 30 days of the appointment or release of the building official. The building official must complete an orientation course approved by the Department of Housing and Community Development within 90 days after appointment.

102.2.2. Qualifications. The building official shall have at least five years of building experience as a licensed professional engineer or architect, building inspector, contractor or superintendent of building construction, with at least three years in responsible charge of work, or shall have any combination of education and experience which would confer equivalent knowledge and ability. The building official shall have general knowledge of sound engineering practice in respect to the design and construction of buildings, the basic principles of fire prevention, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

102.2.3. Certification. The building official shall be certified in accordance with Part III of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen within three years after the date of employment.

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Exception: An individual employed as the building official in any locality in Virginia prior to April 1, 1983, shall be exempt from certification while employed as the building official in that jurisdiction. This exemption shall not apply to subsequent employment as the building official in another jurisdiction.

102.3. Qualifications of technical assistants. A technical assistant shall have at least three years of experience in general building construction. Any combination of education and experience which would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The local governing body may establish additional qualification requirements.

102.3.1. Certification of technical assistants. Any person employed by, or under contract to, a local governing body for determining compliance with the USBC shall be certified in their trade field within three years after the date of employment in accordance with Part III of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen.

Exception: An individual employed as the building, electrical, plumbing, mechanical, fire protection systems inspector or plans examiner in Virginia prior to March 1, 1988, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment as a technical assistant in another jurisdiction.

102.4. Relief from personal responsibility. The local building department personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The building official or subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the discharge of official duties and under the provisions of the USBC may be defended by the department's legal representative.

102.5. Control of conflict of interests. The minimum standards of conduct for building officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

SECTION 103.0. DUTIES AND POWERS OF THE BUILDING OFFICIAL.

103.1. General. The building official shall enforce the provisions of the USBC as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

103.2. Modifications. The building official may grant modifications to any of the provisions of the USBC upon application by the owner or the owner's agent provided the spirit and intent of the USBC are observed and public health, welfare and safety are assured.

Note: The current editions of many nationally recognized model codes and standards are referenced by the Uniform Statewide Building Code. Future amendments do not automatically become part of the USBC; however, the building official should give consideration to such amendments in deciding whether a requested modification should be granted. See State Building Code Technical Review Board Interpretation Number 64/81 issued November 16, 1984.

103.2.1. Supporting data. The building official may require the application to include architectural and engineering plans and specifications that include the seal of a professional engineer or architect. The building official may also require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

103.2.2. Records. The application for modification and the final decision of the building official shall be in writing and shall be officially recorded with the copy of the certificate of use and occupancy in the permanent records of the local building department.

103.3. Delegation of duties and powers. The building official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the USBC.

103.4. Department records. The building official shall keep records of applications received, permits and certificates issued, reports of inspections, notices and orders issued and such other matters as directed by the local government. A copy of the certificate of use and occupancy and a copy of any modification of the USBC issued by the building official shall be retained in the official records, as long as the building to which it relates remains in existence. Other records may be disposed of in accordance with the provisions of the Virginia Public Records Act, (i) after one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, or (ii) after three years in the case of all other buildings.

SECTION 104.0.

FEES.

104.1. Fees. Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals in accordance with § 36-105 of the Code of Virginia.

104.2. When payable. A permit shall not be issued until the fees prescribed by the local government have been paid to the authorized agency of the jurisdiction, nor shall an amendment to a permit be approved until any required additional fee has been paid. The local government may authorize delayed payment of fees.

104.3. Fee schedule. The local government shall establish a fee schedule. The schedule shall incorporate unit rates which may be based on square footage, cubic footage, cost of construction or other appropriate criteria.

104.4. Refunds. In the case of a revocation of a permit or abandonment or discontinuance of a building project, the local government shall provide fee refunds for the portion of the work which was not completed.

104.5. Fee levy. Local governing bodies shall charge each permit applicant an additional 1.0% (levy) of the total fee for each building permit. This additional 1.0% levy shall be transmitted quarterly to the Department of Housing and Community Development and shall be used to support the training programs of the Virginia Building Code Academy.

Exception: Localities which maintain training academies that are accredited by the Department of Housing and Community Development may retain such levy.

104.5.1. Levy adjustment. The Board of Housing and Community Development shall annually review the percentage of this levy and may adjust the percentage not to exceed 1.0%. The annual review shall include a study of the operating costs for the previous year's Building Code Academy, the current balance of the levy collected, and the operational budget projected for the next year of the Building Code Academy.

104.5.2. Levy cap. Annual collections of this levy which exceed \$500,000, or any unobligated fund balance greater than one-third of that fiscal year's collections shall be credited against the levy to be collected in the next fiscal year.

SECTION 105.0.

APPLICATION FOR CONSTRUCTION PERMIT.

105.1. When permit is required. Written application shall be made to the building official when a construction permit is required. A permit shall be issued by the building official before any of the following actions subject to the USBC may be commenced:

1. Constructing, enlarging, altering, repairing, or

demolishing a building or structure.

2. Changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities or sanitary provisions.

3. Installing or altering any equipment which is regulated by this code.

4. Removing or disturbing any asbestos containing materials during demolition, alteration, renovation of or additions to buildings or structures.

Exceptions:

1. Ordinary repairs which do not involve any violation of the USBC shall be exempt from this provision. Ordinary repairs shall not include the removal, addition or relocation of any wall or partition, or the removal or cutting of any structural beam or bearing support, or the removal, addition or relocation of any parts of a building affecting the means of egress or exit requirements. Ordinary repairs shall not include the removal, disturbance, encapsulation, or enclosure of any asbestos containing material. Ordinary repairs shall not include additions, alterations, replacement or relocation of the plumbing, mechanical, or electrical systems, or other work affecting public health or general safety. The term "ordinary repairs" shall mean the replacement of the following materials with like materials:

a. Painting.

b. Roofing when not exceeding 100 square feet of roof area.

c. Glass when not located within specific hazardous locations as defined in Section 2203.2 of the BOCA Code and all glass repairs in Use Group R-3 and R-4 buildings.

d. Doors, except those in fire-rated wall assemblies or exitways.

e. Floor coverings and porch flooring.

f. Repairs to plaster, interior tile work, and other wall coverings.

g. Cabinets installed in residential occupancies.

h. Wiring and equipment operating at less than 50 volts.

2. A permit is not required to install wiring and equipment which operates at less than 50 volts provided the installation is not located in a noncombustible plenum, or is not penetrating a

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firerestistance rated assembly.

3. Detached utility sheds 150 square feet or less in area and 8 feet 6 inches or less in height when accessory to Use Group R-3 or R-4 buildings.

105.1.1. Authorization of work. The building official may authorize work to commence pending receipt of written application.

105.2. Who may apply for a permit. Application for a permit shall be made by the owner or lessee of the building or agent of either, or by the licensed professional engineer, architect, contractor or subcontractor (or their respective agents) employed in connection with the proposed work. If the application is made by a professional engineer, architect, contractor or subcontractor (or any of their respective agents), the building official shall verify that the applicant is either licensed to practice in Virginia, or is exempt from licensing under the Code of Virginia. The full names and addresses of the owner, lessee and the applicant, and of the responsible officers if the owner or lessee is a corporate body, shall be stated in the application. The building official shall accept and process permit applications through the mail. The building official shall not require the permit applicant to appear in person.

105.3. Form of application. The application for a permit shall be submitted on forms supplied by the building official.

105.4. Description of work. The application shall contain a general description of the proposed work, its location, the use of all parts of the building, and of all portions of the site not covered by the building, and such additional information as may be required by the building official.

105.5. Plans and specifications. The application for the permit shall be accompanied by not less than two copies of specifications and of plans drawn to scale, with sufficient clarity and dimensional detail to show the nature and character of the work to be performed. Such plans and specifications shall include the seal and signature of the architect or engineer under whose supervision they were prepared, or if exempt under the provisions of state law, shall include the name, address, and occupation of the individual who prepared them. When quality of materials is essential for conformity to the USBC, specific information shall be given to establish such quality. In cases where such plans and specifications are exempt under state law, the building official may require that they include the signature and seal of a professional engineer or architect.

Exceptions:

1. The building official may waive the requirement for filing plans and specifications when the work involved is of a minor nature.

2. Detailed plans may be waived by the building official for buildings in Use Group R-4, provided specifications and outline plans are submitted which satisfactorily indicate compliance with the USBC.

Note: Information on the types of construction exempted from the requirement for a professional engineer's or architect's seal and signature is included in Addenda 4 and 10.

105.5.1. Site plan. The application shall also contain a site plan showing to scale the size and location of all the proposed new construction and all existing buildings on the site, distances from lot lines, the established street grades and the proposed finished grades. The building official may require that the application contain the elevation of the lowest floor of the building. It shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site. In the case of alterations, renovations, repairs and installation of new equipment, the building official may waive submission of the site plan or any parts thereof.

105.6. Plans review. The building official shall examine all plans and applications for permits within a reasonable time after filing. If the application or the plans do not conform to the requirements of the USBC, the building official shall reject such application in writing, stating the reasons for rejection. *Plans review comments requiring [:] additional information, engineering details, or stating reasons for rejection of plans and specifications, shall be made in writing either by letter or a plans review form from the building official's office, in addition to notations or markings on the plans.*

105.7. Approved plans. The building official shall stamp "Approved" or provide an endorsement in writing on both sets of approved plans and specifications. One set of such approved plans shall be retained by the building official. The other set shall be kept at the building site, open to inspection by the building official at all reasonable times.

105.8. Approval of partial plans. The building official may issue a permit for the construction of foundations or any other part of a building before the plans and specifications for the entire building have been submitted, provided adequate information and detailed statements have been filed indicating compliance with the pertinent requirements of the USBC. The holder of such permit for the foundations or other part of a building shall proceed with construction operations at the holder's risk, and without assurance that a permit for the entire building will be granted.

105.9. Engineering details. The building official may require adequate details of structural, mechanical, plumbing, and electrical work to be filed, including computations, stress diagrams and other essential technical

data. All engineering plans and computations shall include the signature of the professional engineer or architect responsible for the design. Plans for buildings more than two stories in height shall indicate where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems. The plans shall show the material and methods for protecting such openings so as to maintain the required structural integrity, fire-resistance ratings, and firestopping affected by such penetrations.

105.10. Asbestos inspection in buildings to be renovated or demolished. A local building department shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1978, to be renovated or demolished until the local building department receives a certification from the owner or the owner's agent that the building has been inspected for asbestos, in accordance with standards developed pursuant to subdivision 1 of subsection A of § 2.1-526.14:1 of the Code of Virginia that response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR 61, Subpart M) the management standards for asbestos-containing materials prepared by the Department of General Services in accordance with § 2.1-526.14:2 of the Code of Virginia, and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.58).

Exceptions:

1. Single family dwellings.
2. Residential housing with four or fewer units.
3. Farm buildings.
4. Buildings less than 3,500 square feet in area.
5. Buildings with no central heating system.
6. Public utilities required by law to give notification to the Commonwealth of Virginia and to the United States Environmental Protection Agency prior to removing asbestos in connection with the renovation or demolition of a building.

105.10.1. Replacement of roofing, floorcovering, or siding materials. To meet the inspection requirements of Section 105.10 except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by:

1. A statement that the materials to be repaired or replaced are assumed to contain asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor or a licensed asbestos roofing, flooring, siding contractor; or

2. A certification by the owner that sampling of the material to be renovated was accomplished by an RFS inspector as defined in § 54.1-500 of the Code of Virginia and analysis of the sample showed no asbestos to be present.

105.11. Amendments to application. Amendments to plans, specifications or other records accompanying the application for permit may be filed at any time before completion of the work for which the permit is issued. Such amendments shall be considered part of the original application and shall be filed as such.

105.12. Time limitation of application. An application for a permit for any proposed work shall be considered to have been abandoned six months after notification by the building official that the application is defective unless the applicant has diligently sought to resolve any problems that are delaying issuance of the permit; except that for reasonable cause, the building official may grant one or more extensions of time.

SECTION 106.0. PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES.

106.1. Special professional services; when required. The building official may require representation by a professional engineer or architect for buildings and structures which are subject to special inspections as required by Section 1308.0.

106.2. Attendant fees and costs. All fees and costs related to the performance of special professional services shall be the responsibility of the building owner.

SECTION 107.0. APPROVAL OF MATERIALS AND EQUIPMENT.

107.1. Approval of materials; basis of approval. The building official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the use intended, the building official may approve its use subject to the requirements of the USBC. In determining whether any material, equipment, device or assembly complies with the USBC, the building official shall approve items listed by nationally recognized research, testing and product certification organizations or may consider the recommendations of engineers and architects certified in this state.

107.2. Used materials and equipment. Used materials, equipment and devices may be used provided they have been reconditioned, tested or examined and found to be in good and proper working condition and approved for use by the building official.

107.3. Approved materials and equipment. All materials,

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equipment, devices and assemblies approved for use by the building official shall be constructed and installed in accordance with the conditions of such approval.

SECTION 108.0. INTERAGENCY COORDINATION - FUNCTIONAL DESIGN.

108.1. Functional design approval. Pursuant to § 36-98 of the Code of Virginia, certain state agencies have statutory authority to approve functional design and operation of building related activities not covered by the USBC. The building official may refuse to issue a permit until the applicant has supplied certificates of functional design approval from the appropriate state agency or agencies. State agencies with functional design approval are listed in Addendum 5. For purposes of coordination, the local governing body may require reports to the building official by other departments as a condition for issuance of a building permit or certificate of use and occupancy. Such reports shall be based upon review of the plans or inspection of the project as determined by the local governing body.

SECTION 109.0. CONSTRUCTION PERMITS.

109.1. Issuance of permits. If the building official is satisfied that the proposed work conforms to the requirements of the USBC and all applicable laws and ordinances, a permit shall be issued as soon as practicable. The building official may authorize work to commence prior to the issuance of the permit.

109.2. Signature on permit. The signature of the building official or authorized representative shall be attached to every permit.

109.3. Separate or combined permits. Permits for two or more buildings on the same lot may be combined. Permits for the installation of equipment such as plumbing, electrical or mechanical systems may be combined with the structural permit or separate permits may be required for the installation of each system. Separate permits may also be required for special construction considered appropriate by the local government.

109.4. Annual permit. The building official may issue an annual permit for alterations to an already approved equipment installation.

109.4.1. Annual permit records. The person to whom an annual permit is issued shall keep a detailed record of all alterations to an approved equipment installation made under such annual permit. Such records shall be accessible to the building official at all times or shall be filed with the building official when so requested.

109.5. Posting of permit. A copy of the building permit shall be posted on the construction site for public inspection until the work is completed.

109.6. Previous permits. No changes shall be required in the plans, construction or designated use of a building for which a permit has been properly issued under a previous edition of the USBC, provided the permit has not been revoked or suspended in accordance with Section 109.7 or 109.8.

109.7. Revocation of permits. The building official may revoke a permit or approval issued under the provisions of the USBC in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

109.8. Suspension of permit. Any permit issued shall become invalid if the authorized work is not commenced within six months after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work; however, permits issued for building equipment such as plumbing, electrical and mechanical work shall not become invalid if the building permit is still in effect. Upon written request the building official may grant one or more extensions of time not to exceed six months per extension.

109.9. Compliance with code. The permit shall be a license to proceed with the work in accordance with the application and plans for which the permit has been issued and any approved amendments thereto and shall not be construed as authority to omit or amend any of the provisions of the USBC, except by modification pursuant to Section 103.2.

SECTION 110.0. INSPECTIONS.

110.1. Right of entry. The building official may inspect buildings for the purpose of enforcing the USBC in accordance with the authority granted by § 36-105 of the Code of Virginia. The building official and assistants shall carry proper credentials of office when inspecting buildings and premises in the performance of duties under the USBC.

Note: Section 36-105 of the Code of Virginia provides, pursuant to enforcement of the USBC, that any building may be inspected at any time before completion. It also permits local governments to provide for the reinspection of buildings.

110.2. Preliminary inspection. Before issuing a permit, the building official may examine all buildings and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof.

110.3. Minimum inspections. Inspections shall include but are not limited to the following:

1. The bottom of footing trenches after all reinforcement steel is set and before any concrete is

placed.

2. The installation of piling. The building official may require the installation of pile foundations be supervised by the owner's professional engineer or architect or by such professional service as approved by the building official.

3. Reinforced concrete beams, or columns and slabs after all reinforcing is set and before any concrete is placed.

4. Structural framing and fastenings prior to covering with concealing materials.

5. All electrical, mechanical and plumbing work prior to installation of any concealing materials.

6. Required insulating materials before covering with any materials.

7. Upon completion of the building, and before issuance of the certificate of use and occupancy, a final inspection shall be made to ensure that any violations have been corrected and all work conforms with the USBC.

110.3.1. Special inspections. Special inspections required by this code shall be limited to only those required by Section 1308.0.

110.4. Notification by permit holder. It shall be the responsibility of the permit holder or the permit holder's representative to notify the building official when the stages of construction are reached that require an inspection under Section 110.3 and for other inspections as directed by the building official. All ladders, scaffolds and test equipment required to complete an inspection or test shall be provided by the property owner, permit holder or their representative.

110.5. Inspections to be prompt. The building official shall respond to inspection requests without unreasonable delay. The building official shall approve the work or give written notice of defective work to the permit holder or the agent in charge of the work. Such defects shall be corrected and reinspected before any work proceeds that would conceal them.

Note: A reasonable response time should normally not exceed two working days.

110.6. Approved inspection agencies. The building official may accept reports from individuals or inspection agencies which satisfy qualifications and reliability requirements, and shall accept such reports under circumstances where the building official is unable to make the inspection by the end of the following working day. Inspection reports shall be in writing and shall be certified by the individual inspector or by the responsible officer when the report is from an agency. An identifying label or stamp

permanently affixed to the product indicating that factory inspection has been made shall be accepted instead of the written inspection report, if the intent or meaning of such identifying label or stamp is properly substantiated.

110.7. In-plant inspections. When required by the provisions of this code, materials or assemblies shall be inspected at the point of manufacture or fabrication. The building official shall require the submittal of an evaluation report of each prefabricated assembly, indicating the complete details of the assembly, including a description of the assembly and its components, the basis upon which the assembly is being evaluated, test results, and other data as necessary for the building official to determine conformance with this code.

110.8. Coordination with other agencies. The building official shall cooperate with fire, health and other state and local agencies having related maintenance, inspection or functional design responsibilities, and shall coordinate required inspections for new construction with the local fire official whenever the inspection involves provisions of the BOCA National Fire Prevention Code.

SECTION 111.0. WORKMANSHIP.

111.1. General. All construction work shall be performed and completed so as to secure the results intended by the USBC.

SECTION 112.0. VIOLATIONS.

112.1. Code violations prohibited. No person, firm or corporation shall construct, alter, extend, repair, remove, demolish or use any building or equipment regulated by the USBC, or cause same to be done, in conflict with or in violation of any of the provisions of the USBC.

112.2. Notice of violation. The building official shall serve a notice of violation on the person responsible for the construction, alteration, extension, repair, removal, demolition or use of a building in violation of the provisions of the USBC, or in violation of plans and specifications approved thereunder, or in violation of a permit or certificate issued under the provisions of the USBC. Such order shall reference the code section that serves as the basis for the violation and direct the discontinuance and abatement of the violation. Such notice of violation shall be in writing and be served by either delivering a copy of the notice to such persons by mail to the last known address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.

112.3. Prosecution of violation. If the notice of violation is not complied with, the building official shall request, in writing, the legal counsel of the jurisdiction to institute the

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appropriate legal proceedings to restrain, correct or abate such violation or to require the removal or termination of the use of the building in violation of the provisions of the USBC. *Compliance with a notice of violation notwithstanding, the building official [shall proceed with may request legal proceedings be instituted for] prosecution when a person, firm or corporation is served with three or more notices of violation within one calendar year for failure to obtain a required construction permit prior to commencement of work regulated under the USBC.*

112.4. Violation penalties. Violations are a misdemeanor in accordance with § 36-106 of the Code of Virginia. Violators, upon conviction, may be punished by a fine of not more than ~~\$1,000~~ \$2,500 .

112.5. Abatement of violation. Conviction of a violation of the USBC shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of the USBC relating to construction and use of the building or premises.

SECTION 113.0. STOP WORK ORDER.

113.1. Notice to owner. When the building official finds that work on any building is being executed contrary to the provisions of the USBC or in a manner endangering the general public, an order may be issued to stop such work immediately. The stop work order shall be in writing. It shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work may be resumed. No work covered by a stop work order shall be continued after issuance, except under the conditions stated in the order.

113.2. Application of order limited. The stop work order shall apply only to the work that was being executed contrary to the USBC or in a manner endangering the general public, provided other work in the area would not cause concealment of the work for which the stop work order was issued.

SECTION 114.0. POSTING BUILDINGS.

114.1. Use group and form of sign. Prior to its use, every building designed for Use Groups B, F, H, M or S shall be posted by the owner with a sign approved by the building official. It shall be securely fastened to the building in a readily visible place. It shall state the use group, the live load, the occupancy load, and the date of posting.

114.2. Occupant load in places of assembly. Every room constituting a place of assembly or education shall have the approved occupant load of the room posted on an approved sign in a conspicuous place, near the main exit from the room. Signs shall be durable, legible, and

maintained by the owner or the owner's agent. Rooms or spaces which have multiple-use capabilities shall be posted for all such uses.

114.3. Street numbers. Each structure to which a street number has been assigned shall have the number displayed so as to be readable from the public right of way.

SECTION 115.0. CERTIFICATE OF USE AND OCCUPANCY.

115.1. When required. Any building or structure constructed under this code shall not be used until a certificate of use and occupancy has been issued by the building official.

115.2. Temporary use and occupancy. The holder of a permit may request the building official to issue a temporary certificate of use and occupancy for a building, or part thereof, before the entire work covered by the permit has been completed. The temporary certificate of use and occupancy may be issued provided the building official determines that such portion or portions may be occupied safely prior to full completion of the building.

115.3. Contents of certificate. When a building is entitled thereto, the building official shall issue a certificate of use and occupancy. The certificate shall state the purpose for which the building may be used in its several parts. When the certificate is issued, the building shall be deemed to be in compliance with the USBC. The certificate of use and occupancy shall specify the use group, the type of construction, the occupancy load in the building and all parts thereof, the edition of the USBC under which the building permit was issued, and any special stipulations, conditions and modifications.

115.4. Changes in use and occupancy. A building hereafter changed from one use group to another, in whole or in part, whether or not a certificate of use and occupancy has heretofore been issued, shall not be used until a certificate for the changed use group has been issued.

115.5. Existing buildings. A building constructed prior to the USBC shall not be prevented from continued use. The building official shall issue a certificate of use and occupancy upon written request from the owner or the owner's agent, provided there are no violations of Volume II of the USBC and the use of the building has not been changed.

115.6. Suspension or revocation of certificate of occupancy: The building official may suspend or revoke the certificate of occupancy for failure to correct [flagrant or habitually] repeated violations in apparent disregard for the provisions of the USBC.

SECTION 116.0. LOCAL BOARD OF BUILDING CODE APPEALS.

116.1. Local board of building code appeals. Each local government shall have a local board of building code appeals to act on applications for appeals as required by § 36-105 of the Code of Virginia; or it shall enter into an agreement with the governing body of another county or municipality or with some other agency, or a State agency approved by the Virginia Department of Housing and Community Development, to act on appeals.

116.1.1. Separate divisions. The local board of building code appeals may be divided into separate divisions to consider appeals relating to separate areas of regulation of the USBC. When separate divisions are created, the scope of each shall be clearly stated. The local board of appeals may permit appeals from a division to be submitted directly to the State Building Code Technical Review Board. Each division shall comply with the membership requirements and all other requirements of the USBC relating to the local board of building code appeals.

116.2. Membership. The local board of building code appeals shall consist of at least five members appointed by the local government. Members may be reappointed.

Note: In order to provide continuity, it is recommended that the terms of local board members be staggered so that less than half of the terms expire in any one year.

116.2.1. Qualifications of board members. Board members shall be selected by the local government on the basis of their ability to render fair and competent decisions regarding application of the code, and shall, to the extent possible, represent different occupational or professional fields. Employees or officials of the local government appointing the board shall not serve as board members.

Note: At least one member should be an experienced builder. At least one other member should be a licensed professional engineer or architect.

116.3. Officers of the board. The board shall select one of its members to serve as chairman. The building official shall designate an employee from the department to serve as secretary to the board. The secretary shall keep a detailed record of all proceedings on file in the local building department.

116.4. Alternates and absence of members. The local government may appoint alternate members who may sit on the board in the absence of any regular members of the board and, while sitting on the board, shall have the full power and authority of the regular member. A procedure shall be established for use of alternate members in case of absence of regular members.

116.5. Control of conflict of interest. A member of the board shall not vote on any appeal in which that member is currently engaged as contractor or material dealer, has prepared the plans or specifications, or has any personal interest.

116.6. Notice of meeting. The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 30 calendar days of the filing of an appeal.

116.7. Application for appeal. The owner of a building, the owner's agent, or any other person, firm or corporation directly involved in the design or construction of a building or structure may appeal to the local building code board of appeals within 90 calendar days from a decision of the building official when it is claimed that:

1. The building official has refused to grant a modification which complies with the intent of the provisions of the USBC; or
2. The true intent of the USBC has been incorrectly interpreted; or
3. The provisions of the USBC do not fully apply; or
4. The use of a form of construction that is equal to or better than that specified in the USBC has been denied.

116.7.1. Form of application. Applications for appeals shall be submitted in writing to the local building code board of appeals.

116.8. Hearing open to public. All hearings shall be public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

116.9. Postponement of hearing. When a quorum (more than 50%) of the board, as represented by members or alternates, is not present to consider a specific appeal, either the appellant, the building official or their representatives may, prior to the start of the hearing, request a single postponement of the hearing of up to 14 calendar days.

116.10. Decision. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the building official. Every action of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the building official.

116.11. Enforcement of decision. The building official shall take immediate action in accordance with the decision of the board.

116.12. Appeal by State Fire Marshal. This section shall apply only to buildings subject to inspection by § 36-139.3 of the Code of Virginia. The State Fire Marshal, appointed pursuant to § 36-139.2 of the Code of Virginia, shall have the right to inspect applications for building permits or conversions of use group. The State Fire Marshal may appeal to the local building code board of appeals from the decision of the building official when it is claimed that the true intent of the USBC has been incorrectly

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interpreted as applied to the proposed construction or conversion. Such appeals shall be filed before the required permits are issued. The State Fire Marshal may also inspect the building during construction, repair or alteration and may appeal to the local building code board of appeals from the decision of the building official when it is claimed that the construction, repairs or alterations do not comply with the approved plans. Such appeals shall be filed prior to the issuance of the new or revised certificate of occupancy. Copies of all appeals shall be furnished to the building official and to the applicant for the building permit.

Note: The building official is encouraged to have plans submitted to the State Fire Marshal for buildings subject to state licensure in order to prevent delays in construction.

SECTION 117.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

117.1. Appeal to the State Building Code Technical Review Board. Any person aggrieved by a decision of the local board of building code appeals who was a party to the appeal may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 21 calendar days of receipt of the decision of the local appeals board by the aggrieved party.

117.2. Control of conflict of interest. A member of the State Technical Review Board shall not vote on any appeal in which that member is currently engaged as contractor or material dealer, has prepared plans or specifications, or has any personal interest.

117.3. Enforcement of decision. Upon receipt of the written decision of the State Building Code Technical Review Board, the building official shall take immediate action in accordance with the decision.

117.4. Court review. Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board may be presented to the court of the original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4 (§ 9-6.14:15 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia.

SECTION 118.0. EXISTING BUILDINGS AND STRUCTURES.

118.1. Additions, alterations, and repairs. Additions, alterations or repairs to any structure shall conform to that required of a new structure without requiring the existing structure to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building. Any building plus

new additions shall not exceed the height, number of stories and area specified for new buildings. Alterations or repairs to an existing structure which are structural or adversely affect any structural member or any part of the structure having a fire-resistance rating shall be made with materials required for a new structure.

Exception: Existing materials and equipment may be replaced with materials and equipment of a similar kind or replaced with greater capacity equipment in the same location when not considered a hazard.

Note 1: Alterations after construction may not be used by the building official as justification for requiring any part of the old building to be brought into compliance with the current edition of the USBC. For example, replacement of worn exit stair treads that are somewhat deficient in length under current standards does not, of itself, mean that the stair must be widened. It is the intent of the USBC that alterations be made in such a way as not to lower existing levels of health and safety.

Note 2: The intent of this section is that when buildings are altered by the addition of equipment that is neither required nor prohibited by the USBC, only those requirements of the USBC that regulate the health and safety aspects thereof shall apply. For example, a partial automatic alarm system may be installed when no alarm system is required provided it does not violate any of the electrical safety or other safety requirements of the code.

118.1.1. Damage, restoration or repair in flood hazard zones. Buildings located in any flood hazard zone which are altered or repaired shall comply with the floodproofing requirements applicable to new buildings in the case of damages or cost of reconstruction or restoration which equals or exceeds 50% of the market value of the building before either the damage occurred or the start of construction of the improvement.

Exceptions:

1. Improvements required under Volume II of the USBC necessary to assure safe living conditions.
2. Alterations of historic buildings provided the alteration would not preclude the building's continued designation as an historic building.

118.1.2. Requirements for accessibility. Buildings and structures which are altered or to which additions are added shall comply with applicable requirements of Section 512.0.

118.2. Conversion of building use. No change shall be made in the use of a building which would result in a change in the use group classification unless the building complies with all applicable requirements for the new use group classification in accordance with Section 105.1(2). An

application shall be made and a certificate of use and occupancy shall be issued by the building official for the new use. Where it is impractical to achieve exact compliance with the USBC the building official shall, upon application, consider issuing a modification under the conditions of Section 103.2 to allow conversion.

118.3. Alternative method of compliance. Compliance with the provisions of Article 32 for repair, alteration, change of use of, or additions to existing buildings shall be an acceptable method of complying with this code.

SECTION 119.0. MOVED BUILDINGS.

119.1. General. Any building moved into or within the jurisdiction shall be brought into compliance with the USBC unless it meets the following requirements after relocation.

1. No change has been made in the use of the building.
2. The building complies with all state and local requirements that were applicable to it in its previous location and that would have been applicable to it if it had originally been constructed in the new location.
3. The building has not become unsafe during the moving process due to structural damage or for other reasons.
4. Any alterations, reconstruction, renovations or repairs made pursuant to the move have been done in compliance with the USBC.

119.2. Certificate of use and occupancy. Any moved building shall not be used until a certificate of use and occupancy is issued for the new location.

SECTION 120.0. UNSAFE BUILDINGS.

120.1. Right of condemnation before completion. Any building under construction that fails to comply with the USBC through deterioration, improper maintenance, faulty construction, or for other reasons, and thereby becomes unsafe, unsanitary, or deficient in adequate exit facilities, and which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, shall be deemed *either a public nuisance or an unsafe building*. Any such unsafe building shall be made safe through compliance with the USBC or shall be taken down and removed, as the building official may deem necessary.

120.1.1. Inspection of unsafe buildings; records. The building official shall examine every building reported as unsafe and shall prepare a report to be filed in the records of the department. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any,

caused by a collapse or failure.

120.1.2. Notice of unsafe building. If a building is found to be unsafe the building official shall serve a written notice on the owner, the owner's agent or person in control, describing the unsafe condition and specifying the required repairs or improvements to be made to render the building safe, or requiring the unsafe building or portion thereof to be taken down and removed within a stipulated time. Such notice shall require the person thus notified to declare without delay to the building official the acceptance or rejection of the terms of the notice.

120.1.3. Posting of unsafe building notice. If the person named in the notice of unsafe building cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

120.1.4. Disregard of notice. Upon refusal or neglect of the person served with a notice of unsafe building to comply with the requirement of the notice to abate the unsafe condition, the legal counsel of the jurisdiction shall be advised of all the facts and shall be requested to institute the appropriate legal action to compel compliance.

120.1.5. Vacating building. When, in the opinion of the building official, there is actual and immediate danger of failure or collapse of a building, or any part thereof, which would endanger life, or when any building or part of a building has fallen and life is endangered by occupancy of the building, the building official may order the occupants to vacate the building forthwith. The building official shall cause a notice to be posted at each entrance to such building reading as follows. "This Structure is Unsafe and its Use or Occupancy has been Prohibited by the Building Official." No person shall thereafter enter such a building except for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections authorized by the building official.

120.1.6. Temporary safeguards and emergency repairs. When, in the opinion of the building official, there is immediate danger of collapse or failure of a building or any part thereof which would endanger life, or when a violation of this code results in a fire hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, he shall cause the necessary work to be done to the extent permitted by the local government to render such building or part thereof temporarily safe, whether or not legal action to compel compliance has been instituted.

120.2. Right of condemnation after completion. Authority to condemn unsafe buildings on which construction has been completed and a certificate of occupancy has been issued, or which have been occupied, may be exercised after official action by the local governing body pursuant to §

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36-105 of the Code of Virginia.

120.3. Abatement or removal. Whenever the owner of a building that has been deemed to be a public nuisance [or unsafe] , pursuant to Section 120.1 or Section 120.2, fails to comply with the requirements of the notice to abate, the building official may cause the building to be razed or removed. [For purposes of coordination and compliance, and pursuant to § 15.1-29.21 of the Code of Virginia, the local governing body may abate, raze or remove such public nuisance and bring action against the owner or responsible party to recover the costs incurred for such razing and removal.]

[Note: A local governing body may, after official action pursuant to § 15.1-29.21 or 15.1-11.2 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the governing body of the county, city or town may abate, raze, or remove such public nuisance, and a county, city or town may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.]

SECTION 121.0. DEMOLITION OF BUILDINGS.

121.1. General. Demolition permits shall not be issued until the following actions have been completed:

1. The owner or the owner's agent has obtained a release from all utilities having service connections to the building stating that all service connections and appurtenant equipment have been removed or sealed and plugged in a safe manner.
2. Any certificate required by Section 105.10 has been received by the building official.
3. The owner or owner's agent has given written notice to the owners of adjoining lots and to the owners of other lots affected by the temporary removal of utility wires or other facilities caused by the demolition.

121.2. Hazard prevention. When a building is demolished or removed, the established grades shall be restored and any necessary retaining walls and fences shall be constructed as required by the provisions of Article 30 of the BOCA Code.

ADDENDUM 1. AMENDMENTS TO THE BOCA NATIONAL BUILDING CODE/1990 EDITION.

As provided in Section 101.3 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the BOCA National Building

Code/1990 Edition for use as part of the USBC.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

(A) Entire article is deleted and replaced by Article 1, Adoption, Administration and Enforcement, of the Virginia Uniform Statewide Building Code.

ARTICLE 2. DEFINITIONS.

(A) Change the following definitions in Section 201.0, General Definitions, to read:

"Building" means a combination of any materials, whether portable or fixed, that forms a structure for use or occupancy by persons or property; provided, however, that farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from the provisions of the USBC, but such buildings lying within a flood plain or in a mudslide regulations, as applicable. The word building shall be construed as though followed by the words "or part or parts and fixed equipment thereof" unless the context clearly requires a different meaning. The word "building" includes the word "structure."

Dwellings:

"Boarding house" means a building arranged or used for lodging, with or without meals, for compensation and not occupied as a single family unit.

"Dormitory" means a space in a building where group sleeping accommodations are provided for persons not members of the same family group, in one room, or in a series of closely associated rooms.

"Hotel" means any building containing six or more guest rooms, intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

"Multi-family apartment house" means a building or portion thereof containing more than two dwelling units and not classified as a one- or two-family dwelling.

"One-family dwelling" means a building containing one dwelling unit.

"Two-family dwelling" means a building containing two dwelling units.

"Jurisdiction" means the local governmental unit which is responsible for enforcing the USBC under state law.

"Mobile unit" means a structure of vehicular, portable design, built on a chassis and designed to be moved

from one site to another, subject to the Industrialized Building and Manufactured Home Safety Regulations, and designed to be used without a permanent foundation.

"Owner" means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building.

"Structure" means an assembly of materials forming a construction for use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature. The word structure shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

(B) Add these new definitions to Section 201.0, General Definitions:

"Family" means an individual or married couple and the children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage; or a group of not more than eight unrelated persons, living together as a single housekeeping unit in a dwelling unit.

[*"Family day-care home"* means any private family home in which more than five children, except children related by blood or marriage to the person who maintains the home, are received in care, protection or guidance during only a part of the 24-hour day, except (i) homes which accept children exclusively from local department of welfare or social services, (ii) homes which have been approved by a licensed day-care system, or (iii) homes which accept up to 10 children, at least five of whom are of school age and are not in the home for longer than three hours immediately before and three hours immediately after school hours each day.]

"Farm building" means a structure located on a farm utilized for the storage, handling or production of agricultural, horticultural and floricultural products normally intended for sale to domestic or foreign markets and buildings used for the maintenance, storage or use of animals or equipment related thereto.

"Historic building" means any building that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Federal Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on the Virginia Department of Historic Resources' inventory of historic places; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Virginia Department of Historic Resources.

"Local government" means any city, county or town in this state, or the governing body thereof.

"Manufactured home" means a structure subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without a permanent foundation when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

"Night club" means a place of assembly that provides exhibition, performance or other forms of entertainment; serves food or alcoholic beverages or both; and provides music and space for dancing.

"Plans" means all drawings that together with the specifications, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine whether it complies with the USBC.

"Public nuisance" means, for the purposes of this code, any public or private building, wall or structure deemed to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, occupancy or use, or the condition of which constitutes a menace to the health and safety of the occupants thereof or to the public.

"Skirting" means a weather-resistant material used to enclose the space from the bottom of a manufactured home to grade.

[*"Small family day-care home"* means any private family home in which no more than five children, except children related by blood or marriage to the person who maintains the home, are received for care, protection, and guidance during only a part of the day.]

"Specifications" means all written descriptions, computations, exhibits, test data and other documents that together with the plans, describe the proposed building construction in sufficient detail and provide sufficient information to enable the building official to determine

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whether it complies with the USBC.

ARTICLE 3. USE GROUP CLASSIFICATION.

(A) Change Section 307.2 to read as follows:

307.2. Use Group I-1. This use group shall include buildings and structures, or parts thereof, which house six or more individuals who, because of age, mental disability or other reasons, must live in a supervised environment but who are physically capable of responding to an emergency situation without personal assistance. Where accommodating persons of the above description, the following types of facilities shall be classified as I-1 facilities: board and care facilities, half-way houses, group homes, social rehabilitation facilities, alcohol and drug centers and convalescent facilities. A facility such as the above with five or less occupants shall be classified as a residential use group.

Exception: Group homes licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services which house no more than eight mentally ill, mentally retarded, or developmentally disabled persons, with one or more resident counselors, shall be classified as Use Group R-3.

(B) Change Section 309.4 to read as follows:

309.4. Use Group R-3 structures. This use group shall include all buildings arranged for the use of one- or two-family dwelling units and multiple single-family dwellings where each unit has an independent means of egress and is separated by a two-hour fire separation assembly (see Section 909.0).

Exception: In multiple single-family dwellings which are equipped throughout with an approved automatic sprinkler system installed in accordance with Section 1004.2.1 or 1004.2.2, the fire-resistance rating of the dwelling unit separation shall not be less than one hour. Dwelling unit separation walls shall be constructed as fire partitions (see Section 910.0).

[(C) Add subsection 309.4.1.1 to read as follows:

309.4.1.1. Family day care homes: Family day-care homes and small family day-care homes which are licensed or registered, respectively, by the Virginia Department of Social Services shall be classified as Use Group R-3.]

ARTICLE 4. TYPES OF CONSTRUCTION CLASSIFICATION.

(A) Add the following to line 5 of Table 401.

Dwelling unit separations for buildings of Type 2C, 3B and 5B construction shall have fire-resistance ratings of not less than one-half hour in buildings sprinklered throughout in

accordance with Section 1004.2.1 or 1004.2.2.

ARTICLE 5. GENERAL BUILDING LIMITATIONS.

(A) Change Section 502.3 to read:

502.3. Automatic sprinkler system. When a building of other than Use Group H is equipped throughout with an automatic sprinkler system in accordance with Section 1004.2.1 or 1004.2.2, the area limitation specified in Table 501 shall be increased by 200% for one- and two-story buildings and 100% for buildings more than two stories in height. An approved limited area sprinkler system is not considered as an automatic sprinkler system for the purpose of this section.

(B) Change Section 503.1 to read:

503.1. Automatic sprinkler system. When a building is equipped throughout with an automatic sprinkler system in accordance with Section 1004.2.1, the building height limitation specified in Table 501 shall be increased one story and 20 feet (6096mm). This increase shall not apply to buildings of Use Group I-2 of Types 2C, 3A, 4 and 5A construction nor to buildings of Use Group H. An approved limited-area sprinkler system is not considered an automatic sprinkler system for the purpose of this section. The building height limitations for buildings of Use Group R specified in Table 501 shall be increased one story and 20 feet, but not to exceed a height of four stories and 60 feet, when the building is equipped with an automatic sprinkler system in accordance with Section 1004.2.2.

(C) Replace Section 512.0, Physically Handicapped and Aged with the following new section:

SECTION 512.0. ACCESSIBILITY FOR DISABLED.

512.1. General. This section establishes requirements for accessibility by individuals with disabilities to be applied during the design, construction and alteration of buildings and structures.

512.2. Where required. The provisions of this section shall apply to all buildings and structures, including their exterior sites and facilities.

Exceptions:

1. Buildings of Use Group R-3 and accessory structures and their associated site and facilities.
2. Buildings and structures classified as Use Group U.
3. Those buildings or structures or portions thereof which are expressly exempted in the standards incorporated by reference in this section.
4. Those buildings or structures or portions thereof

which are used exclusively for either private club or religious worship activities.

512.2.1. Identification of parking spaces. All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with the bottom edge no lower than four feet nor higher than seven feet above the parking surface.

512.3. Referenced standards. The following standards or parts thereof are hereby incorporated by reference for use in determining compliance with this section:

1. Title 24 Code of Federal Regulations, Chapter 1 - Fair Housing Accessibility Guidelines, Sections 2 through 5, 56 F.R. 9499-9515 (March 6, 1991).
2. Title 28 Code of Federal Regulations, Part 36 - Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Subpart A - General, § 36.104 Definitions and Subpart D - New Construction and Alterations, 56 F.R. 35593-35594 and 35599-35602 (July 26, 1991).

ARTICLE 6.

SPECIAL USE AND OCCUPANCY REQUIREMENTS.

(A) Change Section 610.2.1 to read as follows:

610.2.1. Waiting areas. Waiting areas shall not be open to the corridor, except where all of the following criteria are met:

1. The aggregate area of waiting areas in each smoke compartment does not exceed 600 square feet (56 m²);
2. Each area is located to permit direct visual supervision by facility staff;
3. Each area is equipped with an automatic fire detection system installed in accordance with Section 1017.0;
4. Each area is arranged so as not to obstruct access to the required exits; and
5. The walls and ceilings of the space are constructed as required for corridors.

(B) Delete Section 610.2.2, Waiting areas on other floors, but do not renumber remaining sections.

(C) Change Section 610.2.3 to read as follows:

610.2.3. Waiting areas of unlimited area. Spaces constructed as required for corridors shall not be open to a corridor, except where all of the following criteria are met:

1. The spaces are not used for patient sleeping rooms, treatment rooms or specific use areas as defined in

Section 313.1.4.1;

2. Each space is located to permit direct visual supervision by the facility staff;

3. Both the space and corridors that the space opens into in the same smoke compartment are protected by an automatic fire detection system installed in accordance with Section 1017.0; and

4. The space is arranged so as not to obstruct access to the required exits.

(D) Change Section 610.2.5 to read as follows:

610.2.5. Mental health treatment areas. Areas wherein only mental health patients who are capable of self-preservation are housed, or group meeting or multipurpose therapeutic spaces other than specific use areas as defined in Section 313.1.4.1, under continuous supervision by facility staff, shall not be open to the corridor, except where all of the following criteria are met:

1. Each area does not exceed 1,500 square feet (140 m²);
2. The area is located to permit supervision by the facility staff;
3. The area is arranged so as not to obstruct any access to the required exits;
4. The area is equipped with an automatic fire detection system installed in accordance with Section 1017.0;
5. Not more than one such space is permitted in any one smoke compartment; and
6. The walls and ceilings of the space are constructed as required for corridors.

(E) Change Section 610.3 and subsection 610.3.1 to read as follows:

610.3. Corridor walls. Corridor walls shall form a barrier to limit the transfer of smoke. The walls shall extend from the floor to the underside of the floor or roof deck above or to the underside of the ceiling above where the ceiling membrane is constructed to limit the transfer of smoke.

610.3.1. Corridor doors. All doors shall conform to Section 916.0. Corridor doors, other than those in a wall required to be rated by Section 313.1.4.1 or for the enclosure of a vertical opening, shall not have a required fire resistance rating, but shall provide an effective barrier to limit the transfer of smoke.

(F) Change Section 610.5 to read as follows:

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610.5. Automatic fire detection. An automatic fire detection system shall be provided in corridors and common spaces open to the corridor as permitted by Section 610.2.

(G) Delete Section 610.5.1, Rooms, and Section 610.5.2, Corridors.

(H) Add new Section 618.10 to read as follows:

SECTION 618.10. MAGAZINES.

618.10. Magazines. Magazines for the storage of explosives, ammunition and blasting agents shall be constructed in accordance with the Statewide Fire Prevention Code as adopted by the Board of Housing and Community Development.

(I) Change Section 619.1 to read as follows:

619.1. Referenced codes. The storage systems for flammable and combustible liquids shall be in accordance with the mechanical code and the fire prevention code listed in Appendix A.

Exception: Aboveground tanks which are used to store or dispense motor fuels, aviation fuels or heating fuels at commercial, industrial, governmental or manufacturing establishments shall be allowed when in compliance with NFPA 30, 30A, 31 or 407 listed in Appendix A.

(J) Change Section 620.0 to read as follows:

SECTION 620.0. MOBILE UNITS AND MANUFACTURED HOMES.

620.1. General. Mobile units, as defined in Section 201.0, shall be designed and constructed to be transported from one location to another and not mounted on a permanent foundation. Manufactured homes shall be designed and constructed to comply with the Federal Manufactured Housing Construction and Safety Standards and used with or without a permanent foundation.

620.2. Support and anchorage of mobile units. The manufacturer of each mobile unit shall provide with each unit specifications for the support and anchorage of the mobile unit. The manufacturer shall not be required to provide the support and anchoring equipment with the unit. Mobile units shall be supported and anchored according to the manufacturer's specifications. The anchorage shall be adequate to buildings and structures, based upon the size and weight of the mobile unit.

620.3. Support and anchorage of manufactured homes. The manufacturer of the home shall provide with each manufactured home printed instructions specifying the location, required capacity and other details of the stabilizing devices to be used with or without a permanent foundation (i.e., tiedowns, piers, blocking, footings, etc.)

based upon the design of the manufactured home. Manufactured homes shall be supported and anchored according to the manufacturer's printed instructions or supported and anchored by a system conforming to accepted engineering practices designed and engineered specifically for the manufactured home. Footings or foundations on which piers or other stabilizing devices are mounted shall be carried down to the established frost lines. The anchorage system shall be adequate to resist wind forces, sliding and uplift as imposed by the design loads.

620.3.1. Hurricane zone. Manufactured homes installed or relocated in the hurricane zone shall be of Hurricane and Windstorm Resistive design in accordance with the Federal Manufactured Housing Construction and Safety Standards and shall be anchored according to the manufacturer's specifications for the hurricane zone. The hurricane zone includes the following counties and all cities located therein, contiguous thereto, or to the east thereof. Accomack, King William, Richmond, Charles City, Lancaster, Surry, Essex, Mathews, Sussex, Gloucester, Middlesex, Southampton, Greensville, Northumberland, Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen and Prince George.

620.3.2. Flood hazard zones. Manufactured homes and mobile units which are located in a flood hazard zone shall comply with the requirements of Section 2101.6.

Exception: Manufactured homes installed on sites in an existing manufactured home park or subdivision shall be permitted to be placed no less than 36 inches above grade in lieu of being elevated at or above the base flood elevation provided no manufactured home at the same site has sustained flood damage exceeding 50% of the market value of the home before the damage occurred.

620.4. Used mobile/manufactured homes. When used manufactured homes or used mobile homes are being installed or relocated and the manufacturer's original installation instructions are not available, installations complying with the applicable portions of NCSBCS/ANSI A225.1 listed in Appendix A shall be accepted as meeting the USBC.

620.5. Skirting. Manufactured homes installed or relocated after July 1, 1990, shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures, and installed in accordance with the manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches in any dimension and not less than three square feet in area. The access panel or door shall not be fastened in a

manner requiring the use of a special tool to open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of the USBC.

(K) Add new Section 627.0 to read as follows:

SECTION 627.0. UNDERGROUND STORAGE TANKS.

627.1. General. The installation, upgrade, or closure of any underground storage tanks containing an accumulation of regulated substances, shall be in accordance with the Underground Storage Tank Regulations adopted by the State Water Control Board. Underground storage tanks containing flammable or combustible liquids shall also comply with the applicable requirements of Section 619.0.

ARTICLE 7. INTERIOR ENVIRONMENTAL REQUIREMENTS.

(A) Add new Section 706.2.3 as follows:

706.2.3. Insect screens. Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(B) Change Section 714.0 to read as follows:

SECTION 714.0. SOUND TRANSMISSION CONTROL IN RESIDENTIAL BUILDINGS.

714.1. Scope. This section shall apply to all common interior walls, partitions and floor/ceiling assemblies between adjacent dwellings or between a dwelling and adjacent public areas such as halls, corridors, stairs or service areas in all buildings of Use Group R.

714.2. Airborne noise. Walls, partitions and floor/ceiling assemblies separating dwellings from each other or from public or service areas shall have a sound transmission class (STC) of not less than 45 for airborne noise when tested in accordance with ASTM E90 listed in Appendix A. This requirement shall not apply to dwelling entrance doors, but such doors shall be tight fitting to the frame and sill.

714.3. Structure borne sound. Floor/ceiling assemblies between dwellings and between a dwelling and a public or service area within the structures shall have an impact insulation class (IIC) rating of not less than 45 when tested in accordance with ASTM E492 listed in Appendix A.

714.4. Tested assemblies. Where approved, assemblies of building construction listed in GA 600, NCMA TEK 69A and BIA TN 5A listed in Appendix A shall be accepted as having the STC and IIC ratings specified therein for determining compliance with the requirements of this section.

(C) Add new Section 715.0 to read as follows:

SECTION 715.0. HEATING FACILITIES.

715.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

715.2. Other structures. Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupant thereof; and every occupant of any structure or part thereof who rents or leases said structure or part thereof on terms, either express or implied, to supply its own heat, shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C), during all working hours in all enclosed spaces or rooms where persons are employed and working. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exceptions:

1. Processing, storage and operations areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

ARTICLE 8. MEANS OF EGRESS.

(A) Change Exception 6 of Section 813.4.1 to read as follows:

6. Devices such as double cylinder dead bolts which can be used to lock doors to prevent egress shall be permitted on egress doors in Use Groups B, F, M or

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S. These doors may be locked from the inside when all of the following conditions are met:

- a. The building is occupied by employees only and all employees have ready access to the unlocking device.
- b. The locking device is of a type that is readily distinguished as locked, or a "DOOR LOCKED" sign with red letters on white background is installed on the locked doors. The letters shall be six inches high and 3/4 of an inch wide.
- c. A permanent sign is installed on or adjacent to lockable doors stating "THIS DOOR TO REMAIN UNLOCKED DURING PUBLIC OCCUPANCY." The sign shall be in letters not less than one-inch high on a contrasting background.

(B) Add new Exception 7 to Section 813.4.1 to read as follows:

Exception

7. Locking arrangements conforming to Section 813.4.5.

(C) Add new Section 813.4.5 to read as follows:

813.4.5. Building entrance doors. In Use Groups A, B, E, M, R-1 and R-2, the building entrance doors in a means of egress are permitted to be equipped with an approved entrance and egress control system which shall be installed in accordance with items 1 through 6 below.

1. A sensor shall be provided on the egress side arranged to detect an occupant approaching the doors. The doors shall be arranged to unlock by a signal from or loss of power to the sensor.
2. Loss of power to that part of the access control system which locks the doors shall automatically unlock the doors.
3. The doors shall be arranged to unlock from a manual exit device located 48 inches (1219 mm) vertically above the floor and within five feet (1524 mm) of the secured doors. The manual exit device shall be readily accessible and clearly identified by a sign. When operated, the manual exit device shall result in direct interruption of power to the lock – independent of the access control system electronics – and the doors shall remain unlocked for a minimum of 30 seconds.
4. Activation of the building fire protective signaling system, if provided, shall automatically unlock the doors, and the doors shall remain unlocked until the fire protective signaling system has been reset.
5. Activation of the building sprinkler or detection system, if provided, shall automatically unlock the

doors. The doors shall remain unlocked until the fire protective signaling system has been reset.

6. The doors shall not be secured from the egress side in Use Groups A, B, E and M during periods when the building is accessible to the general public.

(D) Add new Section 826.0 to read as follows:

SECTION 826.0. EXTERIOR DOORS.

826.1. Swinging entrance doors. Exterior swinging doors of each dwelling unit in buildings of Use Group R-2 shall be equipped with a dead bolt lock, with a throw of not less than one inch, and shall be capable of being locked or unlocked by key from the outside and by turn-knob from the inside.

826.2. Exterior sliding doors. In dwelling units of Use Group R-2 buildings, exterior sliding doors which are one story or less above grade, or shared by two dwelling units, or are otherwise accessible from the outside, shall be equipped with locks. The mounting screws for the lock case shall be inaccessible from the outside. The lock bolt shall engage the strike in a manner that will prevent its being disengaged by movement of the door.

Exception: Exterior sliding doors which are equipped with removable metal pins or charlie bars.

826.3. Entrance doors. Entrance doors to dwelling units of Use Group R-2 buildings shall be equipped with door viewers with a field of vision of not less than 180 degrees.

Exception: Entrance doors having a vision panel or side vision panels.

ARTICLE 10. FIRE PROTECTION SYSTEMS.

(A) Delete Section 1000.3.

(B) Change Section 1002.6 to read as follows:

1002.6. Use Group I. Throughout all buildings with a Use Group I fire area.

Exception: Use Group I-2 child care facilities located at the level of exit discharge and which accommodate 100 children or less. Each child care room shall have an exit door directly to the exterior.

(C) Change Section 1002.8 to read as follows:

1002.8. Use Group R-1. Throughout all buildings of Use Group R-1.

Exception: Use Group R-1 buildings where all guestrooms are not more than three stories above the lowest level of exit discharge of the exits serving the

guestroom. Each guestroom shall have at least one door opening directly to an exterior exit access which leads directly to the exits.

(D) Change Section 1002.9 to read as follows:

1002.9. Use Group R-2. Throughout all buildings of Use Group R-2.

Exceptions 1.

Use Group R-2 buildings where all dwelling units are not more than one story above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit.

2. Use Group R-2 buildings where all dwelling units are not more than three stories above the lowest level of exit discharge and not more than one story below the highest level of exit discharge of exits serving the dwelling unit and every two dwelling units are separated from other dwelling units in the building by fire separation assemblies (see Sections 909.0 and 913.0) having a fire-resistance rating of not less than two hours.

(E) Add new Section 1002.12 to read as follows:

1002.12. Use Group B, when more than 50 feet in height. Fire suppression systems shall be installed in buildings and structures of Use Group B, when more than 50 feet in height and less than 75 feet in height according to the following conditions:

1. The height of the building shall be measured from the point of the lowest grade level elevation accessible by fire department vehicles at the building or structure to the floor of the highest occupiable story of the building or structure.

2. Adequate public water supply is available to meet the needs of the suppression system.

3. Modifications for increased allowable areas and reduced fire ratings permitted by Sections 502.3, 503.1, 905.2.2, 905.3.1, 921.7.2, 921.7.2.2, 922.8.1, and any others not specifically listed shall be granted.

4. The requirements of Section 602.0 for high-rise buildings, such as, but not limited to voice alarm systems, central control stations, and smoke control systems, shall not be applied to buildings and structures affected by this section.

(F) Change Sections 1004.1 through 1004.2.2 to read as follows:

1004.1. General. Automatic sprinkler systems shall be approved and shall be designed and installed in accordance with the provisions of this code.

1004.2. Equipped throughout. Where the provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system, the system shall be designed and installed in accordance with Section 1004.2.1, 1004.2.2 or 1004.2.3.

Exception: Where the use of water as an extinguishing agent is not compatible with the fire hazard (see Section 1003.2) or is prohibited by a law, statute or ordinance, the affected area shall be equipped with an approved automatic fire suppression system utilizing a suppression agent that is compatible with the fire hazard.

1004.2.1. NFIPA 13 systems. The systems shall be designed and installed in accordance with NFIPA 13 listed in Appendix A.

Exception: In Use Group R fire areas, sprinklers shall not be required in bathrooms that do not exceed 55 square feet in area and are located within individual dwelling units or guestrooms.

1004.2.1.1. Quick response sprinklers. NFIPA 13 systems installed in Use Group I-2 fire areas shall use quick response sprinklers in patient sleeping rooms.

1004.2.2. NFIPA 13R systems. In buildings four stories or less in height, systems designed and installed in accordance with NFIPA 13R listed in Appendix A shall be permitted in Use Group I-1 fire areas in buildings with not more than 16 occupants, and in Use Group R fire areas.

Exception: Sprinklers shall not be required in bathrooms that do not exceed 55 square feet in area and are located within individual dwelling units or guestrooms.

(G) Add new Section 1004.2.3 to read as follows:

1004.2.3. NFIPA 13D systems. In Use Group I-1 fire areas in buildings with not more than eight occupants, systems designed and installed in accordance with NFIPA 13D listed in Appendix A shall be permitted.

Exceptions:

1. Sprinklers shall not be required in bathrooms that do not exceed 55 square feet in area.

2. A single fire protection water supply shall be permitted to serve not more than eight dwelling units.

(H) Add new Section 1018.3.5 to read as follows:

1018.3.5. Smoke detectors for the deaf and hearing impaired. Smoke detectors for the deaf and hearing impaired shall be provided as required by § 36-99.5 of the Code of Virginia.

ARTICLE 12.

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FOUNDATION SYSTEMS.

(A) Add new provision to Section 1205.0, Depth of Footings:

1205.4. Small storage sheds. The building official may accept utility sheds without footings when they are used for storage purposes and do not exceed 150 square feet in gross floor area when erected or mounted on adequate supports.

ARTICLE 13. MATERIALS AND TESTS.

(A) Add new Section 1300.4 to read as follows:

1300.4. Lead based paint. Lead based paint with a lead content of more than ~~0.5%~~ .06% by weight shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

(B) Change Section 1308.1 to read as follows:

1308.1. General. The permit applicant shall provide special inspections where application is made for construction as described in this section. The special inspectors shall be provided by the owner and shall be qualified and approved for the inspection of the work described herein.

Exception: Special inspections are not required for buildings or structures unless the design involves the practice of professional engineering or architecture as required by §§ 54.1-401, 54.1-402 and 54.1-406 of the Code of Virginia.

(C) Delete Section 1308.8, Special cases.

ARTICLE 17. WOOD.

(A) Change Section 1702.4.1 to read as follows:

1702.4.1. General. Where permitted for use as a structural element, fire-retardant treated wood shall be defined as any wood product which, when impregnated with chemicals by a pressure process in accordance with AWPA C20 or AWPA C27 listed in Appendix A or other means during manufacture, shall have, when tested in accordance with ASTM E84 listed in Appendix A, a flame spread rating not greater than 25 when the test is continued for a period of 30 minutes, without evidence of significant progressive combustion and the flame front shall not progress more than 10.5 feet (3200 mm) beyond the centerline of the burner at any time during the test. Fire-retardant treated wood shall be dried to a moisture content of 19% or less for lumber and 15% or less for plywood before use.

(B) Add new Sections 1702.4.1.1 and 1702.4.1.2 as follows:

1702.4.1.1. Strength modifications. Design values for untreated lumber, as specified in Section 1701.1, shall be adjusted when the lumber is pressure impregnated with fire-retardant chemicals. Adjustments to the design values shall be based upon an approved method of investigation which takes into consideration the effects of the anticipated temperature and humidity to which the fire-retardant treated wood will be subjected, the type of treatment, and the redrying procedures.

1702.4.1.2. Labeling. Fire-retardant treated lumber and plywood shall bear the label of an approved agency in accordance with Section 1307.3.2. Such label shall contain the information required by Section 1307.3.3.

ARTICLE 21. EXTERIOR WALLS .

(A) Delete Section 2101.6.9 Alterations and repairs, but do not renumber remaining sections.

ARTICLE 25. MECHANICAL EQUIPMENT AND SYSTEMS.

(A) Change Section 2500.2 to read as follows:

2500.2. Mechanical code. All mechanical equipment and systems shall be constructed, installed and maintained in accordance with the mechanical code listed in Appendix A, as amended below:

1. Delete Article 17, Air Quality;
2. Add Note to M-2000.2 to read as follows:

Note: Boilers and pressure vessels constructed under this article shall be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

ARTICLE 27. ELECTRIC WIRING AND EQUIPMENT.

(A) Add Section 2700.5 to read as follows:

2700.5. Telephone outlets. Each dwelling unit shall be prewired [*with a minimum of two-pair twisted wire cable*] to provide at least one telephone outlet [~~(jack)~~]. [*All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable.*] In multifamily dwellings, the telephone wiring shall terminate inside or outside of the building at a point prescribed by the telephone company.

ARTICLE 28. PLUMBING SYSTEMS.

(A) Change Section 2800.1 to read as follows:

2800.1. Scope. The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies and storm water and sewage

disposal in buildings shall comply with the requirements of this article and the plumbing code listed in Appendix A (BOCA National Plumbing Code/1990) as amended below:

1. Change Section P-303.1 to read as follows:

P-303.1. General. The water distribution and drainage system of any building in which plumbing fixtures are installed shall be connected to public water main and sewer respectively, if available. Where a public water main is not available, an individual water supply shall be provided. Where a public sewer is not available, a private sewage disposal system shall be provided conforming to the regulations of the Virginia Department of Health.

2. Change Section P-303.2 to read as follows:

P-303.2. Public systems available. A public water supply system or public sewer system shall be deemed available to premises used for human occupancy if such premises are within (number of feet and inches as determined by the local government) measured along a street, alley, or easement, of the public water supply or sewer system, and a connection conforming with the standards set forth in the USBC may be made thereto.

3. Change Section P-308.3 to read as follows:

P-308.3. Freezing. Water service piping and sewers shall be installed below recorded frost penetration but not less than (number of feet and inches to be determined by the local government) below grade for water piping and (number of feet and inches to be determined by the local government) below grade for sewers. In climates with freezing temperatures, plumbing piping in exterior building walls or areas subjected to freezing temperatures shall be adequately protected against freezing by insulation or heat or both.

4. Delete Section P-311.0, Toilet Facilities for Workers.

5. Add new Section P-604.2.1 to read as follows:

P-604.2.1. Alarms. Malfunction alarms shall be provided for sewage pumps or sewage ejectors rated at 20 gallons per minute or less when used in Use Group R-3 buildings.

6. Add the following exception to Section P-1001.1:

4. A grease interceptor listed for use as a fixture trap may serve a single fixture or a combination sink of not more than three compartments when the vertical distance of the fixture drain to the inlet of the grease interceptor does not exceed 30 inches and the horizontal distance does not exceed 60 inches.

7. Change Note d of Table P-1202.1 to read:

Note d. For attached one and two family dwellings one automatic clothes washer connection shall be

required per 20 dwelling units. Automatic clothes washer connections are not required for Use Group R-4.

8. Revise Table P-1202.1 for Building Use Groups A-1, A-3, A-4 and A-5.

Building Use Group (P1218.2)	Water Closets (Urinals see Section P1218.2)	
	Males	Females
A-1 Assembly, theaters	1 per 125	1 per 65
A-2 Assembly, nightclubs	1 per 40	1 per 40
A-3 Assembly, restaurants	1 per 75	1 per 75
A-3 Assembly, halls, museums, etc.	1 per 125	1 per 65
A-4 Assembly, churches(b)	1 per 150	1 per 75
A-5 Assembly, stadiums, pools, etc.	1 per 100	1 per 50

9. Add Note e to Table P-1202.1 to reference Use Group I-2 day nurseries to read as follows:

Note e. Day nurseries shall only be required to provide one bathtub or shower regardless of the number of occupants.

10. Delete Section P-1203.0, Handicap Plumbing Facilities, but do not renumber the remaining sections in the article.

11. Add new Section P-1501.3:

P-1501.3. Public water supply and treatment. The approval, installation and inspection of raw water collection and transmission facilities, treatment facilities and all public water supply transmission mains shall be governed by the Virginia Waterworks Regulations. The internal plumbing of buildings and structures, up to the point of connection to the water meter shall be governed by this code. Where no meter is installed, the point of demarcation shall be at the point of connection to the public water main; or, in the case of an owner of both public water supply system and the building served, the point of demarcation is the point of entry into the building.

Note: See Memorandum of Agreement between the Board of Housing and Community Development and the Virginia Department of Health, signed July 21, 1980.

12. Add the following exception to P-1503.8:

Exception: Pursuant to § 36-99.10 of the Code of Virginia, based upon the lack of present or future water supply, local government may elect to apply

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the provisions of Section P-1503.9 to all or a portion of their locality.

13. Add new Section P-1503.9 to read as follows:

P-1503.9. Maximum flow and water consumption: The maximum water consumption flow rates and quantities for all plumbing fixtures and fixture fittings shall be in accordance with Table P-1503.9. Water consumption for water closets listed in the exceptions below shall use a maximum of four gallons per flushing cycle. Water consumption for urinals listed in the exceptions below shall use a maximum of 1-1/2 gallons per flush.

Exceptions:

1. *Blowout design fixtures.*
2. *Penalware.*
3. *Clinical sinks.*
4. *Service sinks.*
5. *Emergency showers.*
6. *Water closets provided for public use in buildings of Use Groups A-1, A-2, A-3, and A-5.*
7. *Water closets provided for patients and residents in buildings of Use Group I-2.*
8. *Water closets provided for inmates and residents in buildings of Use Group I-3.*

*Table P-1503.9.
Maximum Flow Rates and Consumption for Plumbing
Fixtures and Fixture Fittings.*

PLUMBING FIXTURE OR FIXTURE FITTING	MAXIMUM FLOW RATE OR QUANTITY
Water closet	1.6 gallon per [flushing] cycle
Urinal	1.0 gallon per [flushing] cycle
Shower head	2.5 gallon per minute at 80 psi
Lavatory nonpublic	2.2 gallon per minute at 60 psi
Lavatory public	0.5 gallon per minute at 80 psi
Lavatory public self-closing	[meeting metering] 0.25 gallon per [metering] cycle
Sink faucet	2.2 gallon per minute at 60 psi

~~12~~ 14. Add Note to P-1506.3 to read as follows:

Note: Water heaters which have a heat input of greater than 200,000 BTU per hour, a water temperature of over 210°F, or contain a capacity of more than 120 gallons shall be inspected and have a certificate of inspection issued by the Department of Labor and Industry.

~~13~~ 15. Delete Article 16, Individual Water Supply.

(B) Change Section 2804.3 to read as follows:

2804.3. Private water supply. When public water mains are not used or available, a private source of water supply may be used. The Health Department shall approve the location, design and water quality of the source prior to the issuance of the permit. The building official shall approve all plumbing, pumping and electrical equipment associated with the use of a private source of water.

(C) Change Section 2807.1 to read as follows:

2807.1. Private sewage disposal. When water closets or other plumbing fixtures are installed in buildings which are not located within a reasonable distance of a sewer, suitable provisions shall be made for disposing of the building sewage by some method of sewage treatment and disposal satisfactory to the administrative authority having jurisdiction. When an individual sewage system is required, the control and design of this system shall be as approved by the State Department of Health, which must approve the location and design of the system and septic tanks or other means of disposal. Approval of pumping and electrical equipment shall be the responsibility of the building official. Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of a building. Temporary recreational use buildings shall mean any building occupied intermittently for recreational purposes only.

ARTICLE 29. SIGNS.

(A) Delete Section 2901.1, Owner's consent.

(B) Delete Section 2901.2, New signs.

(C) Delete Section 2906.0, Bonds and Liability Insurance.

ARTICLE 30. PRECAUTIONS DURING BUILDING OPERATIONS.

(A) Change Section 3000.1 to read as follows:

3000.1. Scope. The provisions of this article shall apply to all construction operations in connection with the erection, alteration, repair, removal or demolition of buildings and structures. It is applicable only to the protection of the general public. Occupational health and safety protection of building-related workers are regulated by the Virginia Occupational Safety and Health Standards for the Construction Industry, which are issued by the Virginia Department of Labor and Industry.

APPENDIX A. REFERENCED STANDARDS.

(A) Add the following standards:

NCSBCS/ANSI A225.1-87

Manufactured Home Installations (referenced in Section 620.4).

NFiPA 13D-89

Installation of Sprinkler Systems in One- and Two-Family Dwellings and Mobile Homes (referenced in Section 1004.2.3)

NFiPA 30A-87

Automotive and Marine Service Station Code (referenced in Section 619.1).

NFiPA 31-87

Installation of Oil Burning Equipment (referenced in Section 619.1)

NFiPA 407-90

Aircraft Fuel Servicing (referenced in Section 619.1)

ADDENDUM 2.
AMENDMENTS TO THE CABO ONE AND TWO
FAMILY DWELLING CODE/1989 EDITION AND
1990 AMENDMENTS.

As provided in Section 101.4 of the Virginia Uniform Statewide Building Code, the amendments noted in this addendum shall be made to the CABO One and Two Family Dwelling Code/1989 Edition and 1990 Amendments for use as part of the USBC.

PART I.
ADMINISTRATIVE.

Chapter 1.
Administrative.

(A) Any requirements of Sections R-101 through R-113 that relate to administration and enforcement of the CABO One and Two Family Dwelling Code are superseded by Article 1, Adoption, Administration and Enforcement of the USBC.

PART II.
BUILDING PLANNING.

Chapter 2.
Building Planning.

(A) Add Section R-203.5, Insect Screens:

R-203.5. Insect Screens. Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products

used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

(B) Change Section R-207 to read as follows:

SECTION R-207.
SANITATION.

Every dwelling unit shall be provided with a water closet, lavatory and a bathtub or shower.

Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink of approved nonabsorbent material.

All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system.

All plumbing fixtures shall be connected to an approved water supply and provided with hot and cold running water, except water closets may be provided with cold water only.

Modifications to this section may be granted by the local building official, upon agreement by the local health department, for reasons of hardship, unsuitable soil conditions or temporary recreational use of the building.

(C) Add to Section R-212:

Key operation is permitted from a dwelling unit provided the key cannot be removed when the door is locked from the side from which egress is to be made.

(D) Change Section R-214.2 to read as follows:

R-214.2. Guardrails. Porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails not less than 36 inches in height.

Required guardrails on open sides of stairways, raised floor areas, balconies and porches shall have intermediate rails or ornamental closures which will not allow passage of an object six inches or more in diameter.

(E) Change Section R-215.1 to read:

R-215.1. Smoke detectors required. Smoke detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each story of the dwelling, including basements and cellars, but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels, a smoke detector need be installed only on the upper level, provided the lower level is less than one full story below the upper level, except that if there is a door between levels then a detector is required on each level. All detectors shall be connected to a sounding device or other

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detectors to provide, when activated, an alarm which will be audible in all sleeping areas. All detectors shall be approved and listed and shall be installed in accordance with the manufacturers instructions. When one or more sleeping rooms are added or created in existing dwellings, the addition shall be provided with smoke detectors located as required for new dwellings.

(F) Add new Section R-220:

SECTION R-220. TELEPHONE OUTLETS.

Each dwelling unit shall be prewired [*with a minimum of two-pair twisted wire cable*] to provide at least one [wall] telephone outlet [~~jack~~]. [*All dwelling unit telephone wiring shall be a minimum of two-pair twisted wire cable.*] The telephone wiring shall terminate on the exterior of the building at a point prescribed by the telephone company.

(G) Add new Section R-221:

SECTION R-221. LEAD BASED PAINT.

Lead Based Paint. Lead based paint with a lead content of more than ~~0.5%~~ .06% by weight shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations.

PART III. CONSTRUCTION.

Chapter 3. Foundations.

(A) Add Section R-301.6 to read as follows:

R-301.6. Floodproofing. All buildings or structures located in areas prone to flooding as determined by the governing body having jurisdiction shall be floodproofed in accordance with the provisions of Section 2101.6 of the 1990 BOCA National Building Code.

Chapter 9. Chimneys and Fireplaces.

(A) Add Section R-903.10 as follows:

R-903.10. Spark arrestor. Spark arrestor screens shown in Figure R-904 are optional unless specifically required by the manufacturer of the fireplace stove or other appliance utilizing a chimney.

PART IV. MECHANICAL.

(A) Add new Section M-1101.1:

M-1101.1. Residential buildings. Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60°F (16°C) during other hours. The temperature shall be measured at a point three feet (914 mm) above the floor and three feet (914 mm) from exterior walls.

Exception: When the exterior temperature falls below 0°F (-18°C) and the heating system is operating at its full capacity, a minimum room temperature of 60°F (16°C) shall be maintained at all times.

PART V. PLUMBING.

Chapter 22.

Plumbing, Drainage, Waste and Vent Systems (DWV).

(A) Change Section P-2206.8.2 to read as follows:

P-2206.8.2. Sewage ejectors or sewage pumps. A sewage ejector ~~or~~ , sewage pump ~~or grinder pump~~ receiving discharge ~~of from a water closets closet~~ shall have a minimum discharge capacity of 20 gallons per minute velocity of 1.9 feet per second throughout the discharge piping to the point of connection with a gravity building drain, gravity sewer or pressure sewer system . ~~The ejector or~~ A nongrinding pump or ejector shall be capable of passing a 1 1/2-inch-diameter solid ball, and the discharge piping of each ejector ~~or pump~~ shall have a backwater valve and be a minimum diameter of two inches. ~~The discharge piping of grinder pumps shall have a minimum diameter of 1 1/4 inches. All pumps shall be protected from backflow by a backwater or check valve.~~ Malfunction alarms shall be provided on sewage pumps or sewage ejectors rated at 20 gallons per minute or less.

(B) Change Section P-2301 - Fixtures, fittings and appurtenances to read as follows:

P-2301.1. General. Plumbing fixtures, fittings, and appurtenances shall conform to the standards specified in Table No. P-2301 and shall be provided with an adequate supply of potable water to flush and keep the fixtures in a clean and sanitary condition without danger of backflow or cross-connection.

Exception: Pursuant to § 36-99.10 of the Code of Virginia, based upon the lack of present or future water supply, local government may elect to apply the provisions of Section P-2301.2 to all or a portion of their locality:

P-2301.2. Maximum flow and water consumption. The maximum water consumption flow rates and quantities:

for all plumbing fixtures and fixture fittings shall comply with the following criteria:

1. Shower heads shall be of the water conserving type, which deliver a maximum flow rate of 2.5 gpm at 80 psi.
2. Faucets on lavatories shall be of the water conserving type, which deliver a maximum flow rate of 2.2 gpm at 60 psi.
3. Water closets shall be of the 1.6 gpf type and shall be provided with a flush tank or similar device designed and installed to supply water in sufficient quantity and flow to flush the contents of the fixture and refill the fixture trap.
4. Sink faucets shall be of the water conserving type, which deliver a maximum flow rate of 2.2 gpm at 60 psi.

PART VI.
ELECTRICAL.

(A) Revise Part VI as follows:

The electrical installations shall conform to the Electrical Code for One and Two Family Dwellings (NFPA 70A-1990) published by the National Fire Protection Association.

PART VII.
ENERGY CONSERVATION.

(A) Revise Part VII as follows:

The energy conservation requirements shall conform to Article 31 of the BOCA National Building Code/1990.

* * * * *

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1990.

Statutory Authority: §§ 36-98, 36-102 and 36-103 of the Code of Virginia.

Effective Date: March 1, 1993.

Summary:

The Virginia Uniform Statewide Building Code is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Enforcement procedures are provided that must be used when the Building Maintenance Code is enforced by local agencies.

The amendments to the regulation respond to changes

in state law or to public comment received from August 27, 1990, until June 12, 1992. Section 101.4 clarifies the application of the code to buildings built prior to the effective date of Volume I of the building code; § 104.4 changes the violation penalty fee pursuant to state law; § 105.8 clarifies existing requirements for unsafe buildings and public nuisances; and § 109.5 requires parking spaces reserved for persons with disabilities to be properly identified by January 1, 1993, pursuant to state law. Section PM-303.4 of the BOCA National Property Maintenance Codes is amended to change the level of lead in lead-based paint requiring abatement or removal in existing dwellings, child and day care centers from .06% to .5% by weight as recommended by the HUD Interim Guidelines.

Changes to the final regulation as a result of public comment were made to incorporate a new provision for suspension or revocation of the certificate of occupancy for repeated violations, and the provisions for abatement or removal of unsafe buildings and public nuisances are amended to include structures as well as buildings.

VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1990.

Article 1.
Adoption, Administration and Enforcement.

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as Volume II - Building Maintenance Code of the 1990 edition of the Virginia Uniform Statewide Building Code (USBC). Except as otherwise indicated, Building Maintenance Code or code, shall mean Volume II - Building Maintenance Code of the 1990 edition of the USBC.

Note: See Volume I - New Construction Code of the USBC for regulations applicable to new construction.

100.2. Authority: The Building Maintenance Code is adopted according to regulatory authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia.

100.3. Adoption: The Building Maintenance Code was adopted by order of the Board of Housing and Community Development on November 19, 1990. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.4. Effective date: The Building Maintenance Code shall become effective on March 1, 1991.

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100.5. Effect on other codes: The Building Maintenance Code shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36 of the Code of Virginia. The Building Maintenance Code supersedes all building maintenance codes and regulations of the counties, municipalities political subdivisions and state agencies that have been or may be enacted or adopted, except as modified by Section 100.6, below.

Note: This will not prevent adoption in accordance with Chapter 1, Title 15.1 of the Code of Virginia or other special or general legislation, or requirements by local governments which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a building or structure.

100.6. Application to pre-USBC buildings: Buildings or portions thereof constructed, altered, converted or repaired before the effective date of the initial edition of the USBC shall be maintained in compliance with the Building Maintenance Code. No provisions of the Building Maintenance Code shall require alterations to buildings or equipment unless an unsafe or unhealthy condition exists.

100.6.1. Hotels and motels: Pre-USBC hotels and motels shall also comply with applicable provisions of Section 109.0.

100.6.2. Nursing homes and Homes for Adults: Pre-USBC nursing homes licensed by the Virginia Department of Health, and pre-USBC Homes for Adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of section 109.0.

100.7. Application to post-USBC buildings: Buildings or portions thereof that were subject to the USBC when constructed, altered, converted or repaired shall be maintained in compliance with the Building Maintenance Code and with the edition of the USBC that was in effect at that time.

100.7.1 Hotels and motels: Post-USBC hotels and motels shall also comply with applicable provisions of section 109.0.

100.7.2. Nursing homes and Homes for Adults: Post-USBC nursing homes licensed by the Virginia Department of Health, and post-USBC Homes for Adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of section 109.0.

100.8. Exemptions for certain equipment: The provisions of the Buildings Maintenance Code shall not apply to equipment installed by a provider of publicly regulated utility services, or to electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights.

Exception: Buildings or service equipment associated with the exempt equipment.

100.9. Exemptions for farm structures: Farm structures not used for residential purposes shall be exempt from the provisions of the Building Maintenance Code.

Exception: Farm structures lying within a flood plain or in a mudslide prone area shall be subject to floodproofing regulations or mudslide regulations, as applicable.

100.10. Purpose: The purpose of the Building Maintenance Code is to ensure public safety, health and welfare through proper building maintenance and use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance shall be deemed to include the maintenance and inspection of building equipment defined by § 36-97(13) of the Code of Virginia.

SECTION 101.0. REQUIREMENTS.

101.1. Adoption of model code: The following model code, as amended by §§ 101.2 and 101.3, is hereby adopted and incorporated in the Building Maintenance Code.

THE BOCA NATIONAL PROPERTY MAINTENANCE CODE/1990 EDITION

Published by:

Building Officials and Code Administrators International, Inc.
4051 West Flossmoor Road
County Club Hills, Illinois 60478-5795

101.2. Administrative and enforcement amendments to the referenced model code: All requirements of the referenced model code and of standards referenced therein that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the Building Maintenance Code.

101.3. Other amendments to the referenced model code: The amendments noted in Addendum 1 shall be made to the specified articles and sections of the BOCA National Property Maintenance Code/1990 edition for use as part of this Code.

101.4. Limitation of application of model code: No provision of the model code may be used to require alterations to the design or equipment of any portion of a building that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC. In the application of the model code to other buildings, no requirement of the current edition of *Volume I, New Construction Code* of the USBC shall be exceeded.

SECTION 102.0. LOCAL ENFORCING AGENCY.

102.1. Enforcement by local governments: Any local government may, after official action, enforce the Building Maintenance Code, or any portion of the code. The local governing body may assign responsibility for enforcement of the Building Maintenance Code, or any portion thereof, to a local agency or agencies of its choice. The terms "enforcing agency" and "code official" are intended to apply to the agency or agencies to which responsibility for enforcement has been assigned. The terms "building official" or "building department" apply only to the local building official or building department.

102.2. Right of inspection: The local governing body may inspect existing buildings to enforce the Building Maintenance Code, as authorized by § 36-105 of the Code of Virginia.

102.3. Interagency coordination: When enforcement of any portion of the Building Maintenance Code is assigned to an agency other than the building department, that agency shall coordinate its reports of inspection with the building department. All required alterations, repairs, installations or constructions shall be subject to the building permit and certificate of use and occupancy provisions of Volume I of the USBC.

102.4. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the code official.

102.4.1. Appointment: The code official shall be appointed by the local government.

102.5. Qualifications of local enforcing agency personnel: The local government shall establish qualifications for the code official and technical assistants adequate to ensure proper administration and enforcement of the Building Maintenance Code.

(Note: It is recommended that the code official have at least five years of building maintenance related experience. Consideration should be given to the use of certification programs offered by the Department of Housing and Community Development.)

102.6. Relief from personal responsibility: The local enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The code official or the code official's subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as

employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by such officer or employee in the discharge of official duties and under the provisions of the Building Maintenance Code may be defended by the enforcing agency's legal representative.

102.7. Control of conflict of interest: The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the Virginia Comprehensive Conflict of Interest Act.

102.8. Assistance by state: Upon notification of appointment of a code official, the Professional Services Office shall advise the official of all services offered and will keep the official continually informed of developments affecting the code and its interpretation and administration.

SECTION 103.0. DUTIES AND POWERS OF THE CODE OFFICIAL.

103.1. General: The code official shall enforce the provisions of the Building Maintenance Code as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

Note: Section 36-105 of the Code of Virginia provides that fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

103.2. Notices and orders: The code official shall issue all necessary notices or orders to ensure compliance with the requirements of this code for the health, safety and general welfare of the public.

103.3. Delegation of duties and powers: The code official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the code.

103.4. Modifications: The code official may grant modifications to any of the provisions of this code upon application by the owner or the owner's agent provided the spirit and intent of the Building Maintenance Code are observed and public health, welfare, and safety are assured. A copy of the application for a modification and a copy of the final decision of the code official shall be kept in the permanent records of the enforcing agency.

103.5. Unsafe conditions not related to maintenance: When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in a building which was constructed, altered, converted, or repaired before the effective date of the initial edition of the USBC, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, the official may order the minimum changes needed to remedy the

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hazardous condition.

Note: The Building Maintenance Code does not generally provide for retrofitting existing buildings. However, conditions may exist in older buildings, because of faulty design or equipment, that constitute such serious and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the USBC. Only those changes that are needed to remedy the serious and dangerous hazards to life or health may be required by the code official. Reference is also made to section 103.2 of the administrative provisions of the Volume I of the USBC, which provides authority for modifications to be issued for alternate means to be used that provide the same level of safety.

103.6. Enforcing agency records: The code official shall keep records of reports of inspections, notices and orders issued and such other matters as directed by the local government. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act, (a) after one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, and (b) after three years in the case of all other buildings.

SECTION 104.0. VIOLATIONS.

104.1. Code violations prohibited: Buildings and equipment in violation of the provisions of this code shall not be used except as approved by the code official.

104.2. Notice of violation: The code official shall serve a notice of violation on the person responsible for maintenance or use of a building in violation of the provisions of this code. Such order shall reference the code section that serves as a basis for the violation and specify a time limit for the discontinuance or abatement of the violation. Such notice of violation shall be in writing, and be served by either delivering a copy of the notice to such person by mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.

104.3. Prosecution of violation: If the notice of violation is not complied with, the code official shall request, in writing, the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation; or to require the removal or termination of the use of the building in violation of the provisions of this code.

104.4. Violation penalties: Violations of this code are a misdemeanor in accordance with § 36-106 of the Code of Virginia, and upon conviction, may be punished by a fine of not more than ~~\$1,000~~ \$2,500.

104.5. Abatement of violation: Conviction of a violation of this code shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of this code relating to maintenance and use of the building or premises.

[104.6. Suspension or revocation of certificate of occupancy: The code official may suspend or revoke the certificate of occupancy for failure to correct repeated violations in apparent disregard for the provisions of the USBC.]

SECTION 105.0. UNSAFE BUILDINGS.

105.1. General: This section shall apply to buildings and their equipment that fail to comply with the Building Maintenance Code through damage, deterioration, infestation, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, [~~and or~~] which constitute a hazard [*or public nuisance*], or are otherwise dangerous to human life, health or safety, or the public welfare. All such buildings [~~shall be or other structures~~] declared by the code official to be a public nuisance [~~and or~~] unfit for human habitation [~~and~~] shall [*either*] be [*:*] made safe through compliance with this code [*,*] or [~~shall~~] be vacated [*;*] and [~~either~~] secured against public entry, or taken down and removed as [~~directed determined~~] by the code official. A vacant building, unsecured or open at door, or window, may be deemed a fire hazard and unsafe within the meaning of this section.

105.2. Inspection of unsafe buildings: The code official shall examine any building reported as unsafe, and shall prepare a report to be filed in the records of the enforcing agency. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any, caused by a collapse or failure.

105.3. Notice of unsafe buildings: If a building is found to be unsafe, the code official shall serve a notice to the owner, the owner's agent or person in control of the unsafe building. The notice shall specify the required repairs or improvements to be made to the building, or require the unsafe building, or portion of the building to be taken down and removed within a stipulated time. Such notice shall require the person notified to declare to the designated official without delay acceptance or rejection of the terms of the notice.

Note: Whenever possible, the notice of unsafe building should also be given to the tenants of the unsafe building.

105.4. Posting of unsafe building notice: If the person named in the notice of an unsafe building cannot be found, the notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent

of personal notice.

105.5. Disregard of notice: If the person served with a notice of unsafe building refuses or neglects to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the certificate of occupancy. In the case of a vacant building, including one vacated through revocation of the certificate of occupancy, the code official may cause the building to be closed through any available means.

105.6. Authority to vacate building: When in the opinion of the code official, there is actual and immediate danger of failure or collapse of a building or any part of a building which would endanger life; or when any building or part of a building has fallen and life is endangered by occupancy of the building; or when any other hazardous condition poses an immediate and serious threat to life; or when a building [*or other structure*] is declared a public nuisance, [*and or*] unfit for human habitation, the code official may order the occupants to vacate the building. The code official shall post a notice at each entrance to such building that reads: "THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such a building except upon authorization of the code official for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections.

105.7. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a building or any part of a building which would endanger life, or when a violation of this code results in a hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, the code official shall have the necessary work done to the extent permitted by the local government to make such building or part of the building temporarily safe, whether or not legal action to force compliance has begun.

105.8. Abatement or removal: Whenever the owner of a building or structure that has been deemed to be a public nuisance pursuant to § 105.1 fails to comply with the requirements of the notice to abate, the code official may cause the building to be razed or removed [in accordance with § 108.1. For purposes of coordination and compliance, and pursuant to § 15.1-29.21 of the Code of Virginia, the local governing body may abate, raze or remove such public nuisance and bring action against the owner or responsible party to recover the costs incurred for such razing and removal] .

[*Note: A local governing body may, after official action pursuant to § 15.1-29.21 or 15.1-11.2 of the Code of Virginia, maintain an action to compel a responsible party to abate, raze, or remove a public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the governing body of the county,*

city or town may abate, raze, or remove such public nuisance, and a county, city or town may bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.]

SECTION 106.0. APPEAL TO THE LOCAL BOARD OF BUILDING CODE APPEALS.

106.1. Grounds for appeal: The owner of a building or the owner's agent may appeal from a decision of the code official to the local Building Code Board of Appeals established under Volume I of the USBC within 21 calendar days after the notice is served when it is claimed that:

1. The code official has refused to grant a modification of the provisions of the code;
2. The true intent of this code has been incorrectly interpreted;
3. The provisions of this code do not fully apply;
4. The use of a form of compliance that is equal to or better than that specified in this code has been denied.

106.2. Form of application: Applications for appeals shall be submitted in writing to the Local Building Code Board of Appeals.

106.3. Notice of meeting: The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 30 calendar days of the filing of an appeal.

106.4. Hearing open to public: All hearings shall be public in accordance with the Virginia Freedom of Information Act. The appellant, the appellant's representative, the code official of the jurisdiction and any other person whose interest may be affected by the matter on appeal, shall be given an opportunity to be heard.

106.5. Postponement of hearing: A quorum shall be more than 50% of the board. When a quorum of the board, as represented by members or alternates, is not present to consider a specific appeal, either the appellant, the building official or their representatives may, prior to the start of the hearing, request a single postponement of the hearing of up to 14 calendar days. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the building official.

106.6. Form of decision, notification: Every action of the board on an appeal shall be by resolution. Certified copies shall be furnished to the appellant, to the building official, and to the code official.

106.7. Enforcement of decision: The code official shall take

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immediate action in accordance with the decision of the board.

SECTION 107.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

107.1. Appeal to the State Building Code Technical Review Board: Any person aggrieved by a decision of the local Board of Building Code Appeals, who was a party to the appeal, may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 21 calendar days of receipt of the decision of the local appeals board by the aggrieved party.

107.2. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the code official shall take immediate action in accordance with the decision.

107.3. Court review: Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board shall be to the circuit court of original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4 of Chapter 1.1:1 of Title 9 of the Code of Virginia.

SECTION 108.0. DEMOLITION OF BUILDINGS.

108.1. Procedures for demolition: Whenever a building is to be demolished pursuant to any provision of this code, the work shall be carried out in compliance with the requirements of Volume I of the USBC.

SECTION 109.0. SPECIAL PROVISIONS.

109.1. General: The provisions of this section contain requirements for improving the safety of certain buildings by requiring the installation of materials or equipment not originally required. Unless otherwise noted, these provisions shall apply equally to both pre- and post-USBC buildings.

109.2. Hotels and motels: Existing hotels and motels shall comply with the provisions of this section.

109.2.1. Fire sprinkler system: An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment (effective date March 1, 1990), for Use Group R-1, shall be installed throughout existing hotels and motels by either March 1, 1997, or within seven years of the date upon which an adequate water supply is made available to meet the needs of the suppression system, whichever is later.

Exceptions:

1. Hotels and motels that are equipped throughout with an automatic sprinkler system.

2. Hotels and motels which are three stories or less in height.

109.2.2. Single and multiple station smoke detectors: Single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group R-1, shall be installed in existing hotels and motels by March 1, 1993.

Exception: Hotels and motels that are equipped throughout with single and multiple station smoke detectors.

109.3. Nursing homes and nursing facilities: Existing nursing homes and nursing facilities licensed by the Virginia Department of Health shall comply with the provisions of this section.

109.3.1. Automatic sprinkler system: An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment (effective date October 1, 1990), for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by January 1, 1993, as follows:

1. NFPA 13D Standard for one story buildings.
2. NFPA 13R Standard for buildings two or three stories in height.
3. NFPA 13 Standard for buildings four or more stories in height.

Exceptions:

1. Nursing homes and nursing facilities which are equipped throughout with an automatic sprinkler system.
2. Nursing facilities consisting of certified long-term care beds located on the ground floor of general hospitals.

109.3.1.1. Quick response sprinklers: Quick response sprinklers shall be installed in patient sleeping rooms of buildings subject to § section 109.3.1.

109.3.1.2. Exceptions provided for: Buildings equipped throughout with an automatic fire sprinkler system meeting the requirements of NFPA 13 shall be permitted to use the exceptions provided in the USBC, Volume I, 1987 Edition, Third Amendment including, but not limited to, the following:

1. Section 502.3 (Area Increase)
2. Section 503.1 (Height Increase)
3. Section 610 (Use Group I-2 Areas)
4. Section 807 (Types and Location of Means of Egress)

5. Section 808 (Capacity of Egress Components)

6. Section 809 (Number of Exits)

7. Section 810 (Exit Access Passageways and Corridors)

8. Section 921 (Firestopping and Draftstopping)

109.3.2. Fire protective signaling system: A fire protective signaling system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

Exception: Nursing homes and nursing facilities that are equipped throughout with an automatic fire protective signaling system.

109.3.3. Fire detection system: An automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

109.3.3.1. Fire detection system in existing sprinklered facilities: Nursing homes and nursing facilities that are exempt from § 109.3.1 because of an existing automatic sprinkler system shall install a fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group I-2.

109.4. Homes for Adults: Existing Homes for Adults licensed by the Virginia Department of Social Services shall comply with this section.

109.4.1. Fire protective signaling system and fire detection system: A fire protective signaling system and an automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with a fire protective signaling system and an automatic fire detection system.

109.4.2. Single and multiple station smoke detectors: Battery or AC-powered single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with single and multiple station smoke detectors.

109.5. Identification of handicapped parking spaces: All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with a bottom edge no lower than four feet nor higher than seven feet above the parking surface. Such signs shall be installed in accordance with applicable provisions of the current

edition of Volume I of the USBC by January 1, 1993.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL PROPERTY MAINTENANCE CODE/1990 EDITION.

As provided in Section 101.3 of Volume II - Building Maintenance Code of the 1990 edition of the USBC, the amendments noted in this Addendum shall be made to the BOCA National Property Maintenance Code/ 1990 edition for use as part of the Building Maintenance Code.

ARTICLE 1.

ADMINISTRATION AND ENFORCEMENT.

(A) Article 1, Administration and Enforcement, is deleted in its entirety and replaced with Article 1 of the Building Maintenance Code.

ARTICLE 3.

ENVIRONMENTAL REQUIREMENTS.

(A) Delete Section PM-301.1.

(B) Delete Section PM-301.4.

(C) Delete Section PM-301.5.

(D) Delete Section PM-301.8.

Note: The above sections of this code have been deleted because the agency's Attorney General representative advises that they cannot be interpreted as building regulations under the current language of § 36-97(7) of the Code of Virginia.

[(E) Change Section PM-302.1 to read:

PM-302.1. General: The exterior of all structures, occupied, vacant or otherwise, shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.]

[~~(E)~~ (F)] Change Section PM-302.12 to read:

PM-302.12. Insect screens: During the period from April 1 to December 1 every door, window and other outside opening required for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required for out-swinging doors or other types of openings which

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make screening impractical, provided other approved means, such as air curtains or insect repellent fans are employed.

[(G)] Change Section PM-303.4 to read as follows:

PM-303.4. Lead-based paint: Interior and exterior painted surfaces of dwellings, child and day care facilities, including fences and outbuildings, that contain in excess of 0.5% lead by weight shall be removed or covered in an approved manner. [Any surface to be covered shall first be marked with warnings as to the lead content of such surface.]

ARTICLE 4.

LIGHT, VENTILATION AND SPACE REQUIREMENTS.

(A) Change Section PM-401.1 to read:

PM-401.1. Habitable spaces: Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable space shall be 4.0% of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the building code. Whenever walls or other portions of a structure face a window of any other room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

(B) Delete Section PM-403.10.

ARTICLE 6.

(A) Change Section PM-601.1 to read:

PM-601.1. Residential buildings: Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guest room on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours. The temperature shall be measured at a point 3 feet (914 mm) above the floor and 3 feet (914 mm) from the exterior walls. When the outdoor temperature is below the outdoor design temperature required for the locality by the mechanical code listed in Appendix A, the owner or operator shall not be required to maintain the minimum room temperatures, provided the heating system is operating at full capacity, with supply valves and dampers in a full open position.

(B) Change Section PM-601.2 to read:

PM-601.2. Nonresidential structures: Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during all working hours. The temperature shall be measured at a point 3 feet (914 mm) above the floor and 3 feet (914 mm) from the exterior walls.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

(C) Add new Section PM-603-3 to read:

PM-603.3. Inspection: Routine and periodic inspections shall be performed in accordance with Part X of ASME A-17.1 listed in Appendix A.

ARTICLE 7.

(A) Add new Section PM-704.5.2.

PM-704.5.2. Visual and audible alarms: Visual and audible alarms meeting the requirements of ANSI/UL Standard 1638 and ANSI/NFPA 72G shall be provided in occupancies housing the hard of hearing as required by § 36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be accepted.

ARTICLE 8.

(A) Delete Section PM-801.2.

(B) Delete Section PM-801.3.

ARTICLE 9.

(A) Delete Article 9.

APPENDIX A - REFERENCED STANDARDS.

(A) Change Appendix A as follows:

1. Delete standard reference number BOCA NBC-90, BOCA National Building Code and substitute the Virginia Uniform Statewide Building Code, Volume I 1990 edition.
2. Delete standard reference number BOCA NFPC-90, BOCA National Fire Prevention Code and substitute the Virginia Statewide Fire Prevention Code/1990 Edition.

BOARD OF PSYCHOLOGY

Title of Regulation: VR 565-01-2. Regulations Governing the Practice of Psychology.

Statutory Authority: §§ 54.1-2400 and 54.1-3600 of the Code of Virginia.

Effective Date: January 27, 1993.

Summary:

The final regulations establish the requirements governing the practice of psychology in the Commonwealth of Virginia. The regulations include the educational and experiential requirements necessary for licensure, provide criteria for the written examinations, set the standards of practice, and establish procedures for the disciplining of licensed psychologists. The regulations recognize three classifications of licensees, psychologists, school psychologists, and clinical psychologists who are examined by the Board of Psychology and recommended to the Board of Medicine for licensure.

After receiving and considering public comment, the board made revisions to the proposed regulations which were in response to Governor Wilder's comments on the proposed regulations. The board set aside proposed changes to the regulations pertaining to classifications of psychologists and the supervised internship. Consequently, the board adopted only those changes considered to be "housekeeping" (i.e., deletion of oral examinations and examination fee changes) and made only minor changes necessary for clarification.

Cost to individual candidate for examination and rereview fees cover increased costs as follows:

- 1. The national examination fee is presently \$160 and will increase to \$275 on July 1, 1993;*
- 2. Increases the state written examination fee from \$100 to \$150; and*
- 3. Adds a rereview fee of \$25.*

The increased state examination and rereview fees are required to cover the actual cost to the board to provide these two services. Without these two changes, the board would experience a deficit of approximately \$8,000. Section 54.1-113 of the Code requires all regulatory boards to establish fees that are sufficient but not excessive to cover expenses. The board does not expect any adverse reaction to these fee changes.

In addition the following fees were eliminated:

- 1. Name change fee of \$10. The board determined*

this was unnecessary.

- 2. Oral examination fee of \$100. This was eliminated as required by 1992 General Assembly legislation.*

VR 565-01-2. Regulations Governing the Practice of Psychology.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Applicant" means a person who submits a complete application for licensure with the appropriate fees.

"Board" means the Virginia Board of Psychology.

"Candidate for licensure" means a person who has satisfactorily completed the appropriate educational and experience requirements for licensure and has been deemed eligible by the board to sit for the required examinations.

"Clinical psychologist" means a psychologist who is competent in the diagnosis, prevention, treatment, and amelioration of psychological problems, behavioral or emotional disorders or conditions or mental conditions, by the application of psychological principles, psychological methods, or psychological procedures including but not limited to psychological assessment and evaluation and psychotherapy, which does not amount to the practice of medicine. The definition shall not be construed to limit or restrict any person licensed by a health regulatory board as defined in § 54.1-2500 from rendering services which they are licensed to provide.

"Practice of clinical psychology" means the offering by an individual of services to the public as a clinical psychologist.

"Clinical services" means the rendering of direct psychological services to individuals, families or groups involving the application of principles, methods or procedures of the science and profession of psychology and which includes but is not limited to:

A. "Measuring and testing," which consists of the psychological assessment and evaluation of abilities, attitudes, aptitudes, achievements, adjustments, motives, personality dynamics or other psychological attributes of individuals, or groups of individuals by means of standardized measurements or other methods, techniques or procedures recognized by the science and profession of psychology.

B. "Counseling and psychotherapy," which consists of

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the application of principles of learning and motivation in an interpersonal situation and with the objectives of modification of perception and adjustment; consisting of highly developed skills, techniques, and methods of altering through learning processes, attitudes, feelings, values, self-concept, personal goals and adaptive patterns.

"Demonstrable areas of competence" means those therapeutic and assessment methods and techniques, and populations served, for which one can document adequate graduate training, workshops, or appropriate supervised experience.

"Internship" means supervised and planned practical experience obtained in an integrated training program in a clinical setting included as an integral and required part of the applicant's program of study.

[*"Nonclinical services"* means such psychological services as consultation and evaluation to agencies, industry and other professionals, and shall not mean the assessment, diagnosis, or treatment of behavioral, emotional or nervous disorders. *"Nonclinical services"* means such psychological services as consultation and evaluation for agencies, industry and other professionals, and shall not mean the assessment, diagnosis, or treatment of behavioral, emotional or nervous disorders.]

"Professional psychology program" means an integrated program of doctoral study designed to train professional psychologists to deliver clinical health services in psychology.

"Psychologist" means a person trained in the application of established principles of learning, motivation, perception, thinking, and emotional relationships to problems of personality evaluation, group relations, and behavior adjustment.

"Practice of psychology" means the rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods, or procedures of the science and profession of psychology, and which includes, but is not limited to:

1. *"Measuring and testing,"* which conflicts of the psychological assessment and evaluation of abilities, attitudes, aptitudes, achievements, adjustments, motives, personality dynamics or other psychological attributes of individuals, or groups of individuals, by means of standardized measurements or other methods, techniques or procedures recognized by the science and profession of psychology.

2. *"Counseling and psychotherapy,"* which consists of the application of principles of learning and motivation in an interpersonal situation with the objectives of modification of perception and adjustment, consisting of highly developed skills,

techniques, and methods of altering through learning processes, attitudes, feelings, values, self-concept, personal goals and adaptive patterns.

3. *"Psychological consulting,"* which consists of interpreting or reporting upon scientific fact or theory in psychology, rendering expert psychological opinion, psychological evaluation, or engaging in applied psychological research.

"Regional accrediting agency" means one of the six regional accrediting agencies recognized by the United States Secretary of Education established to accredit senior institutions of higher education.

"School psychologist" means a person who specializes in problems manifested in and associated with educational systems and who utilizes psychological concepts and methods in programs or actions which attempt to improve learning conditions for students or who is employed in this capacity by a public or nonprofit educational institution or who offers to render such services to the public whether or not employed by such an institution.

"Practice of school psychology" means the rendering or offering to render to individuals, groups, organizations, government agencies or the public any of the following services:

1. *"Testing and measuring"* which consists of psychological assessment, evaluation, and diagnosis relative to the assessment of intellectual ability, aptitudes, achievement, adjustment, motivation, personality, or any other psychological attribute of persons as individuals or in groups that directly relates to learning or behavioral problems in an educational setting.

2. *"Counseling"* which consists of professional advisement and interpretive services with children or adults for amelioration or prevention of educationally related problems.

Counseling services relative to the practice of school psychology include, but are not limited to, the procedures of verbal interaction, interviewing, behavior modification, environmental manipulation, and group processes.

Counseling services relative to the practice of school psychology are short term and are situation oriented.

3. *"Consultation"* which consists of educational or vocational consultation or direct educational services to schools, agencies, organizations, or individuals.

Consultation as herein defined is directly related to learning problems and related adjustments.

4. Development of programs such as designing more efficient and psychologically sound classroom

situations and acting as a catalyst for teacher involvement in adaptations and innovations

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual consultation, guidance and instruction with respect to the clinical skills and competencies of the person supervised.

"Supervisor" means an individual who assumes full responsibility for the clinical education and training activities of a person in training and the supervision and provides [the supervision] required by such a person.

§ 1.2. Classification of licensees.

In compliance with § ~~54-936~~ Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia, the board classifies licensees as psychologists, ~~clinical psychologists or school psychologists~~ school psychologists, or clinical psychologists .

A. Psychologist.

The ~~psychologist~~ This license covers the practice of psychology, as defined in § ~~54-936~~ Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia [; which is divided into two designated specialties requiring different sets of skills and knowledge: (i) for providers of clinical services and (ii) for providers of nonclinical services. The psychologist license is designated accordingly as either psychologist (clinical) or psychologist (nonclinical). The licensee's scope of practice is delimited first by the designation of the license and further by the licensee's demonstrable areas of competence which is divided into two designated specialties requiring different sets of skills and knowledge: (i) for providers of clinical services and (ii) for providers of nonclinical services. The psychologist license is designated accordingly as either psychologist (clinical) or psychologist (nonclinical). The licensee's scope of practice is delimited by the designation of the license and further by licensee's demonstrable areas of competence].

B. Clinical psychologist.

This license pertains only to the practice of clinical psychology as defined in ~~Chapter 12, § 54-273 and Chapter 28, § 54-936.f~~ Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia. The candidate for this license, after further investigation and examination by the board, is recommended to the Virginia State Board of Medicine for licensure and subsequent regulation .

C. School psychologist.

This license pertains only to the practice of school psychology as defined in § ~~54-936 b~~ Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia.

§ 1.3. Fees required by the board.

A. The board has established fees for the following:

1. Registration of residency (*per residency request*) \$100
2. Application processing for:
 - (a) Graduates of American institutions for licensure as:
 - (1) Psychologist [(~~clinical or nonclinical~~) (clinical or nonclinical)]..... \$150
 - (2) School psychologist \$150
 - (3) Clinical psychologist \$350
 - (b) Graduates of foreign institutions (in addition to application processing fee) \$150
3. Examinations \$225
4. ~~Reexamination~~ 3. Examinations :
 - (a) Nationally normed standardized examination \$ ~~135~~ 160
Effective July 1, 1993 \$275
 - (b) State written examination \$ 100 150
 - (c) State oral examination \$100
5. 4. Initial license pro-rated portion
..... of \$150
..... biennial
..... renewal fee
6. 5. Biennial renewal of license \$150
7. 6. Late renewal \$10
8. Name change \$10
9. 7. Endorsement to another jurisdiction \$10
10. 8. Additional or replacement wall certificate . \$15
11. 9. Returned check \$15
10. Rereview fee \$25

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board. All fees are nonrefundable.

PART II.
REQUIREMENTS FOR LICENSURE.

§ 2.1. Requirements, general.

A. No person shall practice psychology or school

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psychology in the Commonwealth of Virginia except as provided in the Code of Virginia and these regulations.

B. No person shall practice clinical psychology in the Commonwealth of Virginia except when licensed by the Virginia State Board of Medicine upon recommendation by the Board of Psychology.

C. Licensure of all applicants under subsections A and B of this section shall be by examination by this board.

D. Every applicant for examination by the board shall:

1. Meet the education and experience requirements prescribed in § 2.2 or § 2.3 of these regulations, whichever is applicable for the particular license sought; and

2. Submit to the executive director of the board, not less than [60 90] days prior to the date of the written examination:

a. A completed application, on forms provided by the board;

b. Documentation of having fulfilled the experience requirements of § 2.2 or § 2.3 where applicable; and

c. Endorsement letters from three persons familiar with the applicant's professional work, attesting to the applicant's professional competence and integrity; and

d. c. The application processing fee prescribed by the board; and

3. Have the institution that awarded the graduate degree(s) required in § 2.2 or § 2.3 submit directly to the executive director of the board, at least 60 days prior to the date of the written examination, official transcripts documenting:

a. The graduate work completed; and

b. The award of the degree(s) awarded.

§ 2.2. Education and experience requirements: Graduates of American institutions.

A graduate of an American higher education institution who applies for examination for licensure [as a psychologist, clinical psychologist, or school psychologist] shall meet the requirements of subsection A, B, [or or] C [; or D] of this section, whichever is applicable :

[A. Psychologists: Psychologist.

This is a generic license for all doctoral level specialties except clinical psychologist and school psychologist (as defined by statute and these regulations). Individuals licensed in this category shall practice only within their

own area of education and training as acquired via a doctoral psychology program.

1. Psychologist (nonclinical)-

a. i. Program of study. The psychologist applicant shall hold a doctorate degree in psychology from an institution of higher education accredited by a one of the six regional accrediting agency bodies recognized by the Council on Postsecondary Accreditation. Further, the applicant's program shall conform to the following criteria for doctoral programs in psychology. The doctoral training program shall meet these criteria:

(1) a. The program, wherever it may be administratively housed, it shall be clearly identified and labeled as a psychology program. Such a program and shall specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(2) b. The psychology program it shall stand as a recognizable distinct, coherent organizational entity within the institution.

(3) c. There shall be a faculty of doctoral level psychologists with clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines of psychology training.

(4) d. The program There shall be an integrated, organized sequence of study which ensures broad exposure to the discipline of psychology and culminates in a doctoral degree in psychology.

(5) e. There shall be an identifiable psychology faculty and a psychologist one or more psychologists administratively responsible for the program.

(6) f. The program shall have There shall be an identifiable body of matriculated students who are matriculated in that program for a degree.

g. Programs shall include supervised practice, internship, or field placement experiences which are coherently integrated with course work in a logically sequential manner.

b. Education. The applicant's program shall have included at least one three semester-credit hour course in each of the following areas of study:

(1) Statistics and research design;

(2) Physiological psychology or sensation and perception;

(3) Learning/cognition;

- (4) Social psychology;
- (5) Study of the individual;
- (6) History and systems; and
- (7) Scientific and professional ethics and standards.

2. *Education. The approved program shall have included a minimum of 54 hours that meets the requirements below. The program shall include the following substantive content areas:*

a. Instruction in scientific and professional ethics and standards; research design and methodology; statistics; psychological measurement; and history and systems of psychology;

b. Biological bases of behavior (e.g., physiological psychology; comparative psychology; neuropsychology; sensation; and psychopharmacology);

c. Cognitive-affective bases of behavior (e.g., learning; memory; perception; cognition; thinking; motivation; and emotion);

d. Social bases of behavior (e.g., social psychology; cultural; ethnic; and group processes; sex roles; organizational and systems theory); and

e. Individual behavior (e.g., personality theory; human development; individual differences; and abnormal psychology).

3. *Experience. No supervised experience is required for licensure as a Psychologist (Nonclinical). The applicant shall have completed two years of post-doctoral experiences which are acceptable to the board as related to the practice of psychology; up to one year of predoctoral internship may substitute for one of the two years of the post-doctoral experience required for the psychologist license.*

Post-doctoral experience acceptable to the board shall consist of supervised experience provided by a licensed psychologist, a licensed school psychologist, or a licensed clinical psychologist and shall be a minimum of two hours individual supervision per week.

Applicants possessing two years of two hours per week of supervised post-doctoral experience may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent (in duration, content, and type of internship, and residency) of the supervised experience required.]

[A. Psychologists.

1. Psychologist (nonclinical).

a. Program of study. The applicant shall hold a doctorate in psychology from an institution accredited by a regional accrediting agency. Further, the applicant's program must conform to the following criteria for doctoral programs in psychology.

(1) The program, wherever it may be administratively housed, shall be clearly identified and labeled as a psychology program. Such a program shall specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(2) The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(3) There shall be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(4) The program must be an integrated, organized sequence of study.

(5) There shall be an identifiable psychology faculty and a psychologist responsible for the program.

(6) The program shall have an identifiable body of students who are matriculated in that program for a degree.

b. Education. The applicant's program shall have included at least one three semester-credit hour course in each of the following areas of study:

(1) Statistics and research design;

(2) Physiological psychology or sensation and perception;

(3) Learning/cognition;

(4) Social psychology;

(5) Study of the individual;

(6) History and systems; and

(7) Scientific and professional ethics and standards.

c. Experience. No supervised experience is required for licensure as a psychologist (nonclinical).

2. Psychologist (clinical).

a. The applicant shall hold a doctorate from a professional psychology program in a regionally

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accredited university, which:

(1) Was accredited by the American Psychological Association (APA) prior to the applicant's graduation from the program; or

(2) Was accredited by the APA within four years after the applicant graduated from the program; or]

[(3) If not APA accredited, was a program which met the criteria outlined in § 2.2 A 1 a. Further, the program must have required successful completion by the applicant of all the following:]

[(a) At least one three-semester-credit hour course in each of the areas of study prescribed in subdivision A 1 b of this section for a psychologist (nonclinical).

(b) At least one three-semester-credit hour course in each of the following additional areas of study:

(i) Personality theory;

(ii) Diagnostic interviewing and behavioral assessment;

(iii) Psychometric, psychodiagnostic, and projective testing;

(iv) Psychopathology;

(v) Psychotherapy, both individual and group; and

(vi) Practicum: Supervision and assessment/diagnosis and psychotherapy; and

(c) A one-year, full-time internship approved by the American Psychological Association (APA) or consistent with the requirements for APA approval and approved by the applicant's doctoral program.

b. Experience. Applicants shall possess post-doctoral experience as defined in this subparagraph and shall inform the board, when they apply, how they propose to meet this experience requirement. This requirement may be met in one of two ways:

(1) By waiver based on lengthy experience. Applicants possessing many years of relevant post-doctoral experience in another jurisdiction may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent of the supervised experience required in subdivision A 2 b (2) described below; or]

[4. (2)] Residency requirements. The applicant under this provision shall show documentation of a previous residency or request approval to begin a current residency with the following conditions:

a. Applicants shall apply for licensure and residency concurrently.

b. Prior to initiating the proposed residency training, the applicant shall:

(1) Register with the board;

(2) Pay the registration fee;

(3) Submit an agreement signed by the applicant and proposed Virginia licensed supervisor(s) stating the nature of the services to be rendered, the number of hours of supervision, and the nature of the supervision; and

(4) Receive approval from the board to begin the residency training. (Applicants who do not apply before beginning residency training, cannot be guaranteed the residency will be approved.)

c. Supervision shall be provided by a licensed psychologist, clinical psychologist, or school psychologist.

d. The supervisor shall not provide supervision for activities beyond the supervisor's demonstrable areas of competence, nor for activities for which the applicant has not had appropriate education and training.

e. There shall be a minimum of two hours of individual supervision per week. Group supervision of up to five residents may be substituted for one of the two hours per week on the basis that two hours of group supervision equals one hour of individual supervision, but in no case shall the resident receive less than one hour of individual supervision per week.

f. Residents may not call themselves psychologists, clinical psychologists, or school psychologists; solicit clients; bill for services; or in any way represent themselves as professional psychologists. During the residency period they shall use their names, the initials of their degree, and the title, "Resident in Psychology."

g. At the end of the residency training period, the supervisor(s) shall submit to the board, a written evaluation of the applicant's performance.

h. The applicant shall not continue in residency status for more than three years.

2. Psychologist (clinical):

a. The applicant shall hold a doctorate from a professional psychology program in a regionally accredited university, which:

(1) Was accredited by the American Psychological Association (APA) prior to the applicant's graduation from the program; or

(2) Was accredited by the APA within four years after the applicant graduated from the program; or

(3) If not APA accredited, was a program from which the applicant received the doctorate before January 1, 1993, and which met the criteria outlined in § 2.2.A.1.a. Further, the program shall have required successful completion by the applicant of all the following:

(a) At least a one three semester-credit hour course in each of the areas of study prescribed in A.1 b of this section for a psychologist (nonclinical);

(b) At least a one three semester-credit hour course in each of the following additional areas of study:

(i) Personality theory;

(ii) Diagnostic interviewing and behavioral assessment;

(iii) Psychometric, psychodiagnostic, and projective testing;

(iv) Psychopathology;

(v) Psychotherapy, both individual and group; and

(vi) Practicum: Supervision in assessment/diagnosis and psychotherapy; and

(c) A one year, full time internship approved by the American Psychological Association (APA) or consistent with the requirements for APA approval and approved by the applicant's doctoral program.

b. Experience Applicants shall possess post doctoral experience as defined in this subparagraph and shall inform the board, when they apply, how they propose to meet this experience requirement. This requirement may be met in one of two ways:

(1) By waiver based on lengthy experience. Applicants possessing many years of relevant postdoctoral experience may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent of the supervised experience required in § A.2.b(2) described below; or

(2) By residency. The applicant under this provision shall have successfully completed a one year, full time, post doctoral residency, or its equivalent in part time experience, for a period not to exceed three years, consisting of supervised experience in the delivery of clinical services and fulfilling the

following conditions:

(a) Applicants shall apply for licensure before the board can approve the beginning of their residency training.

(b) Prior to initiating the proposed residency training, the applicant shall: (i) Register with the board; (ii) Pay the registration fee; and (iii) Submit an agreement signed by the applicant and proposed supervisor(s) stating the nature of the services to be rendered and the nature of the supervision.

(c) Supervision shall be provided by a licensed psychologist or licensed clinical psychologist. However, in order for the applicant to obtain specialized training, up to one half of the required supervision may be provided by a senior licensed mental health professional.

(d) The supervisor shall not provide supervision for activities beyond the supervisor's demonstrable areas of competence, nor for activities for which the applicant has not had appropriate education.

(e) There shall be a minimum of two hours of individual supervision per week. Group supervision of up to five residents may be substituted for one of the two hours per week on the basis that two hours of group supervision equals one hour of individual supervision, but in no case shall the applicant receive less than one hour of individual supervision per week.

(f) Residents may not call themselves psychologists, solicit clients, bill for services, or in any way represent themselves as professional psychologists. During the residency period they shall use their names, the initials of their degree, and the title "Resident in Psychology."

(g) At the end of the residency training period, the supervisor(s) shall submit to the board a written evaluation of the applicant's performance.

(h) The applicant shall not continue in full time residency status for more than three years.

B. Clinical psychologist. The applicant for examination for licensure as a clinical psychologist shall possess the same educational qualifications and shall have met the same experience requirements as those prescribed for a Psychologist (Clinical) in A.2.a. and A.2.b. respectively of this section.

[*This is a specialty license for doctoral level psychologists who have successfully completed a graduate program which provides training in clinical psychology activities.* The applicant for examination for licensure as a clinical psychologist shall possess the same educational qualifications and shall have met the same experience

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requirements as those prescribed for a psychologist (clinical) in subdivisions A 2 a and A 2 b respectively of this section.]

[1. *Program of study.* The applicant shall hold a doctorate degree in psychology from an institution of higher education accredited by one of the six regional accrediting bodies recognized by the Council of Postsecondary Accreditation.

a. It shall be clearly identified and labeled as a psychology program and shall specify in institutional catalogues and brochures its intent to educate and train professional psychologists in clinical psychology activities.

b. It shall stand as a distinct, coherent organizational entity within the institution.

c. There shall be a faculty of doctoral level psychologists with clear authority and primary responsibility for the core and specialty areas of psychology training.

d. There shall be an integrated, organized sequence of study which ensures broad exposure to the discipline of psychology and culminates in a doctoral degree in psychology.

e. There shall be one or more psychologists administratively responsible for the program.

f. There shall be an identifiable body of matriculated students.

2. *Education.* The approved program shall have included a minimum of 54 hours that meets the requirements below. The program shall include the following substantive content areas:-

a. Instruction in scientific and professional ethics and standards; research design and methodology; statistics; psychological measurement; and history and systems of psychology;

b. Biological bases of behavior (e.g., physiological psychology, comparative psychology, neuropsychology, sensation, psychopharmacology);

c. Cognitive-affective bases of behavior (e.g., learning, memory, perception, cognition, thinking, motivation, emotion);

d. Social bases of behavior (e.g., social psychology, cultural, ethnic, and group processes; sex roles; organizational and systems theory);

e. Individual behavior (e.g., personality theory, human development, individual differences, abnormal psychology); and

f. Clinical psychology services (e.g., diagnostic interviewing or behavioral assessment, psychological testing, psychopathology, individual psychotherapy, group psychotherapy, and family psychotherapy)-

g. Programs shall include successful completion of a doctoral level internship in psychology which meets the following requirements:-

(1) A full-time experience either for one calendar year, or two years of half-time experience and may or may not be in a single agency.-

(2) There should be at least two interns in the setting.-

(3) The internship program setting should develop and distribute descriptive materials in which the goals and content of the training program are accurately and explicitly formulated.-

(4) The internship program should provide supervised experience in an organized sequence of clinical psychology activities and exposure to a variety of problems.-

(5) Interns should learn and apply ethical standards in their practice of psychology.-

(6) Two hours per week of individual supervision must be provided.-

(7) Regular evaluations including observations of the interns' professional functioning are given to the intern.-

3. *Experience.* The applicant shall have completed two years of post-doctoral experiences which are acceptable to the board as related to the practice of psychology; up to one year of predoctoral internship may substitute for one of the two years of the post-doctoral experience required for the clinical psychologist license.-

Post-doctoral experience acceptable to the board shall consist of supervised experience provided by a licensed clinical psychologist and shall be a minimum of two hours individual supervision per week.-

Applicants possessing two years of two hours per week of supervised post-doctoral experience may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent (in duration, content, and type of internship, and residency) of the supervised experience required in clinical psychology activities.-

4. *Residency requirements.* The applicant under this provision shall show documentation of a previous residency or request approval to begin a current residency with the following conditions:-

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- a. Applicants shall apply for licensure and residency concurrently-
- b. Prior to initiating the proposed residency training, the applicant shall:
 - (1) Register with the board;
 - (2) Pay the registration fee;
 - (3) Submit an agreement signed by the applicant and proposed Virginia licensed supervisor(s) stating the nature of the services to be rendered, the number of hours of supervision, and the nature of the supervision; and
 - (4) Receive approval from the board to begin the residency training. (Applicants who do not apply before beginning residency training, cannot be guaranteed the residency will be approved.)
- c. Supervision shall be provided by a Virginia licensed clinical psychologist.
- d. The supervisor shall not provide supervision for activities beyond the supervisor's demonstrable areas of competence, nor for activities for which the applicant has not had appropriate education and training.
- e. There shall be a minimum of two hours of individual supervision per week. Group supervision of up to five residents may be substituted for one of the two hours per week on the basis that two hours of group supervision equals one hour of individual supervision, but in no case shall the resident receive less than one hour of individual supervision per week.
- f. Residents may not call themselves psychologists, clinical psychologists, or school psychologists; solicit clients; bill for services; or in any way represent themselves as professional psychologists. During the residency period they shall use their names, the initials of their degree, and the title, "Resident in Clinical Psychology."
- g. At the end of the residency training period, the supervisor(s) shall submit to the board a written evaluation of the applicant's performance.
- h. The applicant shall not continue in residency status for more than three years.]

[C. School psychologist.

This is a specialty license for master's level psychologists and above who have successfully completed a program which provides training in school psychology activities-

- 1. Program of study: The applicant shall hold at least a master's degree in school psychology from an institution of higher education accredited by one of the six regional accrediting bodies recognized by the Council of Postsecondary Accreditation--
- 2. Education: The applicant shall hold at least a master's degree in school psychology, with a degree that is based on a minimum of at least 60 semester credit hours, from a college or university accredited by a regional accrediting agency. The program requirements shall and includes the following :
 - a. Reflect a planned, integrated, and supervised program of graduate study as outlined for programs approved by the American Psychological Association (APA) or by the National Council for the Accreditation of Teacher Education (NCATE); and
 - b. Include an internship approved by the applicant's training program--
 - c. It shall be clearly identified and labeled as a school psychology program and shall specify in institutional catalogues and brochures its intent to educate and train professional psychologists--
 - d. It shall stand as a distinct, coherent organizational entity within the institution--
 - e. There shall be a faculty of psychologists with clear authority and primary responsibility for the core and specialty areas of school psychology training--
 - f. There shall be an integrated, organized sequence of study which ensures broad exposure to the discipline of school psychology and culminates in a school degree in psychology--
 - g. There shall be one or more psychologists administratively responsible for the program--
 - f. There shall be an identifiable body of matriculated students--
 - g. Programs shall include successful completion of a master's level internship in school psychology--
 - h. The approved program shall have included a minimum of 60 hours that meet the requirements below. The program shall include the following substantive content areas:
 - (1) Psychological Foundations
 - (2) Educational Foundations
 - (3) Assessment and Intervention
 - (4) Statistics and Research Design

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(5) Professional School Psychology

2. 3. Experience. Applicants shall possess post-master's degree experience as defined in this section and shall inform the board, when they apply as to how they propose to meet this experience requirement. This requirement may be met in one of two ways: *The applicant shall have completed two years of post-master experiences which are acceptable to the board as related to the practice of psychology; up to one school year of premaster internship may substitute for one of the two years of the post-master graduate experience required for the school psychologist license.*

Post-master experience acceptable to the board shall consist of supervised experience provided by a licensed school psychologist, licensed psychologist, or licensed clinical psychologist and shall be a minimum of two hours individual supervision per week.

Applicants possessing two years of two hours per week of post-masters experience may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent (in duration, content, and type of internship, and residency) of the supervised experience required. }

a. By waiver based on lengthy experience. Applicants possessing many years of relevant post-master's degree experience may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent of the supervised experience required in C.2.b described below; or

b. By residency. Subsequent to completing the graduate degree program, the applicant shall have completed a full-time residency of at least one school year, or the equivalent in part-time experience during a period not to exceed three years, consisting of supervised experience in the delivery of school psychological services and fulfilling the following conditions:

[C. School psychologist.

1. Education. The applicant shall hold at least a master's degree in school psychology, with a minimum of at least 60 semester credit hours, from a college or university accredited by a regional accrediting agency. The program requirements shall:

a. Reflect a planned, integrated, and supervised program of graduate study as outlined for programs approved by the American Psychological Association (APA) or by the National Council for the Accreditation of Teacher Education (NCATE); and

b. Include an internship approved by the applicant's

training program.

2. Experience. Applicants shall possess post-master's degree experience as defined in this section and shall inform the board when they apply as to how they propose to meet this experience requirement. This requirement may be met in one of two ways:

a. By waiver based on lengthy experience. Applicants possessing many years of relevant post-master's degree experience in another jurisdiction may obtain a waiver of residency requirements by demonstrating to the board that they have received the substantial equivalent of the supervised experience required in subdivision C 2 b described below:]

[b. By residency. The applicant shall show documentation of a previous full-time residency of at least one school year, or the equivalent in part-time experience or request approval to begin a current residency with the following conditions:]

[4. Residency requirements. The applicant under this provision shall show documentation of a previous residency or request approval to begin a current residency with the following conditions:]

[~~(1)~~ a. (1)] Applicants must shall apply for licensure before the board can approve the beginning of their residency training and residency concurrently .

[~~(2)~~ b. (2)] Prior to the proposed residency training, the applicant shall:

[~~(a)~~ ~~(1)~~ (a)] Register with the board;

[~~(b)~~ ~~(2)~~ (b)] Pay the registration fee; and

[~~(c)~~ ~~(3)~~ (c)] Submit an agreement signed by the applicant and proposed Virginia licensed supervisor(s) stating the nature of the services to be rendered , the number of hours of supervision, and the nature of the supervision ; and

[~~(4)~~ (d)] Receive approval from the board to begin the residency training. (Applicants who do not apply before beginning residency training, cannot be guaranteed the residency will be approved).

~~(3)~~ c. The supervisor shall be a Supervision shall be provided by a licensed school psychologist, licensed psychologist, or licensed clinical psychologist.

~~(4)~~ d. The supervisor shall not provide supervision for activities beyond the supervisor's demonstrable areas of competence, nor for activities for which the applicant has not had appropriate education and training .

(5) e. There shall be a minimum of two hours of individual supervision per week. Group supervision of up to five residents may be substituted for one of the two hours per week on the basis that two hours of group supervision equals one hour of individual supervision, but in no case shall the resident receive less than one hour of individual supervision per week.

(6) f. Residents may not call themselves ~~school psychologists, psychologists, clinical psychologists, or school psychologists~~; solicit clients; bill for their services; or in any way represent themselves as professional ~~school~~ psychologists. During the residency period they shall use their names, the initials of their degree, and the title, "Resident in School Psychology."

(7) g. At the end of the residency training period, the supervisor(s) shall submit to the board a written evaluation of the applicant's performance.

(8) h. The applicant shall not continue in full-time residency status for more than three years.

D. Applicants for additional licenses.

To obtain additional licenses, all requirements shall be met as prescribed by the board. Applicants shall complete a new application and submit new application fees. A complete new application process may be initiated at the board's discretion.

§ 2.3. Graduates of foreign institutions.

A graduate of a foreign higher education institution who applies for examination for licensure as a psychologist or clinical psychologist shall:

1. Hold a doctorate in psychology;
2. Present documentation that the degree is from a planned, integrated, and supervised program of graduate study that meets requirements judged by the board to be ~~consistent~~ *equivalent* with the requirements [~~for approval by the American Psychological Association (APA) or consistent with those requirements prescribed by the board and met by approved specified in § 2.2 for for approval by the American Psychological Association (APA) or equivalent with those requirements prescribed by the board and met by approved~~] domestic institutions;
3. Meet the course and practicum requirements outlined in § 2.2; and
- [3. Meet the course and practicum requirements outlined in § 2.2; and]
- [~~4. 3.~~ 4.] Pay the application processing fee prescribed in § 1.3 for graduates of foreign

institutions.

[§ 2.4. Out-of-state applicants with lengthy experience.

An applicant who is licensed in another state may practice in Virginia in accordance with the provisions of this section.

A. Until such time as the applicant receives a Virginia license, the applicant may practice only under the supervision of a Virginia licensee.

B. The supervised practice of the applicant shall be performed in accordance with all of the provisions prescribed in these regulations for a residency. After a Virginia license is granted, the applicant may terminate residency status and begin independent practice.

C. The applicant shall take the examination(s) deemed appropriate by the board within one year of board approval of application.

D. The applicant may not practice independently until the Virginia license is granted.

§ 2.4. Out-of-state applicants with lengthy experience.

An applicant who is licensed in another state may practice in Virginia in accordance with the provisions of this section.

A. Until such time as the applicant receives a Virginia license, the applicant may practice only under the supervision of a Virginia licensee.

B. The supervised practice of the applicant shall be performed in accordance with all of the provisions prescribed in these regulations for a residency. After a Virginia license is granted, the applicant may terminate residency status and begin independent practice.

C. The applicant shall take the examination(s) deemed appropriate by the board within one year of board approval of application.

D. The applicant may not practice independently until the Virginia license is granted.]

PART III. EXAMINATIONS.

§ 3.1. General examination requirements.

A. In order to be licensed, each candidate shall take and pass the examination(s) determined by the board to be required according to the candidate's individual qualifications under the general provisions of this section. The complete examination process consists of ~~three~~ *two* components.

1. A nationally normed standardized examination in

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the practice of psychology;

2. The Board of Psychology written examination; examination(s).

3. The Board of Psychology oral examination.

B. An applicant enrolled in an approved residency training program required in § 2.2 who has met all requirements for licensure shall be eligible to take both the national and state written examinations.

C. Waivers; modifications.

1. Diplomate applicant. The board may waive the written examination(s) , *except for the state jurisprudence examination*, for an applicant who has been awarded a diploma by the American Board of Professional Psychology in [either clinical, counseling or school psychology *any specialty categories but only in the licensed categories specified in § 2.2* A either clinical, counseling, or school psychology].

2. Endorsement. The board may waive *only* the national written examinations examination for an applicant licensed or certified in another jurisdiction by standards and procedures equivalent to those of the board *and meeting the educational requirements set forth in these regulations. The state written examination(s) cannot be waived* .

D. Examination schedules.

1. The written examinations shall be administered at least twice a year.

2. The oral examination shall be scheduled after the results of the written examinations are known.

E. D. Notice.

1. At least 30 days prior to the date of examinations, the executive director will notify all candidates in writing of the time and place of examinations.

2. The candidate shall then submit the applicable fees.

3. If the candidate fails to appear for the examination without providing written notice at least two week before the examination, the examination fee shall be forfeited.

F. E. Deferrals by candidate: time limit.

A candidate licensed in another jurisdiction shall follow the requirements in § 2.2.

A candidate approved by the board to sit for an examination *and who has never been licensed in any jurisdiction* shall take that examination within two years of the date of the initial board approval. If the candidate

has not taken the examination by the end of the two-year period here prescribed:

1. The initial board approval to sit for the examination shall then become invalid; and

2. In order to be considered for the examination later, the applicant shall file a complete new application with the board and pay the applicable fee.

§ 3.2. Written examinations.

A. The nationally normed standardized examination in the practice of psychology.

1. This examination shall consist of multiple-choice questions that sample a broad range of psychology content areas.

2. A passing grade shall be a score that is [~~no lower than one-half standard deviation below the national mean determined by the board~~] for all doctoral-level examinees.

B. The Board of Psychology written examination.

1. [~~This examination consists~~ *These examination(s) may consist*] of essay or [~~multiple-choice~~ *multiple choice*] questions related to:

a. The practice area for which licensure is sought of *psychology* ; and

b. Virginia laws and board regulations governing the practice of psychology.

2. A passing score shall be ~~65%~~ of the total possible points in each of the two areas of the examination *determined by the board* .

§ 3.3. Oral examination.

A. ~~Except as provided in § 3.1.D, admission to the oral examination shall be contingent upon:~~

1. ~~The candidate's having passed the written examinations;~~

2. ~~Successful completion of any required residency training program in addition to all other requirements of § 2.2.~~

B. ~~Candidates who pass the written examinations will be notified by the board of the time and place of the oral examination.~~

C. ~~The oral examination will consist of a structured, experimental assessment of the candidates' abilities to apply their knowledge. The examination will be conducted by the board or its designees.~~

D. Candidates will be graded on their responses to the items of the oral examination and a passing grade shall be 65% of correct or appropriate answers.

§ 3.4. Reexamination.

Reexamination of candidates will be required only on the examinations failed.

A. After paying the reexamination fee, a candidate may be reexamined once within a 12-month period after the failed examinations without filing a formal reapplication and without presenting evidence of additional education or experience.

B. A candidate who fails any examination twice shall wait at least one year between the second failure and the next examination scheduled reexamination. Such candidate shall submit to the board:

1. An updated application;
2. Documentation of additional education or experience gained since the last failure; and
3. New application and examination fees *fee(s)* as prescribed by the board.

PART IV. LICENSURE.

§ 4.1. Licensure.

A. Upon payment of the prorated portion of the biennial licensure fee prescribed by the board, the board will issue to each successful candidate a license to practice as a psychologist or school psychologist.

B. The board will recommend to the Board of Medicine each successful candidate the Board of Psychology examines for licensure as a clinical psychologist.

[C. A psychologist, clinical psychologist or school psychologist who desires to practice in other areas of psychology shall obtain a license from this board for the additional area in which the licensee seeks to practice.

C. A psychologist, clinical psychologist or a school psychologist who desires to practice in other areas of psychology shall obtain a license from this board for the additional area in which the licensee seeks to practice.]

PART V. LICENSURE RENEWAL; REINSTATEMENT ; NAME CHANGE .

§ 5.1. Biennial renewal of licensure.

Every license issued by the board shall expire on June 30 of each odd-numbered year.

A. Every licensee who intends to continue to practice shall, by June 30 of each odd-numbered year, submit to the board:

1. A license renewal application on forms supplied by the board; and
2. The renewal fees prescribed in § 1.3.

B. Failure of a licensee to receive a renewal notice and application form(s) from the board shall not excuse the licensee from the renewal requirement.

§ 5.2. Late renewal; reinstatement.

A. A person whose license has expired may renew it within four years after its expiration date by paying the penalty fee prescribed in § 1.3 and the license renewal fee for each year the license was not renewed.

B. A person whose license has not been renewed for four years or more and who wishes to resume practice shall:

1. Present evidence satisfactory to the board regarding continued competency to perform the duties regulated by the board; and
2. Upon approval for reinstatement, pay the penalty fee and the license fee for each renewal period the license was not renewed, as prescribed by the board and pay a rereview fee as prescribed in § 1.3 .

§ 5.3. Legal change of name.

A. An individual practicing under a license issued by the board shall ensure that the current license bears the current legal name of that individual.

B. A licensee whose name is changed by marriage or court order shall promptly:

1. Notify the board of such change and provide a copy of the legal paper documenting the change;
2. Pay the "name change" fee prescribed in § 1.3;
3. Request and obtain from the board a new license bearing the individual's new legal name; and
4. Practice only under such new legal name.

PART VI. ADVISORY COMMITTEES.

§ 6.1. Advisory and examining committees.

A. The board may establish examining and advisory committees to assist it in evaluating the professional qualifications of applicants and candidates for licensure and in other matters.

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B. The board may establish an advisory committee to evaluate the mental or emotional competence of any licensee or candidate for licensure when such competence is at issue before the board.

C. The chair of all advisory and examining committees shall be a member of the Board of Psychology or board designee who will moderate the proceedings and report the results to the full board.

PART VII. STANDARDS OF PRACTICE; UNPROFESSIONAL CONDUCT; DISCIPLINARY ACTIONS; REINSTATEMENT.

§ 7.1. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Persons licensed by the board shall:

1. Provide only services and use only techniques for which they are qualified by training and experience.
2. When advertising services to the public, ensure that such advertising is neither fraudulent nor misleading.
3. Represent accurately their competency, education, training and experience.
4. Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services.
5. Make advance financial arrangements that safeguard the best interests of and are clearly understood by their clients.
6. Refrain from undertaking any activity in which their personal problems are likely to lead to inadequate or harmful services.
7. Avoid dual relationships with clients that could impair professional judgment or compromise the client's well being (to include *but not limited to* treatment of close friends, relatives, employees and sexual intimacies with clients ; *bartering services; romantic or sexualized relationships with any current [or former] supervisee*).
8. Avoid any action that will violate or diminish the legal and civil rights of clients or of others who may be affected by the action.
9. Keep confidential their professional relationships with clients, including their records and reports, except when a client is a danger to self or others, or

when the licensee is under a court order to disclose such information.

10. Terminate a ~~clinical or consulting~~ *professional psychological* relationship when it is clear that services are not benefiting the client.

11. Ensure that the welfare of clients is not compromised in any experimentation or research involving those clients.

12. Report to the board known violations of the laws and regulations governing the practice of psychology.

13. Represent oneself as a licensed psychologist only when licensed by the board as a psychologist.

14. Represent oneself as a licensed school psychologist only when licensed by the board as a school psychologist.

15. Represent oneself as a licensed clinical psychologist or otherwise use variations of the description clinical psychology to describe one's practice only when licensed by the Board of Medicine as a clinical psychologist.

16. Not represent oneself as "board certified" without specifying the complete name of the specialty board.

17. Keep pertinent, confidential records for at least seven years with adults and organization and 10 years with minors after termination of services to any consumer.

~~[18. Recognize the potential adverse interpretation and consequences from physically touching clients who have certain traumatic histories or diagnoses and shall not touch a client when doing so may result in adverse interpretations and consequences.]~~

§ 7.2. Grounds for revocation, suspension, or denial of renewal of license.

A. In accordance with ~~§ 54-920(g)~~ § 54.1-2400 of the Code of Virginia, the board may, after a hearing, revoke, suspend or decline to renew a license for just cause.

B. Action by the board to revoke, suspend or decline to renew a license shall be taken in accord with the following conduct:

1. Conviction of a felony or misdemeanor involving moral turpitude.
2. Procuring of a license by fraud or misrepresentation.
3. Misuse of drugs or alcohol to the extent that it interferes with professional functioning.

4. Negligence in professional conduct or violation of practice standards.

5. Performing functions outside areas of competency.

6. Mental, emotional, or physical incompetence to practice the profession.

7. Violating or aiding and abetting another to violate any provision of Chapter ~~28~~ 36 of Title ~~54~~ 54.1 of the Code of Virginia; any other statute applicable to the practice of the profession regulated; or any provision of these regulations.

C. Appeal of decision. An appeal may be made to the board for reinstatement upon good cause or as a result of substantial new evidence being obtained that would alter the determination reached in subsection B of this section.

§ 7.3. Reinstatement following disciplinary action.

A. Any person whose license has been suspended, revoked, or not renewed by the board under the provisions of § 7.2 may, two years subsequent to such board action, submit a new application to the board for licensure.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fees applicable at the time of reinstatement, as prescribed by the board.

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COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF HEALTH PROFESSIONS
 BOARD OF PSYCHOLOGY
 5605 West Broad Street, 4th floor
 Richmond, Virginia 23230-1717
 (804) 662-9913

APPLICATION FOR EXAMINATION OR LICENSURE

Application for Licensure as:
 Clinical Psychologist
 Psychologist (Clinical)
 Psychologist Non-Clinical
 School Psychologist

Application Fee:
 \$350
 \$150
 \$150
 \$150

MAKE ALL CHECKS AND MONEY ORDERS PAYABLE TO THE TREASURER OF VIRGINIA

SECTION A — PERSONAL

Name in full _____ Social Security No. _____ Age _____

Residence address _____

Business name and address _____

Birth date _____ Birth place _____

SECTION B — GENERAL INFORMATION

1. Do you hold a diploma from the American Board of Professional Psychology?
 TYPE: Clinical Counseling School

2. Are you licensed or certified in any state as a Psychologist?
 Name of State _____ Date _____ License or Certificate No. _____

3. What do you consider your specialty in psychology?

4. Have you ever been denied the privilege of taking an occupational licensure or certification examination?
 If yes, state what type of occupational examination and write: _____

5. Have you ever failed an examination for occupational licensure or certification? If so, how many times? _____

6. Have you ever had any disciplinary action taken against an occupational license to practice or are any such actions pending? If yes, attach an explanation of such action where such action was taken. _____

7. Have you ever been convicted or pled guilty to or pled not guilty to the violation of any federal or state statute, or other regulation or ordinance or entered into any plea bargain relating to a felony or misdemeanor excluding traffic violations, except for driving under the influence?
 If yes, attach an explanation in detail. _____

YES NO

1. Have you ever been censured, warned, requested to withdraw, or your employment terminated from any health care facility, agency, or practice? If yes, attach an explanation in detail. _____

2. Have you ever been convicted or pled guilty to or pled not guilty to the use of alcohol or drugs or been treated by a licensed physician, or under the care of a professional for substance abuse? If yes, please provide a letter from the treating professional stating the diagnosis, treatment, and prognosis. _____

SECTION C — INTERNSHIP POST-GRADUATE DEGREE SUPERVISED EXPERIENCE

1. INTERNSHIP - To be answered by Clinical Psychologist, Psychologist (Clinical and School Psychologist applicants only).
 Have you completed a one-year, full-time internship? Yes No. If no, please explain: _____

If yes, please state where the internship was completed _____
 Was the internship approved by the American Psychological Association? Yes No.
 For CLINICAL PSYCHOLOGIST AND PSYCHOLOGIST (CLINICAL) applicants, was the internship approved by your school program? Yes No.
 For SCHOOL PSYCHOLOGIST applicants, was your internship approved by your training program? Yes No.
 If yes, please provide a letter from the chairperson of your master's degree program attesting to the approval of your internship. _____

2. POST-DOCTORAL EXPERIENCE - To be answered by Clinical Psychologist and Psychologist (Clinical) applicants.

Have you completed one year of post-doctoral clinical experience under the supervision of a licensed Psychologist, Clinical Psychologist or other licensed mental health professional? Yes No.
 If yes, state where the supervised experience took place _____
 Dates: From _____ To _____
 Hours per week of individual supervision _____ Name of Supervisor _____
 State where licensed _____
 Hours per week of group supervision _____

3. POST-MASTER'S DEGREE EXPERIENCE - To be answered by School Psychologist applicants.

Have you completed one year of post-master's degree experience in the delivery of school psychological services under the supervision of a licensed School Psychologist or licensed Clinical Psychologist? Yes No.
 If yes, state where the supervised experience took place _____
 Dates: From _____ To _____
 Hours per week of individual supervision _____ Name of Supervisor _____
 Hours per week of group supervision _____

SECTION F — OTHER PROFESSIONAL EXPERIENCE (PRACTICUM, EXTERNSHIP)

DATES OF EMPLOYMENT <small>From</small>	EMPLOYER	ADDRESS	HOURS PER WEEK	SUPERVISOR	DUTIES

SECTION G — ADDITIONAL INFORMATION

State any additional information about your education and experience which you feel would be useful to the Board in determining your qualifications for licensure.

SECTION H — AFFIDAVIT

I have this AFFIDAVIT completed by a Notary Public.

State of _____
 County or City of _____

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

Signature of applicant _____ Signature of Notary Public _____
 Subscribed and sworn to before me this _____ day of _____, 19____
 My commission expires _____

SECTION D — EDUCATION

List in chronological order the name and location of each academic institution beyond high school that you have attended.

SITUATION	MAJOR CONCENTRATION	DEGREE RECEIVED	DATE DEGREE WAS APPROVED

SECTION E — PROFESSIONAL EMPLOYMENT EXPERIENCE

List in chronological order the entire professional employment experience you have had. (Use additional sheets if necessary).

DATES OF EMPLOYMENT <small>From</small>	EMPLOYER	ADDRESS	HOURS PER WEEK	SUPERVISOR	DUTIES

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...has performed by applicant under your supervision _____

... your opinion is applicant competent to practice under the license for which the applicant has applied? _____

3. Additional comments _____

DATE _____ SUPERVISOR'S SIGNATURE _____

INTERNSHIP SUPERVISORS ARE TO SEND THIS FORM DIRECTLY TO THE:
Department of Health Professions
Board of Psychology

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF PSYCHOLOGY
4306 West Broad Street, 4th floor
Richmond, Virginia 23220-1707
5041 662-5513

INTERNSHIP VERIFICATION

1. The following information is required in order to determine the eligibility of the above-named applicant for licensure as a
Psychologist, Clinical Psychologist, or School Psychologist.

Applicant's Name _____

1. Professional Supervisor's Name _____

2. Is the supervisor licensed as a mental health professional? Yes No.
- which state is the supervisor licensed? _____

3. License Number _____

4. Clinical Experience? Yes No. Number of years _____

5. Place of Employment _____

6. Address _____

Employment Position _____

7. Length of time you have known the applicant _____

From _____

8. Applicant's internship position _____

9. Number of hours per week of clinical supervision that this applicant received in clinical practice _____

10. Total number of hours of clinical supervision received by the applicant _____

DESCRIBE THE NATURE OF THE INTERNSHIP PROGRAM _____

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COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF HEALTH PROFESSIONS
 BOARD OF PSYCHOLOGY
 5606 West Broad Street, 4th floor
 Richmond, Virginia 23220-1717
 (804) 662-3513

EMPLOYER VERIFICATION

The following information is required in order to determine the eligibility of the above-named applicant for licensure as a Psychologist (Clinical), Clinical Psychologist, or Senior Psychologist.

1. Supervisor's name _____

2. Supervisor's title _____

3. Is the supervisor licensed as a mental health professional? Yes No.

4. License number _____

5. Clinical experience? Yes No. Number of years _____

6. Place of Employment _____

7. Address _____

8. Length of time you have known the applicant _____

9. Applicant's location _____

10. Number of hours per week of clinical supervision that this applicant received in clinical practice _____

11. Total number of hours of clinical supervision received by the applicant _____

12. Duties performed by applicant under your supervision _____

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF HEALTH PROFESSIONS
 BOARD OF PSYCHOLOGY
 5606 West Broad Street, 4th floor
 Richmond, Virginia 23220-1717
 (804) 662-3513

LICENSURE VERIFICATION

APPLICANTS FOR PSYCHOLOGIST LICENSURE IN THE COMMONWEALTH OF VIRGINIA ARE REQUIRED TO SEND A LICENSURE VERIFICATION FORM TO EVERY JURISDICTION IN WHICH THEY CURRENTLY HOLD, OR HAVE HELD, A LICENSE TO PRACTICE AS A PSYCHOLOGIST OR OTHER HEALTH PRACTITIONER FOR THE PURPOSE OF LICENSURE VERIFICATION.

TO: _____ Board of Psychology

FROM: _____

RE: Verification of Licensure in Another Jurisdiction _____

I am applying for licensure as a psychologist in Virginia. Please furnish the information requested below and return the form to the Board of Psychology, Commonwealth of Virginia, at the address given below.

Board of Psychology
 Department of Health Professions
 5601 Rolling Hills Drive, Suite 200
 Richmond, VA 23229-5005

License Number Held _____

Date of Initial Licensure _____

Is the applicant currently licensed and in good standing? _____

If the applicant's license has expired, is the applicant eligible to renew his or her license? Yes No.

If no, please explain: _____

Has there ever been any disciplinary action taken against the applicant's license? Yes No.

If yes, please explain: _____

I certify that the information given is correct.

_____ (Signature)
 _____ (Title)

SEAL

FILE ONLY IF YOU HAVE COMPLETED THE REQUIREMENTS FOR RESIDENCY

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF HEALTH PROFESSIONS
 BOARD OF PSYCHOLOGY
 3506 West Broad Street, 4th floor
 Richmond, Virginia 23220-1717
 (804) 662-5513

POST-DOCTORATE DEGREE or POST-MASTER'S DEGREE VERIFICATION OF SUPERVISION

APPLICANT'S NAME _____ PHONE NO. _____

The following information is required in order to determine the eligibility of the above-named applicant for licensure as a Psychologist, Clinical Psychologist, or School Psychologist.

Supervisor's Name _____

1. Profession _____

2. Is the supervisor licensed as a mental health professional? Yes No.
 - Which state is the supervisor licensed? _____
 - License Number: _____

3. Clinical Experience? Yes No. Number of Years _____

4. Place of Employment _____

5. Address _____
 Number _____
 State _____
 ZIP Code _____

Employment Position _____

Length of time you have known the applicant _____

From _____ to _____

6. Applicant's position _____

Number of hours per week of clinical supervision that this applicant received in clinical practice _____

7. Total number of hours of clinical supervision received by the applicant _____

8. Has completed 1. Applicant under your supervision _____

9. Your condition is applicant competent to practice under the license for which the applicant has applied? _____

Additional comments _____

APPLICANT'S SIGNATURE _____

SUPERVISOR

This completed form must be mailed directly to:

Department of Health Professions
 Board of Psychology

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF PSYCHOLOGY
6606 West Broad Street, 4th floor
Richmond, Virginia 23230-1717
Tel: (804) 786-2313

REGISTRATION FORM

POST-DOCTORATE DEGREE or POST-MASTER'S DEGREE RESIDENCY TRAINING EXPERIENCE
of
or the
BOARD OF PSYCHOLOGY

Registration Fee: \$100
Pass Make All
Checks and Money Orders
Payable to the Treasurer of Virginia

Name of Resident: _____

Degree held: _____

Year: _____

Nature of Services to be Rendered: _____

Number of Hours per Week of Supervision to be Rendered: _____

Name: _____ Supervisor's Signature: _____

Address: _____

City: _____

State: _____

Please refer to the Regulations of the Board of Psychology for qualifications for licensure and supervisory responsibilities:

1. Your section is applicant competent to practice under the license for which the applicant has applied? _____

2. Additional comments _____

APR _____

SUPERVISOR'S SIGNATURE

SUPERVISOR

This completed form must be mailed directly to:

Department of Health Professions
Board of Psychology

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-49. Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program Violation.

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

Effective Date: January 27, 1993.

Summary:

This regulation is being promulgated to establish disqualification penalties in the AFDC program for individuals found to have committed an intentional program violation by a court or pursuant to an administrative disqualification hearing.

VR 615-01-49. Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program Violation.

PART I. DEFINITIONS.

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

"Administrative disqualification hearing (ADH)" means an impartial review by a hearing officer of an individual'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.

"Aid to Families with Dependent Children Program" means the program administered by the Virginia Department of Social Services through which a relative can receive a monthly assistance payment for the support of his children.

"Hearing officer" means an impartial representative of the Department of Social Services to whom requests for administrative disqualification hearings are assigned and by whom they are heard. The hearing officer has the authority to conduct and control hearings and to render decisions.

"Intentional program violation (IPV)" means any action by an individual for the purpose of establishing or maintaining the family's eligibility for Aid to Families with Dependent Children (AFDC) or for increasing or preventing a reduction in the amount of the grant which is intentionally a false or misleading statement or misrepresentation, concealment or withholding of facts or any act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity.

PART II. REFERRAL OF ALLEGED INTENTIONAL PROGRAM VIOLATIONS.

§ 2.1. The agency shall ensure and document that a clear and full explanation is given to the applicant/recipient of the eligibility requirements for the type of assistance he is requesting or receiving; of his responsibility to give complete and accurate information related to his eligibility and to report promptly and fully any changes in his circumstances; and of the provisions of the law with respect to giving false information knowingly or deliberately withholding information that would affect his eligibility for assistance or the amount thereof. The worker shall explain fully what types of changes in his circumstances would have an effect on the grant.

§ 2.2. The local agency shall conduct an investigation of an allegation that an individual has committed an IPV, regardless of the AFDC payment status. A determination as to whether IPV has occurred shall be based on careful consideration of the particular circumstances. A determination shall be made that there has been a deliberate misrepresentation on the part of the applicant/recipient. Consideration should be given to: (i) whether the correct or unreported information was, in fact, known to the applicant/recipient and (ii) whether the applicant/recipient understood the eligibility and reporting requirements.

§ 2.3. An individual may be charged with an IPV even if the individual's application for assistance was denied. It is not required that an overpayment actually exist for there to be a determination of IPV.

§ 2.4. The local agency is required to proceed against any individual alleged to have committed an IPV by referring the matter to the appropriate authorities for criminal action in a federal or state court or through an administrative disqualification hearing (ADH).

§ 2.5. The local agency shall refer a case for prosecution or initiate an ADH regardless of the current eligibility of the individual.

§ 2.6. The local agency must coordinate its actions with any corresponding actions being taken against the individual under the Food Stamp program if the factual issues involved arise out of the same or related circumstances.

§ 2.7. The local agency shall confer with the appropriate legal authorities to determine the types of cases that will be accepted for prosecution and cases of alleged IPV will be referred for prosecution in accordance with the agreement established between the legal authority and the local agency. This agreement shall include information on how and under what circumstances cases will be accepted for possible prosecution and any other criteria set by the prosecutor for accepting cases for prosecution, such as a minimum amount of overpayment which resulted from the IPV. The local agency is encouraged to refer for prosecution those individuals suspected of committing an IPV where large amounts of overpaid benefits are involved or more than one act of IPV is suspected.

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PART III. INTENTIONAL PROGRAM VIOLATION PENALTIES.

§ 3.1. Individuals found to have committed an IPV by either of the following:

1. A court of appropriate jurisdiction
2. Pursuant to an administrative disqualification hearing
3. Waiving his right to an administrative disqualification hearing

shall be ineligible to participate in the AFDC program for the following time periods:

1. Six months for the first offense
2. Twelve months for the second offense
3. Permanently for the third offense

§ 3.2. The disqualification penalty imposed on an individual in one state or locality shall be used in determining the appropriate disqualification penalty.

§ 3.3. Only the individual found guilty of committing an IPV shall be disqualified. The local agency shall not take the individual's needs into account when determining the assistance unit's need and the amount of assistance. However, any resources and income of the disqualified individual will be considered available to the assistance unit.

§ 3.4. The period of disqualification shall begin no later than the first day of the second month which follows the court's decision of guilty or the date on the notice of ADH decision by the hearing officer. If the individual is not eligible for the program at the time the disqualification is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits.

§ 3.5. The disqualification penalty shall be in addition to, and cannot substitute for, any other sanctions or penalties which may be imposed by law for the same offense.

§ 3.6. The disqualification penalty cannot substitute for other sanctions under the AFDC program.

§ 3.7. Any period for which a disqualification period is imposed shall remain in effect, without possibility of an administrative stay, unless and until the finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction. In no event shall the duration of the period for which such penalty is imposed be subject to review in a fair hearing.

§ 3.8. The local agency shall provide all applicants with a written notice of the disqualification penalties for IPV at

the time of application.

PART IV. INITIATION OF AN ADMINISTRATIVE DISQUALIFICATION HEARING.

§ 4.1. In order to request an ADH, the local agency shall ensure that a prehearing investigation has occurred and that the evidence supports the charge of intentional program violation. There must be clear and convincing evidence which demonstrates the individual committed or intended to commit an IPV. Examples of evidence include:

1. Written verification of unreported income or resources received by the individual;
2. Verification that the individual understands his reporting responsibilities by signature on the application/redetermination form or some other form;
3. An application, monthly report or change report submitted during the period the IPV is alleged to have occurred that omits the information in question; and
4. Documented contacts with the individual during the period the IPV is alleged to have occurred in which the individual failed to report the information in question

§ 4.2. Prior to submitting the request for an ADH to the state hearing authority, the local agency shall provide written notification to the individual suspected of an intentional program violation that the individual 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 individual in order to avoid submission of the request for an ADH.

§ 4.3. If a signed waiver is received, no ADH is conducted and the disqualification period is imposed in accordance with federal regulations.

§ 4.4. If a case is referred for an ADH, it shall not be simultaneously referred for prosecution. Cases dismissed in court or individuals acquitted by the court shall not be referred for an ADH.

§ 4.5. The local agency shall request an ADH be scheduled by submitting a written request to the state hearing authority. The form must include the following information:

1. Identifying information;
2. Summary of the allegation(s);
3. Summary of the evidence; and
4. Copies of documents supporting the allegation(s).

The referral is to be signed and dated by the supervisor or local agency director.

§ 4.6. The local agency may combine a fair hearing and an ADH into a single hearing if the factual issues arise out of the same or related circumstances provided that the individual receives prior notice of the consolidation.

PART V. ADVANCE NOTICE OF AN ADH.

§ 5.1. Upon receipt of the request for an ADH from the local agency, the state hearing authority will forward the request to the appropriate regional hearing officer.

§ 5.2. The hearing officer will schedule a date for the ADH and provide written notice to the individual suspected of committing an IPV at least 30 days in advance of the date the ADH has been scheduled.

PART VI. TIME AND PLACE OF THE ADH.

§ 6.1. The time and place of the ADH shall be arranged so that the hearing is accessible to the individual suspected of committing an IPV. The individual 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. The ADH shall not be postponed for more than a total of 30 days and the state hearing authority may limit the number of postponements.

PART VII. FAILURE OF INDIVIDUAL TO APPEAR AT THE ADH.

§ 7.1. The ADH can be held even if the individual fails to appear. The individual has 10 days after the date of the scheduled ADH to present reasons indicating good cause for failure to appear.

§ 7.2. Even though the individual is not represented, the hearing officer shall carefully consider the evidence and determine if an IPV was committed, based on clear and convincing evidence.

§ 7.3. If the household member is found to have committed an IPV but a hearing officer later determines there was good cause for not appearing, the previous decision is no longer valid and a new ADH shall be conducted. The hearing officer who conducted the original hearing may conduct the new hearing. The good cause decision shall be entered into the hearing record by the hearing officer.

PART VIII. PARTICIPATION WHILE AWAITING A HEARING.

§ 8.1. A pending ADH shall not affect the individual's right to participate in the AFDC program. The local agency may not disqualify an individual until the hearing

officer finds that the individual has committed an IPV. This does not preclude, however, the local agency from reducing, suspending or terminating assistance for other reasons.

PART IX. CONDUCT OF THE ADH.

§ 9.1. The ADH is attended by persons directly concerned with the issue at hand. This normally means a representative of the local agency and the individual alleged to have committed the IPV.

§ 9.2. The hearing officer shall:

1. Identify those present for the record;
2. Advise the individual that he may refuse to answer questions during the hearing and that anything said or signed by the individual concerning the charge(s) may be used against him in a court of law;
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 individual or the local agency to request state board review of the hearing officer's decision;
4. Consider all relevant issues. Even if the individual is not present, the hearing 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; and
7. Advise the local agency to obtain a medical assessment at local agency expense if the hearing officer considers it necessary.

§ 9.3. The individual alleged to have committed an IPV 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. The contents of the case file, including the application form and documents of verification used by the local agency to establish the alleged IPV, shall be made available;
2. Present his own case or with the aid of an authorized representative;
3. Bring witnesses;
4. Establish all pertinent facts and circumstances;

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5. Question or refute any testimony or evidence, including the opportunity to confront and cross-examine witnesses; and

6. Advance arguments without any undue influence.

PART X.

NOTIFICATION OF DECISION OF THE ADH.

§ 10.1. The hearing officer is responsible for rendering a decision based on clear and convincing evidence from the facts as presented in the hearing. The hearing officer must substantiate his decision by identifying supporting evidence and applicable regulations.

§ 10.2. The hearing officer shall prepare a written report of the hearing which shall include findings, conclusions, decisions and appropriate recommendations. The decision shall specify the reasons for the decision, identify the supporting evidence, identify pertinent AFDC regulations and respond to reasoned arguments made by the individual or representative.

§ 10.3. The hearing officer shall notify the individual of the decision in writing and of the individual's right to request state board review of the decision.

§ 10.4. If the individual is found guilty of committing an IPV, the written decision shall advise the individual that disqualification shall occur.

§ 10.5. The determination of IPV by the hearing officer cannot be reversed by a subsequent fair hearing.

PART XI.

IMPLEMENTATION OF THE HEARING DECISION.

§ 11.1. Upon receipt of the notice of a decision from the hearing officer finding the individual guilty of an IPV, the local agency shall inform the individual of the reason for the disqualification and the date the disqualification will take effect.

Commonwealth of Virginia
Department of Social Services
NOTICE OF INTENTIONAL PROGRAM VIOLATION

REGISTRATION NUMBER
92 DEC-9 14:51

Name and Address	Case Name	Date
	Case Number	
	Locality	

An investigation of your _____ Aid to Families with Dependent Children case, or _____ Food Stamp case has recently been completed. We have reason to believe you intentionally violated a program rule because (may be continued on reverse):

We have the following evidence to support our case against you (may be continued on reverse):

Therefore, a request for an Administrative Disqualification Hearing for the purpose of proving the above allegation will be made. This hearing determines whether you or another person in your household should be disqualified from participation in the program(s) checked above.

You or your representative may look at the evidence at the local social services department by calling the number below to arrange a convenient time.

You have the right to an Administrative Disqualification Hearing prior to any action taken by the local Department of Social Services to disqualify you from receiving benefits. If you wish, you may waive your right to this hearing. By signing the attached waiver, you will be disqualified from receiving benefits for the period shown below whether or not you admit to the facts as presented.

Aid to Families with Dependent Children
_____ 6 months, 1st violation _____ 12 months, 2nd violation _____ permanently, 3rd violation
Food Stamps
_____ 6 months, 1st violation _____ 12 months, 2nd violation _____ permanently, 3rd violation

If you are not receiving benefits now, you will be subject to the above disqualification penalty whenever you apply for and are found eligible for benefits again.

If you do not sign the attached waiver, an Administrative Disqualification Hearing will be held. If the hearing finds that you committed an Intentional Program Violation, you will be disqualified for the same period of time as shown above.

Neither signing the attached waiver nor holding the hearing shall prevent the State or Federal government from prosecuting you for an Intentional Program Violation in a criminal or civil court action, or from collecting the overpayment or overissuance.

You have the right to remain silent concerning the allegations as anything said or signed by you could be used against you in a court of law.

Worker	Telephone	For Free Legal Advice Call
--------	-----------	----------------------------

012-03-721/1

Commonwealth of Virginia
Department of Social Services
WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING

REGISTRATION NUMBER
92 DEC-9 14:51

Name and Address	Case Name	Date
	Case Number	
	Locality	

The Notice of Intentional Program Violation told you the local agency suspects you intentionally violated a program rule in the _____ Aid to Families with Dependent Children (AFDC) program, or _____ Food Stamp Program. The Notice listed the evidence against you.

Amount of AFDC overpayment \$ _____ Amount of Food Stamp overissuance \$ _____

This form is a WAIVER of an administrative disqualification hearing.

IF YOU CHOOSE TO SIGN THIS WAIVER, you must indicate whether or not you admit to the facts as presented in the Notice of Intentional Program Violation. Please note: You do not have to admit to any of the allegations.

IF YOU ARE NOT THE APPLICANT, THAT PERSON MUST ALSO SIGN THIS WAIVER.

If you choose to sign this waiver, please return it by _____ to avoid scheduling a hearing. Please return the form to:

Agency Name and Address	Telephone	For Free Legal Advice Call
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Check one of the following statements: _____ WAIVER

_____ I admit to the facts as presented and understand that a disqualification penalty will be imposed and a reduction of benefits will occur if I sign this waiver.

_____ I do not admit that the facts presented are correct. However, I have chosen to sign this waiver and understand that a disqualification penalty and reduction of benefits will result.

Signature	Date
Signature of Applicant if Other Than You	Date

012-03-722/1

Commonwealth of Virginia
 Department of Social Services
 ADVANCE NOTICE OF ADMINISTRATIVE DISQUALIFICATION HEARING REGULATIONS

Name and Address	Case Name
	Case Number
	Locality
	Date

The local social service department has recently completed an investigation of your Aid to Families with Dependent Children case, or Food Stamp case. The department believes you committed an intentional violation of a program rule because (continue on reverse, if necessary):

The department has the following evidence to support the case against you (continue on reverse, if necessary):

You or your representative may look at this evidence at the local social service department by calling your local worker to arrange a convenient time.

An Administrative Disqualification Hearing has been scheduled to examine the facts of your case. The hearing will be held at:

Time	Place
Date	

If the hearing officer finds you intentionally violated a program rule, you will be disqualified from receiving benefits for the period shown below (the items checked apply to you):

Aid to Families with Dependent Children
 ___ 6 months, 1st violation ___ 12 months, 2nd violation ___ permanently, 3rd violation
 ___ 6 months, 1st violation ___ 12 months, 2nd violation ___ permanently, 3rd violation
 If you are not receiving benefits now, you will be subject to the above disqualification penalty whenever you apply for and are found eligible for benefits again.

It is important that you or your representative be at the hearing. Otherwise a decision will be based solely on information provided by the local social service department. If you are unable to attend the scheduled hearing, you must contact the local social service department at least 10 days in advance of the hearing date. If you or your representative fail to appear at a scheduled hearing, you must contact the local social service department within 10 days after the date of the hearing and present good reason for your failure to appear in order to receive a new hearing. An explanation of the steps involved in a hearing is enclosed.

(continued on next page)

012-03-724/1

Commonwealth of Virginia
 Department of Social Services
 REFERRAL FOR ADMINISTRATIVE DISQUALIFICATION HEARING REGULATIONS

Case Name	Case Number	Locality
Member Suspected	___ AFDC Violation (circle one) 1 2 3	
Address (include city, state, zip)	Period of IPV	
	Amount of Overpayment \$	
	___ Food Stamps Violation (circle one) 1 2 3	
	Period of IPV	
	Amount of Overissuance \$	

The suspected household member is alleged to have committed the following act(s) of intentional program violation:

We have the following evidence to support our case:

Copies of evidence to be presented at the hearing to prove the allegation are attached, including: 1) Verification or documents to support the charge; 2) Any applications for Aid to Families with Dependent Children or Food Stamps signed by the accused during the time in which the intentional program violation allegedly occurred.

Information in this referral is provided with the knowledge it will be used in reaching a decision on the allegations made in this referral, and will be made available to the accused individual or representative.

Submitted By	Title	Telephone	Date

012-03-725/1

ADVANCE NOTICE OF ADMINISTRATIVE DISQUALIFICATION HEARING

Even though this hearing is scheduled, this does not prevent the State or Federal Government from prosecuting you for an intentional violation of a program rule in a court of law or from collecting the overpayment or overissuance. If you have any questions or need the name and phone number of someone who can give you free legal advice, call the local social service office at:

Hearing Officer	Phone Number
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(Continuation of explanations from page 1, if necessary)

Commonwealth of Virginia
 Department of Social Services
 ADMINISTRATIVE DISQUALIFICATION HEARING DECISION

Name and Address	Case Name
	Case Number
	Locality

On the basis of evidence presented at the Administrative Disqualification Hearing held on _____, it has been determined that you:

_____ DID NOT COMMIT an intentional violation of an Aid to Families with Dependent Children or Food Stamp program rule.
 _____ DID COMMIT an intentional violation of an Aid to Families with Dependent Children or Food Stamp program rule.

If you did commit an intentional program violation, the local agency will disqualify you from receiving benefits for the time shown below:

_____ 6 months, 1st violation _____ 12 months, 2nd violation _____ permanently, 3rd violation
 _____ 6 months, 1st violation _____ 12 months, 2nd violation _____ permanently, 3rd violation
 _____ 6 months, 1st violation _____ 12 months, 2nd violation _____ permanently, 3rd violation

The local agency is responsible for notifying you of the date the disqualification will take effect. Also, the local agency is responsible for notifying you of the effect the disqualification will have on the benefits to be received by any remaining household members. This hearing decision does not prevent the local agency, State or Federal government from asking you to pay back the amount of any extra Aid to Families with Dependent Children benefits or Food Stamp benefits your household was not eligible to receive. The local agency is responsible for sending you a letter requesting repayment.

If you are not satisfied with the hearing decision, you can ask for a review of this decision by the State Board of Social Services by sending a written request within 10 days of receipt of this notice to:

Virginia Department of Social Services
 Chief Hearing Officer
 8007 Discovery Drive
 Richmond, VA 23229

Hearing Officer	Date
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032-03-723/1

YOU HAVE THE RIGHT TO:

- * Look at the evidence that will be used at the hearing both before and during the hearing. Please call the local social service department if you wish to look at the evidence before the hearing. The department will provide a free copy of the portions of your case file that relate to the hearing upon request.
- * Present your own case or have someone present your case for you, such as a lawyer, friend, relative, or community worker.
- * Bring your own witnesses.
- * Argue your case freely.
- * Question or deny any evidence or statements made against you.
- * Bring any evidence you may have that would support your case.
- * Remain silent concerning the charge(s) against you.

Final Regulations

Commonwealth of Virginia
 Department of Social Services
 NOTICE OF DISQUALIFICATION FOR INTENTIONAL PROGRAM VIOLATION

REGISTER OF REGULATIONS
 92 DEC -9 2:10:51

Name and Address	Case Name	
	Case Number	
	Locality	Date

This notice is to inform you of the disqualification of a person from the ___ Aid to Families with Dependent Children (AFDC) program, or ___ Food Stamp Program.

_____ has been disqualified for the amount of time shown:

AFDC ___ 6 months ___ 12 months ___ Permanently
 Food Stamps ___ 6 months ___ 12 months ___ Permanently ___ Other (specify) _____

The reason for the disqualification is shown below:

___ Court of appropriate jurisdiction found the person guilty of committing an intentional program violation of ___ AFDC or ___ Food Stamp policy.

___ An Administrative Disqualification Hearing found the person guilty of committing an intentional program violation of ___ AFDC or ___ Food Stamp policy.

___ The person waived his or her right to an Administrative Disqualification Hearing. The person had been informed that the disqualification penalty would be imposed.

The disqualification period will begin:

___ From the AFDC program, effective _____.

The AFDC payment will change from \$ _____ to \$ _____.

___ If this blank is checked, the disqualification will begin when the person next applies for and is found eligible for AFDC.

___ From the Food Stamp program, effective _____.
 The Food Stamp allotment will change from \$ _____ to \$ _____.

___ If this blank is checked, the disqualification will begin when the person next applies for and is found eligible for food stamps.

Worker	Telephone	For Free Legal Advice Call
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032-03-052/7

VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-04-04. Virginia Breeders Fund.

Statutory Authority: §§ 59.1-369 and 59.1-372 of the Code of Virginia.

Effective Date: January 27, 1993.

Summary:

The Virginia Racing Commission is authorized by § 59.1-369 of the Code of Virginia to promulgate regulations for the licensure, construction and operation of horse racing facilities with pari-mutuel wagering. The regulation sets forth the manner in which the Virginia Breeders Fund shall be disbursed among stallion owners, breeders and owners of Virginia-bred racehorses.

VR 662-04-04. Virginia Breeders Fund.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Breeding season" means a period of time beginning on February 1 and ending on August 1 of each year. For Standardbreds, the breeding season means a period of time beginning February 15 and ending on July 15 of each year.

"Stallion owner" means an owner or lessee of record of a stallion that covered mares in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred horse.

"Virginia-bred Arabian horse" means a registered Arabian horse foaled in the Commonwealth of Virginia.

"Virginia Arabian horse breeder" means the owner or lessee of record of the mare at the time of foaling of a Virginia-bred Arabian horse.

"Virginia Arabian sire" means a registered Arabian stallion that covered mares only in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred Arabian horse.

"Virginia-bred Quarter Horse" means a registered Quarter Horse foaled or conceived in the Commonwealth of Virginia.

"Virginia Quarter Horse breeder" means the owner or lessee of record of the mare at the time of conception of a Virginia-bred Quarter Horse.

"Virginia Quarter Horse sire" means a registered Quarter Horse stallion or registered Virginia Thoroughbred stallion that covered mares only in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred Quarter Horse.

"Virginia-bred Standardbred horse" means a registered Standardbred horse foaled or conceived in the Commonwealth of Virginia. After December 31 of the fifth calendar year following the year in which Standardbred racing first commences in the Commonwealth pursuant to an unlimited license issued by the commission, the horse must be sired by a Virginia Standardbred sire.

"Virginia Standardbred horse breeder" means the owner or lessee of record of the mare at the time of conception of a Virginia-bred Standardbred horse.

"Virginia Standardbred sire" means a registered Standardbred stallion that covered mares only in the Commonwealth of Virginia during the breeding season in which it sired a Virginia-bred Standardbred horse.

"Virginia-bred Thoroughbred horse" means a registered Thoroughbred horse foaled in Virginia and, if foaled in the Commonwealth after December 31 of the second calendar year following the year in which Thoroughbred racing first commences in the Commonwealth pursuant to an unlimited license issued by the commission, shall also satisfy one of the following additional requirements:

1. The foal was sired by a Virginia Thoroughbred sire; or
2. If not so sired, the dam, if bred back that same breeding season, is bred to a Virginia Thoroughbred sire; or
3. If not so sired, or the dam is not bred back that same breeding season or is bred to a sire other than a Virginia Thoroughbred sire, the dam remains continuously in the Commonwealth from September 1 to date of foaling, or if barren to February 1 of the following year.

"Virginia Thoroughbred horse breeder" means the owner or lessee of record of the mare at the time of foaling a Virginia-bred Thoroughbred horse.

"Virginia Thoroughbred sire" means a registered Thoroughbred stallion that covers mares, other than test mares, only in the Commonwealth during the breeding season in which it sires a Virginia-bred Thoroughbred horse, or only during that part of the breeding season after entering the Commonwealth.

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PART II. GENERAL.

§ 2.1. Generally.

The purpose of these regulations is to establish procedures for the administration of the Virginia Breeders Fund by the Virginia Racing Commission as provided for in § 59.1-372 of the Code of Virginia.

A. Certification.

The commission shall certify that a racehorse is a Virginia-bred for eligibility for entry into races restricted to Virginia-bred horses, to qualify its owner for purse supplements and to qualify the stallion owner, if applicable, and breeder for awards.

B. Determination of eligibility.

The final determination of all questions, disputes or protests relating to the registration, eligibility for certification or breeding of a Virginia-bred horse and the final determination of eligibility of any horse to enter a race restricted to Virginia-bred horses shall rest solely with the commission.

C. Documentation.

In making its determination, the commission, in its discretion, may require the submission of any certificate of foal registration, eligibility paper or any other registration document, affidavits or other substantive proof to support or deny any claim concerning registration of a horse as a Virginia-bred.

D. False statements.

Any person who submits false or misleading information to a breed registry, to the commission or any racing official, may be fined, have his permit suspended or revoked, be denied participation in the Virginia Breeders Fund for a period of time deemed appropriate by the commission, or any or all of the foregoing.

E. Forfeiture of awards and purse moneys.

Any person who is denied participation in the Virginia Breeders Fund under the provisions of the regulations shall forfeit and restore to the commission any awards and purse moneys received based upon the submission of false or misleading information. Until the awards and purse moneys are restored, the commission may suspend the person's permit to participate in horse racing at licensed facilities.

F. Recognized registries.

The commission shall recognize certificates of registration from the following breed registries:

1. Thoroughbred: The Jockey Club;

2. Standardbred: The United States Trotting Association;

3. Quarter horse: The American Quarter Horse Association; and

4. Arabian horse: The Arabian Horse Registry of America.

G. Payment of awards.

All awards for stallion owners and breeders may be distributed from the Virginia Breeders Fund within 30 days of the end of the race meeting that generated the funds. The following provisions shall apply to payment of stallion owner and breeder awards pursuant to an unlimited license issued by the commission:

1. Determination of individual distributions to a stallion owner shall be in the same ratio as the amount of nonsupplement first-place purse money won by the Virginia-bred horse at the race meeting, which qualifies the stallion owner for an award, to the total amount of nonsupplemented first-place purse money won by all Virginia-bred horses which qualify stallion owners for awards at the race meeting;

2. Determination of individual distributions to a breeder shall be in the same ratio as the amount of nonsupplemented first-place purse money won by the Virginia-bred horse at the race meeting, which qualifies the breeder for an award, to the total amount of nonsupplemented first-place purse money won by all Virginia-bred horses at the race meeting;

3. To become eligible for a stallion owner or breeder award from the Virginia Breeders Fund, the stallion owner or breeder must be certified by the commission prior to receiving any award, unless his stallion or broodmare has been previously registered with the commission;

4. A stallion owner or breeder will have 25 days after the closing of the race meeting, at which he becomes eligible for an award, to be certified by the commission unless his stallion or broodmare has been previously registered with the commission;

5. A stallion owner or breeder need only be certified once per racehorse; and

6. Any unclaimed awards from the Virginia Breeders Fund shall be distributed proportionately among those stallion owners and breeders who have been certified as being entitled to an award from the race meeting which generated the funds.

H. Distribution by breeds.

The funds generated by the breed of horse through pari-mutuel wagering at a race meeting shall be distributed to that breed of horse through stallion owner awards, breeder awards and purse supplements.

I. Reimbursement of funds.

The source of funding is 1.0% of all pari-mutuel pools which shall be paid to the commission within five days of the date that the funds were generated. Purse moneys shall be paid from the horsemen's account when approval is granted by the stewards. The commission shall reimburse the horsemen's account to the extent that funds are available from the Virginia Breeders Fund. Any deficiencies in the horsemen's account shall be assumed by the licensee.

J. Restrictions.

In disbursing the Virginia Breeders Fund, the following restrictions shall apply:

1. Supplements to purses from the Virginia Breeders Fund shall not be considered in determining breeder or stallion awards;

2. The amount of the purses for races restricted to Virginia-bred horses or any adjustments must be fair, equitable and appropriate to the quality of the horses competing for those purses;

3. Funds allocated for purse supplements shall be credited to the owner's account by the horsemen's bookkeeper in accordance with procedures established elsewhere in these regulations; and

4. Underpayment of moneys generated by each breed shall be remitted to the commission, deposited in an interest-bearing account and carried forward to be distributed as purse supplements or purse moneys for races restricted to the same breed of Virginia-bred horses, which generated the moneys, during the next succeeding race meeting at the same horse racing facility for the breed that generated the purse money.

K. Reservation of funds.

The commission may set aside funds for distribution in future years, if the commission, in its discretion, determines that there is an insufficient supply of Virginia-bred horses of a certain breed to warrant a distribution. In this event, the funds shall be deposited in an interest bearing account for future distribution of awards and purse supplements to the breed that generated the funds so set aside.

L. Assignment of awards.

Awards distributable to breeders and stallion owners are only assignable pursuant to a court order.

M. Advisory committee.

To assist it in establishing this awards and incentive program to foster the industry of breeding racehorses in Virginia, the commission shall appoint an advisory committee composed of two members from each of the registered breed associations representing each breed of horse participating in the fund program, one member representing the owners and operators of racetracks and one member representing all the meets sanctioned by the National Steeplechase and Hunt Association.

The commission, in its discretion, may establish and appoint the members of subcommittees of the advisory committee for each breed of horse participating in the fund program. Each subcommittee shall be composed of one commissioner, the executive secretary of the commission, two advisory committee members, a member representing an owner or operator of a horse racing facility, and an at-large member from the breed of horse participating in the fund program. All appointments shall be approved by the commission.

PART III. THOROUGHBREDS.

§ 3.1. Commencement of registration.

The commission shall establish a date when owners of Thoroughbred stallions shall commence registering their stallions and breeders of Virginia-bred Thoroughbred horses shall commence registering their broodmares.

§ 3.2. Stallion registration.

A. Initial registration.

For a stallion owner to be certified to receive stallion owner awards from the Virginia Breeders Fund, the stallion owner shall register his stallion with the commission by satisfying the following requirements:

1. Each year prior to the commencement of the breeding season, but no later than January 31, or within 30 days following the entry into stud in Virginia if entry is after the breeding season commences, the owner or authorized agent shall submit an application on a form prepared by the commission, which shall set forth the name of the stallion, year of foaling, registration number, pedigree, including sire, dam and sire of the dam, where the stallion is standing at stud, the date of entry to stud if after the commencement of the breeding season, and the name(s) and address(es) of owner(s) and lessee(s);

2. The application shall be signed and dated by the owner or lessee, or the authorized agent;

3. A notarized copy of the stallion's Certificate of Foal Registration, clearly showing the front and

Final Regulations

transfer side of the document, shall accompany the application;

4. If the stallion is held under a lease or a syndicate agreement, a copy of the lease or agreement shall accompany the application, and the lease or agreement must include a statement that the lessee or syndicate manager is authorized to sign the service certificate and receive stallion awards; and

5. The owner or authorized agent shall submit to the commission a notarized copy of The Jockey Club's Report of Mares Bred at the conclusion of the breeding season but no later than August 1.

B. Late registration.

A stallion may be registered with the commission for the breeding season after January 31 or 30 days following its entry into stud in Virginia. A late registration fee of \$250 shall be assessed. A late registration of a stallion shall be accepted by the commission until August 1 for that breeding year.

C. Change of ownership.

If there is a change in ownership, or the stallion is subsequently leased or syndicated, or the location of where the stallion standing is changed, the new owner, lessee or syndicate manager shall submit to the commission a new application for stallion registration.

§ 3.3. Broodmare registration.

For an owner or lessee of broodmare to be certified to receive breeder awards from the Virginia Breeders Fund, the owner or lessee shall register his broodmare with the commission by satisfying the following requirements:

1. Each year prior to the commencement of the breeding season but no later than January 31, or within 30 days after the mare enters the Commonwealth, if the entry is after the commencement of the breeding season, the breeder or his authorized agent must submit an application, on a form prepared by the commission, including the name of the broodmare, year of foaling, registration number, pedigree, including sire, dam and sire of the dam, the location in Virginia where the mare domiciled, and the name and address of the owner;

2. The application shall be signed and dated by the owner or authorized agent;

3. A notarized copy of the broodmare's Certificate of Foal Registration, clearly showing the front and transfer side of the document, shall accompany the application;

4. If the broodmare is held under a lease, a statement to that effect and a copy of the lease, which must

include a statement that the lessee is authorized to register the foal, shall accompany the application;

5. If the broodmare was not bred to a Virginia Thoroughbred sire or is not bred back to a Virginia Thoroughbred sire, then the owner or authorized agent shall sign the affidavit stating that the broodmare has been domiciled in the Commonwealth of Virginia since September 1 of the preceding year; and

6. If there is a change of ownership, or if the broodmare is subsequently leased, or there is a change in the prior lease agreement, the new owner or lessee shall submit a new application to the commission.

B. Late registration.

A broodmare may be registered with the commission for the breeding season after January 31 or 30 days following its entry into Virginia. A late registration fee of \$100 shall be assessed. A late registration of a broodmare shall be accepted by the commission until August 1 for that breeding year.

§ 3.4. Fund distribution.

A. Allocation of funds.

The funds generated by pari-mutuel wagering on thoroughbred horse races for the Virginia Breeders Fund shall be allocated on the following schedule:

1. 25% shall be set aside for payment to the breeders of Virginia-bred thoroughbred horses that win races at horse racing facilities licensed by the commission;

2. 15% shall be set aside for payment to owners or lessees of registered Virginia stallions which sire Virginia-bred thoroughbred horses that win races at horse racing facilities licensed by the commission; and

3. 60% shall be paid to supplement purses as determined by the commission under the following provisions:

a. A purse supplement may be paid to the owner or owners of a Virginia-bred thoroughbred horse each time the horse wins a nonrestricted race at a horse racing facility licensed by the commission; and

b. Purse supplements shall be paid for purses for races restricted to Virginia-bred thoroughbred horses.

§ 3.5. Restricted races.

The racing secretary at each unlimited race meeting licensed by the commission shall include in the condition

book restricted races which equal not less than 5.0% of the total nonsubstitute races included in that book, and that those races shall be run if eight separate betting interests are entered. If there is not a sufficient number of registered Virginia-bred horses entered to fill the race, then the racing secretary may substitute another race.

PART IV. STANDARDBREDS.

§ 4.1. Allocation of funds.

The funds generated by Standardbred racing through pari-mutuel wagering shall be allocated according to the following schedule:

1. 10% shall be set aside for payment to the breeders of Virginia-bred Standardbred horses that win races at horse racing facilities licensed by the commission;

2. 5.0% shall be set aside for payment to the owners or lessees of Virginia Standardbred stallions which sire Virginia-bred Standardbred horses that win races at horse racing facilities licensed by the commission; and

3. 85% shall be paid to supplement purses according to the following provisions:

a. Not less than 75% shall be set aside to develop a stakes program for two and three-year-old Virginia-bred Standardbred horses; and

b. Any remaining amounts shall be set aside and may be paid to the owner or owners of a Virginia-bred Standardbred horse each time the horse wins a nonrestricted race at a horse racing facility licensed by the commission.

PART V. ARABIANS AND QUARTER HORSES.

§ 5.1. Allocation of funds.

The funds generated by Arabian and Quarter horse racing through pari-mutuel wagering shall be allocated to the breed which generated the funds according to the following schedule:

1. 20% shall be set aside for payment to the breeders of Virginia-bred horses that win races at horse racing facilities licensed by the commission;

2. 10% shall set aside for payment to the owners or lessees of registered Virginia stallions which sire Virginia-bred horses that win races at horse racing facilities licensed by the commission; and

3. 70% shall be paid to supplement purses according to the following provisions:

a. A purse supplement may be paid to the owners of Virginia-bred horses each time Virginia-bred horses win nonrestricted races at horse racing facilities licensed by the commission; and

b. A purse supplement shall be paid to purses for races restricted to Virginia-bred horses.

VIRGINIA BREEDERS FUND
THOROUGHBRED STALLION REGISTRATION FOR THE YEAR 19__

For a stallion owner to be eligible for awards from the Virginia Breeders Fund an application must be submitted to the Virginia Racing Commission prior to the commencement of the breeding season but no later than January 31, or within 30 days of following entry into stud in Virginia if entry is after the breeding season commences.

(Name of Stallion)
(Year of Foaling) (Registration Number)
(Sire) (Dam) (Sire of the Dam)

Where Stallion Is Standing:

Name and Address of Owner or Lessee:

- 1) A notarized copy of the stallion's Certificate of Foal Registration, clearly showing the front and transfer side of the document, must accompany the application.
- 2) If the stallion is held under a lease or syndicate agreement, a copy of the lease of agreement must accompany the application, and the lease or agreement must include a statement that the lessee or syndicate manager is authorized to sign the Service Certificate and receive stallion awards.

I HEREBY CERTIFY THAT THE STALLION NAMED ABOVE HAS COVERED MARES, OTHER THAN TEST MARES, ONLY IN THE COMMONWEALTH OF VIRGINIA DURING THE BREEDING SEASON IN WHICH IT SIRES VIRGINIA-BRED THOROUGHBRED HORSES OR ONLY DURING THAT PART OF THE BREEDING SEASON AFTER ENTERING THE COMMONWEALTH.

(Signature of Owner or Lessee) (Date)

Return to:
Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208
Telephone: (804) 371-7363

REMINDER: Please submit notarized copy of Report of Mares Bred

VIRGINIA BREEDERS FUND
THOROUGHBRED BROODMARE REGISTRATION FOR THE YEAR 19__

For a breeder to be eligible for awards from the Virginia Breeders Fund an application must be submitted to the Virginia Racing Commission prior to the commencement of the breeding season but no later than January 31, or within 30 days after the mare enters the Commonwealth of Virginia, if entry is after the commencement of the breeding season.

(Name of Broodmare)
(Year of Foaling) (Registration Number)
(Sire) (Dam) (Sire of the Dam)

Where Broodmare is Domiciled:

Broodmare was bred to during the previous breeding season:

Broodmare will be bred back to during current breeding season:

Name and Address of Owner:

- 1) A notarized copy of the broodmare's Certificate of Foal Registration, clearly showing the front and transfer side of the document, must accompany the application.
- 2) If the broodmare is held under a lease, a statement to that effect and a copy of the lease, which must include a statement that the lessee is authorized to register the foal, must accompany the application.

(Owner) (Date)

IF THE BROODMARE WAS NOT BRED TO A VIRGINIA THOROUGHBRED SIRE OR IS NOT BRED BACK TO A VIRGINIA THOROUGHBRED SIRE, I HEREBY CERTIFY THAT THE BROODMARE WAS DOMICILED IN THE COMMONWEALTH OF VIRGINIA SINCE SEPTEMBER 1 OF THE PRECEDING YEAR.

(Owner) (Date)

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 672-01-1. Public Participation Guidelines. (REPEALED)

Title of Regulation: VR 672-01-1:1. Public Participation Guidelines.

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

Effective Date: January 27, 1993.

Summary:

The purpose of this action is to repeal the Virginia Waste Management Board's existing Public Participation Guidelines (VR 672-01-1) and to simultaneously adopt new Public Participation Guidelines (VR 672-01-1:1). The major differences between the proposed regulation, publication date July 13, 1992, and the final are: the ability of any person to petition the approving authority for the adoption, amendment or repeal of a regulation and the procedures to petition; the department must form an ad hoc advisory group or utilize a standing advisory committee to assist in the drafting and formation of proposals unless the board authorizes the agency to proceed without utilizing an advisory committee; the department must hold at least one public meeting during the adoption, amendment or repeal of any regulation unless the board specifically authorizes the agency to proceed without the public meeting; and a transition section was added to the final regulation to ensure that all regulatory actions concurrently ongoing fall within either the VR 672-01-1 or the VR 672-01-1:1 Public Participation Guidelines.

VR 672-01-1:1 Public Participation Guidelines.

§ 1. Definitions.

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

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the Virginia Department of Waste Management

"Approving authority" means the Virginia Waste Management Board.

"Director" means the director of the Department of Waste Management or his designee.

"Environmental Protection Law" means the provisions found in the Code of Virginia authorizing the approving

authority or agency, or both, to make regulations or decide cases or containing procedural requirements thereof.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

B. Unless specifically defined in the Environmental Protection Law or in this regulation, terms used shall have the meanings commonly ascribed to them.

§ 2. General.

A. The procedures in § 3 of this regulation shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This regulation does not apply to regulations exempted from the provisions of the Administrative Process Act [(§ 9-6.14:4.1 A and B)] or excluded from the operation of Article 2 of the Administrative Process Act [(§ 9-6.14:4.1 C)]

B. At the discretion of the approving authority [or the agency] , the procedures in § 3 may be supplemented [by any means and in any manner] to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

C. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation otherwise adopted in accordance with this regulation.

[D. Any person may petition the approving authority for the adoption, amendment or repeal of a regulation. The petition, at a minimum, shall contain the following information:

- 1. Name of petitioner;*
- 2. Petitioner's mailing address and telephone number;*
- 3. Petitioner's interest in the proposed action;*
- 4. Recommended regulation or addition, deletion or amendment to a specific regulation or regulations;*
- 5. Statement of need and justification for the proposed action;*
- 6. Statement of impact on the petitioner and other affected persons; and*
- 7. Supporting documents, as applicable.*

The approving authority shall provide a written response to such petition within 180 days from the date the petition was received.]

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§ 3. Public participation procedures.

A. The agency shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations.

B. Whenever the approving authority so directs or upon its own initiative, the agency may commence the regulation adoption process and proceed to draft a proposal according to these procedures.

C. The agency [~~may shall~~] form an ad hoc advisory group [or utilize a standing advisory committee] to assist in the drafting and formation of the proposal [unless the approving authority specifically authorizes the agency to proceed without utilizing an ad hoc advisory group or standing advisory committee]. When an ad hoc advisory group is formed, such ad hoc advisory group shall [~~be appointed from groups and individuals registering interest in working with the agency include representatives of the regulated community and the general public~~] .

D. The agency shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of any regulation.

1. The NOIRA shall include, at least, the following:

- a. A brief statement as to the need for regulatory action.
- b. A brief description of alternatives available, if any, to meet the need.
- c. A request for comments on the intended regulatory action, to include any ideas to assist the agency in the drafting and formation of any proposed regulation developed pursuant to the NOIRA.
- d. A request for comments on the costs and benefits of the stated alternatives or other alternatives.

2. The agency shall hold at least one public meeting [~~when considering the adoption of new regulations. In the case of a proposal to amend or repeal existing regulations, the director, in his sole discretion, may dispense with the public meeting whenever it considers the adoption, amendment or repeal of any regulation unless the approving authority specifically authorizes the agency to proceed without holding a public meeting~~] .

In those cases where a public meeting(s) will be held, the NOIRA shall also include the date, not to be less than 30 days after publication in the Virginia Register, time and place of the public meeting(s).

3. The public comment period for NOIRAs under this

section shall be no less than 30 days after publication in the Virginia Register.

E. The agency shall disseminate the NOIRA to the public via the following:

1. Distribution to the Registrar of Regulations for publication in the Virginia Register of Regulations.
2. Distribution by mail to persons on the list(s) established under subsection A of this section.

F. After consideration of public input, the agency may prepare the draft proposed regulation and [~~prepare the notice of public comment (NOPC) and~~] any supporting documentation required for review. If an ad hoc advisory group has been established, the draft regulation shall be developed in consultation with such group. A summary or copies of the comments received in response to the NOIRA shall be distributed to the ad hoc advisory group during the development of the draft regulation. This summary or copies of the comments received in response to the NOIRA shall also be distributed to the approving authority.

G. Upon approval of the draft proposed regulation by the approving authority, the agency [~~may, at its discretion, shall~~] publish [~~the NOPC a Notice of Public Comment (NOPC)~~] and the proposal for public comment.

H. The NOPC shall include at least the following:

1. The notice of the opportunity to comment on the proposed regulation, location of where copies of the draft may be obtained and name, address and telephone number of the individual to contact for further information about the proposed regulation.
2. A description of provisions of the proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed.
3. A request for comments on the costs and benefits of the proposal.
4. A statement that an analysis of the following has been conducted by the agency and is available to the public upon request:
 - a. A statement of purpose: why the regulation is proposed and the desired end result or objective of the regulation.
 - b. A statement of estimated impact:
 - (1) Number and types of regulated entities or persons affected.
 - (2) Projected cost to regulated entities (and to the public, if applicable) for implementation and

compliance. In those instances where an agency is unable to quantify projected costs, it shall offer qualitative data, if possible, to help define the impact of the regulation. Such qualitative data shall include, if possible, an example or examples of the impact of the proposed regulation on a typical member or members of the regulated community.

(3) Projected cost to the agency for implementation and enforcement.

(4) The beneficial impact the regulation is designed to produce.

c. An explanation of need for the proposed regulation and potential consequences that may result in the absence of the regulation.

d. An estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

e. A discussion of alternative approaches that were considered to meet the need the proposed regulation addresses, and a statement [~~why~~ as to whether] the agency believes that the proposed regulation is the least burdensome alternative to the regulated community [that fully meets the stated purpose of the proposed regulation] .

f. A schedule setting forth when, [~~within two years~~] after the effective date of the regulation, the agency will evaluate it for effectiveness and continued need.

5. The date, time and place of at least one public hearing held in accordance with § 9-6.14:7.1 of the Code of Virginia to receive comments on the proposed regulation. In those cases where the agency elects to conduct an evidential hearing, the notice [shall indicate that the evidential hearing] will be held in accordance with § 9-6.14:8 of the Code of Virginia. The hearing(s) may be held at any time during the public comment period [and, whenever practicable, no less than 10 days prior to the close of the public comment period] . The hearing(s) may be held in such location(s) as the agency determines will best facilitate input from interested persons.

I. The public comment period shall close no less than 60 days after publication of the NOPC in the Virginia Register.

J. The agency shall disseminate the NOPC to the public via the following:

1. Distribution to the Registrar of Regulations for:

a. Publication in the Virginia Register of Regulations.

b. Publication in a newspaper of general circulation published at the state capitol and such other newspapers as the agency may deem appropriate.

2. Distribution by mail to persons on the lists established under subsection A of this section.

K. The agency shall prepare a summary of comments received in response to the NOPC and [the agency's response to the comments received. The agency shall] submit [~~it or~~ the summary and agency response and] , if requested, submit the full comments to the approving authority. [~~Both the~~ The] summary [, the agency response] and the comments shall become a part of the agency file [and after final action on the regulation by the approving authority, made available, upon request, to interested persons] .

[L. If the agency determines that the process to adopt, amend or repeal any regulation should be terminated after approval of the draft proposed regulation by the approving authority, the agency shall present to the approving authority for their consideration a recommendation and rationale for withdrawal of the proposed regulation.]

[~~E. M.~~] Completion of the remaining steps in the adoption process shall be carried out in accordance with the Administrative Process Act.

[§ 4. Transition.

A. All regulatory actions for which a NOIRA has been published in the Virginia Register prior to January 27, 1993, shall be processed in accordance with the VR 672-01-1, Public Participation Guidelines.

B. All regulatory actions for which a NOIRA has not been published in the Virginia Register prior to January 27, 1993, shall be processed in accordance with this regulation (VR 672-01-1:1).]

EMERGENCY REGULATIONS

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: VR 370-01-002. Methodology to Measure the Efficiency and Productivity of Health Care Institutions.

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

Statutory Authority: §§ 9-161.1 and 9-164 of the Code of Virginia.

Effective Dates: January 1, 1993, through December 31, 1993.

Recommendation:

Section 9-161.1 of the Code of Virginia requires that the Virginia Health Services Cost Review Council (VHSCRC) establish a new methodology for the review and measurement of efficiency and productivity of health care institutions. The methodology is to provide for, but not be limited to, comparisons of a health care institution's performance to national and regional data. The new methodology is to be promulgated by January 1, 1993. It is recommended that approval be given to emergency regulations contained in the two attached regulatory packages so that this new methodology can be implemented effective January 1, 1993.

The regulatory package for the new methodology, marked VR 370-01-002, contains the following:

1. Regulations containing the procedure for implementing the new methodology and describing how it will work;
2. The new filing forms/instructions. Two of the forms entitled "Hospitals Annual Historical Filings" and "Nursing Home Annual Historical Filings" are marked "DRAFT" because they will be piloted by several nursing homes and hospitals in November. The Council will adopt those two forms at its December meeting following the pilot project.
3. Relevant definitions of indicators to be utilized in the new methodology for both hospitals and nursing homes; and
4. A matrix for the evaluation of the best performers by hospitals and nursing homes.

The second package, VR 370-01-001, includes changes to the Council's current generic rules and regulations of the new methodology.

Background:

The Commission on Health Care for All Virginians proposed that legislation be introduced in the 1992 Session of the Virginia General Assembly effectuating a number of significant changes regarding the operations of the Virginia

Health Services Cost Review Council. A significant part of Senate Bill 518 contained the requirement that the Council develop a new methodology for the measurement of efficiency and productivity of hospitals and nursing homes and implement it by January 1, 1993.

In late spring of this year the VHSCRC contracted with the Williamson Institute of Medical College of Virginia/Virginia Commonwealth University to assist it in developing this new methodology. In addition, the Council also contracted with McManis Associates, Inc., a consulting firm from Washington, D.C., to provide its expertise in reviewing recommendations set forth by the Williamson Institute from a consumer perspective. Also, the Council established several work groups to develop different methodologies for nursing homes and for hospitals. Finally, the work groups, constituents, and Council staff have, on a large number of occasions, met and talked with outside constituency groups, including hospital and nursing home trade groups, to seek their input and comment during the development of this methodology.

The proposed new methodology seeks to stimulate competition in the market for hospitals, nursing homes, and ambulatory surgery centers by improving the availability of information to various groups of consumers regarding "efficiency and productivity." A ratio analysis methodology will be used to identify efficient and productive providers.

The VHSCRS adopted both of these regulatory packages on an emergency basis at its November 24, 1992, meeting and they will become effective January 1, 1993.

REQUEST:

Made by John A. Rupp, Executive Director of the Virginia Health Services Cost Review Council.

/s/ John A. Rupp
Executive Director
Date: November 27, 1992

CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: November 24, 1992

AUTHORIZATION:

/s/ Lawrence Douglas Wilder
Governor
Date: December 4, 1992

FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: December 7, 1992

VR 370-01-002. Methodology to Measure the Efficiency and Productivity of Health Care Institutions.

PART I GENERAL INFORMATION

§ 1.1. *Authority for Regulations* – Section 9-161.1 of the Code of Virginia directs the Virginia Health Services Cost Review Council (“the Council”) to develop and adopt a methodology for the review and measurement of the efficiency and productivity of health care institutions.

§ 1.2. *Intent of Regulations* – These regulations set forth the method of analysis to be used by the Council.

§ 1.3. *Administration Regulations* – These regulations are administered by the Council.

§ 1.4. *Application of Regulations* – These regulations have general applicability throughout the Commonwealth.

§ 1.5. *Effective Date of Regulations* – These regulations shall become effective January 1, 1993. At that time, all other prior methodologies, forms, and policies used by the Council are superceded by these regulations.

PART II GENERAL APPROACH

§ 2.1.1. *Purpose* – The methodology set forth in these regulations is market-oriented. Consumers and buyers of health care will receive information from the Council that will allow them to make prudent health care decisions.

§ 2.1.2. *Limitations* – Nothing in these regulations or the actions taken by the Council pursuant to any of their provisions shall be construed as constituting approval by the Commonwealth or any of its agencies or officers of the reasonableness of any charges made or costs incurred by any health care institution.

§ 2.2. *Activities* – The Council will collect, analyze, and publish information on health care institutional provider practices relating to efficiency and productivity.

PART III DATA SYSTEM

§ 3.1. *Filing* – Each Health Care Institution will submit the following filings:

1. *Annual Budget Summary Filing* – Each health care institution will submit an Annual Budget Summary Filing as prescribed in § 9-160(B) of the Code of Virginia. This filing will provide financial and statistical information to assist purchasers, state policy makers, and other consumers develop projections of future charges and costs. The Budget Filing shall be received by the Council at least 30 days prior to the beginning of the health care institution's fiscal year.

2. *Annual Historical Performance Filing* – Each health care institution will submit an Annual Historical Performance Filing as prescribed in § 9-158 of the Code of Virginia. This filing will be used to collect audited financial information and other information for all of the categories listed in § 3.2 below. It will provide the basis for the evaluation of the Council. The Annual Historical Performance Filing shall be received by the Council within 120 days after the close of the health care institution's fiscal year.

3. *Quarterly Historical Performance Filings* – Only hospitals will submit Quarterly Historical Performance Filings. All other health care institutions are provisionally exempt from this requirement. Quarterly information will be incorporated into a Council data bank so that purchasers may seek current information. The Quarterly Historical Performance Filing shall be received by the Council within 45 days after the end of each hospital's fiscal year quarter.

§ 3.2. *Categories of Information* – Information concerning charges, elements of costs, resource utilization, financial viability, and community support services will be assembled from the filings made pursuant to these regulations.

§ 3.3. *Efficiency and Productivity Indicators* – Individual data elements from the general categories identified in § 3.2 above will be used to form ratio indicators. These indicators will be used to evaluate health care institutions and rank health care institutions in relation to their peers.

1. *Case Mix Index* - Acute care hospitals shall provide the Council with a case mix index for all inpatients when it submits its Annual Historical Performance filing. The medicare DRG grouper process shall be utilized by the Council.

2. *Freestanding (i.e., non-system) hospitals* with fewer than 100 licensed beds may apply to the Council for an exemption to § 3.3(1) for calendar year 1993.

3. Each nursing facility that has received a Patient Intensity Rating System (PIRS) Service Intensity Index (SII) number from the Virginia Department of Medical Assistance Services shall report the four quarterly PIRS SII scores associated with its fiscal year. These scores are to be reported on the institution's Annual Historical Performance Filing.

§ 3.4. *Quality Indicators* – The Health Care Financing Administration's (“HCFA's”) most recent mortality index for each hospital will be included in the institution's Annual Historical Performance Filing. This measure will not be used to measure the relative efficiency and productivity of a hospital in 1993.

§ 3.5. *Electronic Submission of Data* – In a manner approved by the Council, information may be submitted electronically, in machine-readable form on computer

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diskette, or through modem during 1993.

§ 3.6. Public Access to Data – The Council will publish an Annual Report which will incorporate the data collected and analysis of the data including, but not limited to, an evaluation of the relative efficiency and productivity of health care institutions. An electronic data base will be available to the public in 1994.

PART IV EVALUATION OF EFFICIENCY AND PRODUCTIVITY

§ 4.1. Initial Measurement – The performance of each health care institution will be measured using the indicators referenced in § 3.3 above.

§ 4.2. Ranking – Unless exempted as provided for in § 4.4, each health care institution will be subject to a ranking procedure.

1. Regional Peer Grouping – Similar types of health care institutions (i.e., all hospitals or all nursing homes) will be grouped into geographical peer groups and ranked in relation to other institutions within their peer group.

2. Ranking Procedure – Each health care institution will be ranked on each indicator and given a quartile score on each indicator. Each quartile represents 25 percent of institutions within the peer group. Each institution will be given a score of 1, 2, 3, or 4 on each indicator depending upon the quartile in which they fall. A quartile score of 1 on an indicator means that an institution ranked in the top quartile (top 25 percent) on that indicator. Quartile scores are summed over all indicators. The total is divided by the number of indicators to get an average quartile score. The top performers will be selected by using the average quartile score and identifying the top 25% of institutions within each peer group.

§ 4.3. Other Peer Groupings – Health care institutions may be sorted into other peer groupings (i.e., bed size, urban/rural, system/nonsystem) for purposes of analysis.

§ 4.4. Exemptions from the Ranking Procedure – During calendar year 1993, some institutions will be exempt from the ranking procedure as described below:

1. Small Hospitals – Freestanding (i.e., non-system) hospitals with fewer than 100 licensed beds that are exempt pursuant to § 3.3(2).
2. Psychiatric Hospitals.
3. Rehabilitation Hospitals.
4. Ambulatory Surgery Hospitals.
5. Continuing Care Retirement Communities.

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 E. Broad Street, 6th Floor, Richmond, Virginia, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Room 262, Richmond, Virginia.

Hospital Annual Budget Filing
Hospital Quarterly Historical Filing
Date Submission Instructions (Quarterly and Budget Forms) - Hospitals
Hospital Annual Historical Filings
Indicator Definitions - Hospitals
1993 Virginia Hospital Productivity
Annual Budget Filing - Nursing Homes
Data Submission Instructions - Nursing Homes
Nursing Home Annual Historical Filings
Indicator Definitions - Nursing Homes
1993 Virginia Nursing Home Productivity

* * *

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 carry forwards 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.

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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 institutions without sacrifice of quality of health care services and to analyze the same to determine if charges and costs are reasonable.

The council has adopted a mission statement that it will promote cost containment within Virginia's health care institutions by collecting, analyzing, and disseminating information to the public.

§ 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

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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 IV. FILING REQUIREMENTS AND FEE STRUCTURE.

§ 6.1. § 4.1. 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. 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

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~~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. 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 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. § 4.2. Each individual health care institution shall file annually a projection (budget) of annual revenues and expenditures as prescribed in § 9-161 B § 9-160 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 30 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. 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 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. § 4.3. 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 § 9-159 A 4 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 30 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 4.1 and 4.2 for previous fiscal years. Changes in charges which will have a minimal impact on revenues are exempt from this requirement. Any change in an institution's charges or cumulative changes in charges that will increase or decrease council-approved budgeted gross patient services revenue by less than 1.0% of annual revenue for the remaining portion of the budgeted fiscal year are considered minimal and need not be reported. All other changes must be reported.

~~§ 6-3-1. § 4.3:1. 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. § 4.3:2. 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~~

Emergency Regulations

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.~~ § 4.3.3. The information specified in ~~§ 6.3.2~~ § 4.3.2 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.~~ § 4.3.4. Each hospital or any corporation that controls a hospital and that is required to respond to the survey specified in ~~§ 6.3.2~~ § 4.3.2 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.~~ § 4.3.5. 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.~~ § 4.4. All filings prescribed in ~~§ 6.1, § 6.2 and § 6.3.2~~ § 4.1, § 4.2 and § 4.3.2 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.~~ § 4.5. 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.~~ § 4.6. 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~~ § 4.2 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~~ § 4.1 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 § 9-150 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.~~ § 4.7. A late charge of \$10 per working day shall be paid to the council by a health care institution that files its budget, annual report or 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.~~ § 4.8. 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.~~ § 4.9. 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~~ § 4.3.2 or file the audited consolidated financial statement required by ~~§ 6.3.5~~ § 4.3.5 or both.

~~§ 6.10.~~ § 4.10. 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~~ § 4.3.1.

PART VII V. WORK FLOW AND ANALYSIS.

~~§ 7.1.~~ § 5.1. The annual report data filed by health care institutions as prescribed in ~~§ 6.1~~ § 4.1 of these regulations shall be analyzed as directed by the council. ~~Hospitals that are part of a hospital system will be analyzed on a~~

Emergency Regulations

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. § 5.2. The annual schedule of charges and projections (budget) of revenues and expenditures filed by health care institutions as prescribed in § 6-2 § 4.2 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 VI. PUBLICATION AND DISSEMINATION OF INFORMATION RELATED TO HEALTH CARE INSTITUTIONS.

§ 8-1. § 6.1. 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. § 6.2. 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 § 4.3 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. § 6.3. 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. § 6.3:1. 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. § 6.4. 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. § 6.5. The council may *shall* 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 pursuant to § 9-159 B of the Code of Virginia. 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. § 6.6. Pursuant to § 9-159 B, 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.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

BUREAU OF INSURANCE

November 25, 1992

Administrative Letter 1992-23

TO: All insurers Licensed to Market Credit Life Insurance and Credit Accident and Sickness Insurance in Virginia

RE: New Chapter 37.1 of Title 38.2, Code of Virginia

The 1992 Virginia General Assembly amended Title 38.2 of the Code of Virginia by adding Chapter 37.1, which pertains to credit life insurance and credit accident and sickness insurance. This code revision has been addressed in prior administrative letters sent to you.

Many of the requirements of new Chapter 37.1 require changes to forms. Also, the new statutes require changes to the premiums that can be charged for credit life insurance and credit accident and sickness insurance coverage. Section 38.2-3725 of Chapter 37.1 provides that forms and premium rates must be filed and approved by the State Corporation Commission before they can be used in Virginia. Since new Chapter 37.1 is effective on January 1, 1993, forms and rates must be in compliance as of this date.

I am very concerned that as of the date of this letter, approximately ninety percent (90%) of insurers licensed to sell credit life insurance and credit accident and sickness insurance in Virginia have not filed forms and rates for review to determine compliance with our new statutes. Many of the filings received to date are incomplete.

The purpose of this letter is to advise insurers that my staff and I will do whatever possible to see that forms and rates are reviewed as promptly as possible; however, companies that have delayed their filings cannot be assured that review of their filings can be completed by January 1, 1993. Companies that do not have forms and rates approved as being in compliance with new Chapter 37.1 of Title 38.2, Code of Virginia, must cease marketing credit life insurance and credit accident and sickness insurance as of January 1, 1993.

/s/ Steven T. Foster
Commissioner of Insurance

MARINE RESOURCES COMMISSION

EMERGENCY REGULATIONS

MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: VR 450-01-0080. Pertaining to the Extension of Fall 1992 Commercial Striped Bass Season.

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: November 24, 1992 through December 8, 1992.

Preamble:

This emergency regulation extends the Fall 1992 commercial striped bass season from November 24, 1992, through December 8, 1992.

VR 450-01-0080. Pertaining to the Extension of Fall 1992 Commercial Striped Bass Season.

§ 1. Authority, effective date, termination date.

A. *This emergency regulation is promulgated pursuant to the authority contained in § 28.2-210 of the Code of Virginia.*

B. *The effective date of this regulation is November 24, 1992.*

C. *This regulation shall terminate on December 8, 1992.*

§ 2. Purpose.

The purpose of this regulation is to extend the period during which striped bass may be commercially harvested by pound net, gill net and haul seine in Virginia tidal waters. All provisions of VR 450-01-0034, "Pertaining to the Taking of Striped Bass," other than those referring to the commercial fishing seasons for these gears shall remain in effect.

§ 3. Extended striped bass season.

A. *The open commercial fishing season for striped bass harvested by pound net, gill net, or haul seine shall be extended from November 24, 1992 through December 8, 1992.*

B. *It shall be unlawful to take or catch striped bass from the tidal waters of Virginia with pound nets, haul seines, and gill nets after December 8, 1992.*

§ 4. Gill net buffer zones.

It shall be unlawful to place, set, or fish any gill net

within 300 yards of any bridge or pier during the extended striped bass season.

§ 5. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person, firm, or corporation violating any provision of this Emergency Regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

Virginia Tax Bulletin

Virginia Department of Taxation

DATE: December 1, 1992

92-11

SUBJECT: Unearned Income of Minor Children:
"Kiddie Tax" Election on Federal Form 8814

The Department of Taxation has received questions recently regarding the application of Virginia's individual income tax to parents who elect on federal Form 8814 to include the unearned income of children under age 14 with their own for purposes of computing the federal income tax.

This bulletin is being issued to restate existing department policy on this issue and to amend the filing instructions for taxable year 1992 accordingly.

The department's long-standing policy has been that the Virginia taxable income of a parent making the federal election **includes** that portion of federal adjusted gross income (FAGI) representing the income of a child. This is because of the statutory requirement in Va. Code § 58.1-322 that the Virginia taxable income of an individual taxpayer equal that individual's FAGI for the year.

As such, the parent may **not** subtract that portion of FAGI which represents the income of the child, when computing his or her Virginia income tax liability. In the case of a combined (filing status 4) return where each spouse reports his or her income, the income of the child may be allocated either to the husband or the wife, so long as the total FAGI listed on their Virginia return equals the FAGI reported on their joint federal return.

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

Alternative Discharging Regulations

The Virginia Department of Health is soliciting public comment on the Alternative Discharging Sewage Treatment Regulations, VR 355-34-400 adopted July 30, 1992. Five public hearings were held between May 18, 1992 and June 10, 1992 on these regulations. During this time the Department of Health heard and responded to many concerns of citizens and special interest groups.

After the public comment period, it became increasingly apparent that several specific issues in the regulations may not have been resolved as completely as possible. In particular, the Department of Health is soliciting additional comment on the following areas:

1. How recreational waters should be defined and what standards should be applied to measure health risks associated with the recreational use of waters receiving wastewater effluent.
2. What mechanisms should be applied to assure the continued proper operation, maintenance and repair of discharging systems after they are installed. How can these mechanisms be assured when a property is sold?

Comments concerning any other aspect of these regulations will also be accepted. Comments must be received by the Health Department prior to 4:00 p.m. on January 29, 1993. Comments should be sent to Donald J. Alexander, Director, Division of Onsite Sewage and Water Services, Virginia Department of Health, P.O. Box 2448, Suite 117, Richmond, Virginia 23218.

MARINE RESOURCES COMMISSION

† Notice of Proposed Regulatory Action

The Marine Resources Commission invites public comment on proposed regulations for summer flounder and

American Shad. In addition to the specific proposals described below, the Commission will consider variations to the proposed quotas, size limits, bag limits, as well as restrictions on fishing seasons or fishing gear.

Proposed Regulations for Summer Flounder Fishing

1. Establish annual quota of 2,667,612 pounds for commercial landings of summer flounder in Virginia for 1993.
2. Allocate 1993 annual commercial quota as follows:

	Pounds
Inshore (VA territorial waters) quota	567,401
1st quarter offshore (beyond 3 mile limit) quota	1,092,110
2nd quarter offshore quota	63,006
3rd quarter offshore quota	63,006
4th quarter offshore quota	861,087
3. During the second and third quarter of 1993, offshore commercial harvesters would not be allowed to harvest and land in Virginia more than 1,500 pounds of summer flounder per trip.
4. Prohibit possession of commercially caught summer flounder less than 13" (eliminate current 10% allowance for undersize fish).
5. Increase minimum size limit for summer flounder caught by hook-and-line to 14".
6. Eliminate current two fish allowance for summer flounder less than the minimum size when caught by hook and line.
7. Reduce daily bag limit on hook and line fishing to 6 summer flounder per person per day.

Proposed Regulations for American Shad Fishing

The Commission will consider a proposal to establish a moratorium on the harvest and possession of American Shad in the Virginia waters of the Chesapeake Bay and its tributaries. The proposed regulation would prohibit both commercial and recreational harvests of American Shad in the Bay and its tributaries.

Public hearings on both these matters were held on:

1. Monday, December 14, 1992, 7 p.m. at the Rappahannock Community College, Warsaw, Virginia.
2. Tuesday, December 15, 1992, 7 p.m. at the Quality

Inn, Lake Wright, Norfolk, Virginia.

3. Wednesday, December 16, 1992, 7 p.m. at the Eastern Shore Community College, Melfa, Virginia.

4. Thursday, December 17, 1992, 7 p.m. at the Rappahannock Community College, Glenss, Virginia.

5. Tuesday, December 22, 1992, after 12 noon, at the Marine Resources Commission, 2600 Washington Avenue, Newport News, Virginia.

For further information or to submit written comments, please contact the VMRC Fisheries Management Division, P.O. Box 756, Newport News, Virginia 23607.

† Notice of Proposed Regulatory Action

The Marine Resources Commission (VMRC) invites public comment on a proposed regulation to establish a Poquoson River Shellfish Management Area with the following provisions:

1. The area shall open to patent tong clamming on January 1 and close on March 31.
2. A permit to patent tong in the area is required from VMRC. This permit may be revoked if the permittee is found guilty of violating any of the provisions established by this regulation
3. The legal time periods for patent tonging for clams in the area shall be no longer than from sunrise to 2 p.m., Monday through Friday.
4. The Poquoson River Shellfish Management Area and the time periods for clamming therein may be changed by the Commission at any time when it determines that the natural oyster rocks are being damaged or the condition of the clam resource in the area warrants such changes.
5. The Poquoson River Shellfish Management Area shall consist of all public grounds bounded by a line beginning at Hunts Point Survey Taylor and running Northwesterly to Survey Station Spit, thence Northeasterly to Survey Station Cabin North, thence East to Survey Station Cabin South, thence Southeasterly following the general shoreline (not to include any creeks or canals) to Survey Station York Point, thence 175 degrees to Buoy #14 and returning to Hunts Point Survey Taylor. (This is roughly the area encompassing the lower Poquoson River excluding Chisman Creek and the Poquoson River above Hunts Point.)

A public hearing was held on Tuesday at 12 noon, December 22, 1992, at the Marine Resources Commission, 2600 Washington Avenue, Newport News, Virginia. For further information or to submit written comments, please contact the VMRC Fisheries Management Division, P.O.

Box 756, Newport News, Virginia 23607-0756.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our 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

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Title of Regulation: VR 173-01-00:1. Public Participation Guidelines.

Publication: 9:5 V.A.R. 651-654 November 30, 1992.

Corrections to Final Regulation:

Page 652, § 2 D, line 2, change "amendement" to "amendment"

General Notices/Errata

Page 652, § 2 D, last paragraph, line 2, insert "a" before "petition"

Page 653, § 2 G, line 2, after "board !" insert ","

Page 653, § 2 H 1, line 2, after "location" delete "of"

Page 653, § 2 H 4 a (2), second column, line 2, after "where" replace "an" with "the"

DEPARTMENT OF MOTOR VEHICLES

Title of Regulation: VR 485-60-9201. Commercial Driver Training School Regulations.

Publication: 9:4 VA.R. 522-532 November 16, 1992.

Correction to Final Regulation:

Page 525, § 2.3 1, line 4, after "records," strike the remainder of the paragraph and insert "and if applicable, a copy of the Commercial Driver Education Certificate and a copy of the contract;"

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

January 19, 1993 - 10 a.m. – Public Hearing
Department of Commerce, 3600 West Broad Street, Third Floor, Room 395, Richmond, Virginia.

February 12, 1993 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-2. Board for Accountancy Regulations.** The proposed regulations (i) establish professional limited liability companies; (ii) amend the education requirement to sit for the CPA examination effective in the year 2000; (iii) amend the conditioning requirements for passing the CPA examination to accommodate format changes to the exam; (iv) amend reinstatement procedures; and (v) clarify the CPE requirement.

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

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

January 14, 1993 - 10 a.m. – Open Meeting
Washington Building, 1100 Bank Street, Richmond, Virginia. ☒

Committee meetings.

January 15, 1993 - 9 a.m. – Open Meeting
Washington Building, 1100 Bank Street, Richmond, Virginia. ☒

A general business meeting. Portions of the meeting may be held in closed session, pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the Pesticide Control Board's agenda at 9 a.m.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, P.O. Box 1163, Room 401, Richmond, VA 23209, telephone (804) 371-6558.

Virginia Winegrowers Advisory Board

January 13, 1993 - 10 a.m. – Open Meeting
Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Richmond, Virginia. ☒

The board will hear committee and project monitor reports and review old and new business.

Contact: Wendy Rizzo, Secretary, 1100 Bank St., Suite 1010, Richmond, VA 23219, telephone (804) 371-7685.

DEPARTMENT OF AIR POLLUTION CONTROL

† **January 5, 1993 - 7 p.m. – Open Meeting**
† **January 5, 1993 - 8 p.m. – Public Hearing**
Auditorium of King George High School, King George, Virginia. ☒ (Interpreter for the deaf provided upon request)

An informational briefing describing the pulverized coal-fired electric power generating facility in King George County proposed by Birchwood Power Partners, L.P., followed by answering questions (relevant air quality issues affecting this project). Promptly at 8 p.m., the department will conduct a public hearing regarding proposed project.

Calendar of Events

Contact: Gregory L. Clayton, Regional Director, 300 Central Rd., Suite B, Fredericksburg, VA 22401, telephone (703) 899-4600.

ASAP POLICY BOARD - VALLEY

† January 11, 1993 - 8:30 a.m. - Open Meeting
Augusta County School Board Office, Fishersville, Virginia. ☐

A regular meeting of the local policy board which conducts business pertaining to the following:

1. Court referrals.
2. Financial report.
3. Director's report.
4. Statistical reports.

Contact: Rhoda G. York, Executive Director, Holiday Court, Suite B, Staunton, VA 24401, telephone (703) 886-5616 or (703) 943-4405.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† January 13, 1993 - 9:30 a.m. - Open Meeting
Brookfield Center Office Park, 6606 West Broad Street, Richmond, Virginia. ☐

A board meeting.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-7390.

DEPARTMENT OF COMMERCE (BOARD OF)

January 4, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to repeal regulations entitled VR 190-05-1. Asbestos Licensing Regulations and adopt new regulations entitled VR 190-05-1:1. Asbestos Licensing Regulations. The proposed regulations include a "Standard of practice and conduct" section to establish guidelines for professionalism and grounds for disciplinary action within the regulated disciplines. To eliminate duplication, a "General entry and renewal requirements" section has been added and requirements for an asbestos worker and supervisor license have been combined. Changes also require employers, with employees exempted from licensure, to develop and maintain a safety program, as opposed

to training, to enhance the quality and safety of asbestos work. The proposed regulations set training provider criteria for record keeping, certificate information, length of training, training upgrade, number and ratio of instructors to students, primary instructor approval, use of videos, and training course approval.

For Asbestos Analytical Laboratory Licensure, participation in the PAT program will be extended to each branch facility and each on-site analyst will be required to register with the AIHA Analyst Registry. After April 1, 1993, project designer applicants will need to submit an experience form (Form A) with their application.

For clarification purposes, the following definitions have been added or altered: "Asbestos," "Asbestos Project," "Asbestos Project Design," "Asbestos Management Plan," "Demolition," "Full Approval," "Occupied," "Preliminary Review," "Primary Instructor," "Removal," "Site," "Substantial Change," and "Structure."

In addition, fees have been lowered for an Asbestos Contractors license, an RFS Asbestos Contractors license, an Asbestos Analytical laboratory license, and for training course evaluations.

Statutory Authority: §§ 54.1-500 through 54.1-517 of the Code of Virginia.

Contact: Kent Steinruck, Regulatory Boards Administrator, Department of Commerce, 3600 West Broad St., Richmond, VA 23230, telephone (804) 367-2567.

NOTE: CHANGE IN MEETING DATE

February 8, 1993 - 10 a.m. - Open Meeting
Virginia Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

A regular quarterly meeting of the board. Agenda items likely to include a report and discussion of current General Assembly bills with an impact upon agency operations; reports of subcommittees on occupational and professional continuing education, and citizen members of regulatory boards at the agency.

Contact: Alvin D. Whitley, Staff Assistant to the Board, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8564.

COMPENSATION BOARD

December 30, 1992 - 5 p.m. - Open Meeting
Room 913/913A, 9th Floor, Ninth Street Office Building, 202 North Ninth Street, Richmond, Virginia. ☐ (Interpreter for the deaf provided upon request.)

A routine meeting to conduct business of the Compensation Board.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

† January 15, 1993 - Noon - Open Meeting
City Hall, Planning Commission Conference Room, Fifth Floor, Richmond, Virginia.

A review of river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

January 13, 1993 - 9 a.m. - Open Meeting
3600 West Broad Street, Richmond, Virginia. ☒

A regular quarterly meeting of the board to address policy and procedural issues, review and render decisions on applications for contractors' licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in Executive Session.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

Applications Review Committee

January 5, 1993 - 9 a.m. - Open Meeting
3600 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

A regular meeting to review applications with convictions and/or complaints for Class A contractors licenses and Class B contractors registrations.

Contact: Florence R. Brassier, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557.

Recovery Fund Committee

January 6, 1993 - 9 a.m. - Open Meeting
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the

discussion may be conducted in Executive Session.

Contact: Holly Erickson, Assistant Administrator, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8561.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

January 13, 1993 - 10 a.m. - Open Meeting
February 10, 1993 - 10 a.m. - Open Meeting
Board of Corrections, Board Room, 6900 Atmore Drive, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented to the board.

Contact: Vivian T. Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

* * * * *

January 30, 1993 - Written comments may be submitted through this date.

February 10, 1993 - 10 a.m. - Public Hearing
6900 Atmore Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to repeal regulations entitled VR 239-01-003, Regulations Governing the Certification Process, and adopt regulations entitled VR 230-01-003:1, Regulations Governing the Certification Process. The proposed regulation establishes guidelines for certification evaluation, frequency, appeals and types of certification awarded the program. These standards will replace VR 230-01-003, Rules and Regulations Governing the Certification Process.

Statutory Authority: §§ 53.1-5, 53.1-68, 53.1-141, 53.1-178 and 53.1-182 of the Code of Virginia.

Contact: Cynthia J. Evans, Certification Analyst, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3237.

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January 30, 1993 - Written comments may be submitted through this date.

February 10, 1993 - 10 a.m. - Public Hearing
6900 Atmore Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to repeal regulations entitled VR 230-30-004, Standards for Adult Community Residential Services, and adopt regulations entitled VR 230-30-004:1, Standards for Community Residential

Calendar of Events

Programs. The proposed regulation establishes the minimum standards that must be met for a facility or program to be properly certified to operate. These standards will replace VR 230-30-004, Adult Community Residential Services Standards.

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

Contact: R.M. Woodard, Regional Manager, 302 Turner Road, Richmond, VA 23225, telephone (804) 674-3732.

Liaison Committee

January 14, 1993 - 9:30 a.m. - Open Meeting
6900 Atmore Drive, Richmond, Virginia.

The committee will continue to address and discuss criminal justice issues.

Contact: Vivian T. Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

GOVERNOR'S COMMISSION ON DEFENSE CONVERSION AND ECONOMIC ADJUSTMENT

January 6, 1993 - 9 a.m. - Public Hearing
New River Community College, Dublin, Virginia. ☒
(Interpreter for the deaf provided upon request)

A public hearing to give interested parties (employers/workers) an opportunity to express their concerns to the commission. Individuals wishing to speak should preregister by calling Jeffrey A. Windom.

Contact: Jeffrey A. Windom, Deputy Commissioner, Virginia Employment Commission, 703 E. Main St., Richmond, VA 23219, telephone (804) 786-1697 or (804) 371-8050/TDD ☎

BOARD OF DENTISTRY

January 13, 1993 - 8:30 a.m. - Open Meeting
6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

Informal conferences. This meeting is open to the public. No comment will be taken.

January 14, 1993 - 8 a.m. - Open Meeting
January 15, 1993 - 8 a.m. - Open Meeting
January 16, 1993 - 8 a.m. - Open Meeting
Cascades Conference Center, 104 Visitor Center Drive, Williamsburg, Virginia. ☒

A full board meeting to receive Legislative/Regulatory and Continuing Education Committee reports. These meetings are open to the public. No public comment will be taken.

Contact: Nancy Durrett, Acting Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906.

DEPARTMENT OF EDUCATION (BOARD OF)

January 15, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to amend regulations entitled: **VR 270-01-0002. Regulations Governing the Educational Program for Gifted Students.** This proposed regulation amends the existing regulations governing the educational program for gifted learners in Virginia. The changes reflect the most current literature and research relative to the identification of and programming for gifted students. These regulations are being promulgated to ensure that gifted students in kindergarten through grade 12 are identified and provided with an education program that will enable them to achieve to their abilities.

Statutory Authority: § 22.1-253.13:1 of the Code of Virginia.

Contact: Valerie Barrett, Associate Specialist, Gifted Programs, P.O. Box 2120, 20th Floor, Richmond, VA 23216, telephone (804) 225-2652.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

January 7, 1993 - 5:30 p.m. - Open Meeting
February 4, 1993 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10,001 Ironbridge Road, Room 502, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - ROANOKE VALLEY

† **January 20, 1993 - 9 a.m. - Open Meeting**
Salem Civic Center, Room C, 1001 Roanoke Boulevard, Salem, Virginia 24153. ☒

A meeting to (i) receive public comment, (ii) receive report from community coordinators, and (iii) receive report from standing committees.

Contact: Danny W. Hall, Fire Chief/Coordinator of Emergency Services, 105 S. Market St., Salem, VA 24153, telephone (703) 375-3080.

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

February 9, 1993 - 11 a.m. - Open Meeting
February 10, 1993 - 8 a.m. - Open Meeting
Virginia Employment Commission, 703 East Main Street,
Richmond, Virginia. ☒ (Interpreter for the deaf provided
upon request)

A regular meeting to conduct general business.

Contact: Nancy L. Munnikhuysen, 703 E. Main St.,
Richmond, VA 23219, telephone (804) 371-6004.

COUNCIL ON THE ENVIRONMENT

† January 12, 1993 - 7:30 p.m. - Open Meeting
Department of Transportation Auditorium, 1401 East Broad
Street, Richmond, Virginia. ☒

This is the annual environmental legislation review meeting of the Council on the Environment. There will be a discussion of environmental legislation and issues before the 1993 General Assembly by state legislators and council members. The council will also discuss and vote on final public participation guidelines (VR 305-01-001:1). The meeting is open to the public. An opportunity for citizens to present concerns and comments on environmental issues will be provided during the meeting.

Contact: Hannah Crew, Special Projects Coordinator, 202 N. 9th St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

BOARD OF FORESTRY

† January 14, 1993 - 9:30 a.m. - Open Meeting
Marriott Hotel, 500 East Broad Street, Richmond, Virginia.
☒

General business.

Contact: Barbara A. Worrell, Administrative Staff Specialist, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555/TDD ☎

GOVERNOR'S TASK FORCE ON FUELS TAX EVASION

† January 4, 1993 - 9:30 a.m. - Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Room 702, Richmond, Virginia. ☒

The task force will examine fuels tax legislation and the process and resources associated with fuels tax administration. No public comment will be received at this meeting.

Contact: Ralph M. Davis, Assistant Commissioner for Administrative Services, Department of Motor Vehicles, Room 710, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6615.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† January 4, 1993 - 4 p.m. - Open Meeting
6606 West Broad Street, 5th Floor, Conference Room 1,
Richmond, Virginia. ☒

4 p.m. - Examination Committee meeting

5 p.m. - Inspection/Compliance Committee meeting

6 p.m. - Legislative Committee meeting

† January 5, 1993 - 8 a.m. - Open Meeting
6606 West Broad Street 5th Floor, Conference Room 2,
Richmond, Virginia. ☒

8 a.m. - State Board written examination

9 a.m. - Executive Committee meeting

10 a.m. - Board meeting

† January 6, 1993 - 9 a.m. - Open Meeting
6606 West Broad Street, 5th Floor, Conference Room 2,
Richmond, Virginia. ☒

Informal hearings.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907.

BOARD OF GAME AND INLAND FISHERIES

† January 7, 1993 - 9 a.m. - Open Meeting
4010 West Broad Street, Richmond, Virginia.

The board will meet with the State Auditor's office regarding the legislative study on the management and structure of the Department of Game and Inland Fisheries (HJR 191) and to conduct other necessary general and administrative business.

† January 27, 1993 - 6 p.m. - Open Meeting
To be determined by the Virginia Wildlife Society.

Board members will be invited to attend a reception and banquet being hosted by the Virginia Wildlife Society.

† January 28, 1993 - 9 a.m. - Open Meeting
4010 West Broad Street, Richmond, Virginia.

At 7:30 a.m. board members will attend the Virginia

Calendar of Events

Wildlife Society's legislative breakfast. At 9 a.m. the Liaison Committee, Wildlife and Boat Committee, Finance Committee, Planning Committee and Law and Education Committee will meet, with each committee discussing those items appropriate to its authority. Discussion topics will include the agency's 1994-96 capital outlay budget, any known introduced legislation affecting the agency, and other general and administrative matters that might be necessary. The board has also received a request that it permit a discussion on the topic of fallow deer farming.

† **January 29, 1993 - 9 a.m.** – Open Meeting
4010 West Broad Street, Richmond, Virginia.

A meeting to take action on any matters introduced through the committees, including the 1994-96 capital outlay budget.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000.

DEPARTMENT OF GENERAL SERVICES

February 12, 1993 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of General Services intends to adopt regulations entitled **VR 330-03-02. Aggressive Air Sampling Standards to be Utilized in Final Clearance Inspections for Asbestos Projects in Local Education Agencies and Public Agencies and Public Colleges and Universities in the Commonwealth of Virginia.** The purpose of the proposed regulation is to establish a safe, effective, and standard methodology for obtaining aggressive air samples to monitor air for clearance and area reoccupancy after a removal, encapsulation or enclosure project invoking asbestos-containing material in local education agencies and public colleges and universities.

Statutory Authority: § 2.1-526.14:1 of the Code of Virginia.

Contact: Henry G. Shirley, Director, Bureau of Capital Outlay Management, 805 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 786-3581.

VIRGINIA HAZARDOUS MATERIALS EMERGENCY RESPONSE ADVISORY COUNCIL

† **January 14, 1993 - 10 a.m.** – Open Meeting
Sheraton Park South, 9901 Midlothian Turnpike, Richmond, Virginia.

The business of the meeting will consist of an update of response and training programs and a briefing on the Hazardous Materials Transportation Uniform Safety

Act (HMTUSA) Grant Application.

Contact: Addison E. Slayton, Jr., State Coordinator, Department of Emergency Services, 310 Turner Rd., Richmond, VA 23225, telephone (804) 674-2497.



DEPARTMENT OF HEALTH (STATE BOARD OF)

January 29, 1993 – Written comments may be submitted through this date.

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 repeal regulations entitled **VR 355-11-02. Rules and Regulations Governing the Detection and Control of Phenylketonuria (PKU),** and adopt regulations entitled **VR 355-11-200. Regulations Governing Newborn Screening and Treatment Program.** The purpose of the proposed Rules and Regulations Governing the Newborn Screening and Treatment Program is to clarify the respective responsibilities of the Department of Health, Division of Consolidated Laboratory Services, physicians, midwives, nurses, administrators of hospitals and other agencies, and persons in the Commonwealth in the detection, control, and treatment of newborn infants identified with diseases as specified in § 32.1-65 of the Code of Virginia.

Statutory Authority: § 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia.

Contact: Alice Linyear, MD, MPH, Director, Division of Maternal and Child Health, P.O. Box 2447, Suite 136, Richmond, VA 23218, telephone (804) 786-7367.

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January 31, 1993 – Written comments may be submitted through this date.

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 355-40-600. Regulations for the Conduct of Human Research.** Chapter 603 of the 1992 Acts of Assembly (House Bill 220) requires the Board of Health to develop regulations for human research to be conducted or authorized by the Department of Health or any facilities or other entities operated, funded or licensed by the department. In accordance with the legislation, the proposed regulations define requirements for obtaining informed consent and require the establishment of human research committees by

institutions or agencies conducting or proposing to conduct or authorize human research. The proposed regulations require annual reporting of human research committees to the State Health Commissioner. Human research which is subject to federal regulations is exempt from the regulations.

Statutory Authority: § 32.1-12.1 and Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.

Contact: Roseanne Kolesar, Health Programs Analyst, Department of Health, 1500 E. Main St., Room 213, Richmond, VA 23219, telephone (804) 786-4891.

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† **March 1, 1993 - 2 p.m.** – Public Hearing
1500 East Franklin Street, Suite 115, Richmond, Virginia.

March 5, 1993 – Written comments may be submitted through this date.

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 repeal regulations entitled **VR 355-01-01. Public Participation Guidelines in the Development and Formation of Regulations** and adopt regulations entitled **VR 355-01-100. Public Participation Guidelines**. The Public Participation Guidelines outline the methods used to solicit input from the public in the formation and development of regulations.

STATEMENT

Basis: Section 32.1-12 of the Code of Virginia empowers the State Board of Health to make, adopt and promulgate regulations. Section 9-6.14:7.1 directs each agency of the Commonwealth authorized to promulgate regulations to develop public participation guidelines for soliciting the input of interested parties in the formation and development of regulations.

Substance: The State Board of Health is authorized to promulgate regulations necessary to implement those activities required of the Virginia Department of Health to protect, preserve and promote the public health of Virginia's residents and visitors. These guidelines define the methods that will be used by the staff of the department to solicit input from the affected public and other interested and knowledgeable persons as regulations are being developed. In addition, the guidelines describe how the public may initiate consideration of the formation or review of regulations by the board. As implemented, the systems established in the guidelines should facilitate the success of the agency in these efforts.

Issues: The Public Participation Guidelines as proposed are based upon similar guidelines recently developed by the natural resources agencies in coordination with the Attorney General's office and benefit from revisions brought about following lengthy review by the public

affected by those agencies. Particular emphasis was placed on clarity of the text and in eliminating unnecessary components of previous guidelines. The resulting proposed guidelines provide definitive steps to be taken by Health Department staff when formulating and developing regulations while also providing flexibility to respond to the specific environment surrounding the issue being addressed. These proposed guidelines have been reviewed by the agency's assistant attorney general, members of the department's staff, and the members of the State Board of Health. No comments were received during the period following the publication of the Notice of Intent to Amend.

The guidelines presented replace in their entirety the agency's current public participation guidelines, first adopted in November 1984. The guidelines are designed to place more responsibility on agency staff to provide the simplest means for the public to participate in regulation formation within the requirements of the Administrative Process Act. The burden of compliance remains with the staff. However, the guidelines are also designed to prevent that burden from lengthening the formation process unnecessarily or from inappropriately imposing on staff time.

Impact: The agency believes that implementation of the guidelines will not cause any increase in the normal costs involved in the promulgation of regulations. Similarly, the guidelines will not impose any increase in the normal cost an interested person or other affected entity might experience from participation in the development process.

Statutory Authority: §§ 9-6.14:7.1 and 32.1-12 of the Code of Virginia.

Contact: Susan R. Rowland, Assistant to the Commissioner, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **February 23, 1993 - 9:30 a.m.** – Open Meeting
2015 Staples Mill Road, Richmond, Virginia. ☒

A regular monthly meeting.

Contact: Marcia A. Melton, Executive Secretary Senior, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

January 5, 1993 - 9 a.m. – Open Meeting
February 2, 1993 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

A Local Emergency Preparedness Committee meeting

Calendar of Events

on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

January 18, 1993 - 10 a.m. – Public Hearing
State Water Control Board Room, 4900 Cox Road, Glen Allen, Virginia.

February 12, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled VR 394-01-4. Virginia Amusement Device Regulations. The proposed amendments add requirements for bungee jumping activities.

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

Contact: Carolyn R. Williams, Building Code Supervisor, Code Development Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7170.

COUNCIL ON INFORMATION MANAGEMENT

† **January 29, 1993 - 9 a.m. – Open Meeting**
1100 Bank Street, Suite 901, Richmond, Virginia. ☐

A regular business meeting.

Contact: Linda Hening, Administrative Staff Specialist, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3625/TDD ☎

DEPARTMENT OF LABOR AND INDUSTRY

† **January 7, 1993 - 8:30 a.m. – Open Meeting**
Department of Information Technology Auditorium, 110 South 7th Street, Richmond, Virginia.

A public briefing to include:

1. How to make your participation in regulatory process meaningful.
2. Safety and Health Enforcement updates.
3. Revised Occupational Safety and Health Survey.

Contact: Harry S. Carver, Director, Public Services and Information, Powers-Taylor Bldg., 13 S. 13th St., Richmond,

VA 23219, telephone (804) 371-8589.

COMMISSION ON LOCAL GOVERNMENT

† **January 11, 1993 - 10 a.m. – Open Meeting**
State Capitol, House Room 1, Richmond, Virginia.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the commission's meeting and requiring special accommodations or interpreter services should contact the commission's office by Friday, January 8, 1993.

Contact: Barbara Bingham, Administrative Assistant, 702 8th Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Student Affairs/Academic Affairs Committees

† **January 20, 1993 - 4:30 p.m. – Open Meeting**
Longwood College, Ruffner Building, Board Room, Farmville, Virginia. ☐

A meeting to conduct routine business.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001.

STATE LOTTERY BOARD

† **January 25, 1993 - 10 a.m. – Open Meeting**
2201 West Broad Street, Richmond, Virginia. ☐

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

ADVISORY COMMITTEE ON MAPPING, SURVEYING AND LAND INFORMATION SYSTEMS

† **January 14, 1993 - 10 a.m. – Open Meeting**
1100 Bank Street, Suite 901, Richmond, Virginia. ☐

A regular business meeting.

Contact: Chuck Tyger, Computer Systems Chief Engineer, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or

(804) 225-3624/TDD

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DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

January 2, 1993 – Written comments may be submitted through 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to adopt regulations entitled: **VR 460-04-8.14. Managed Care: "Medallion" Regulations.** The purpose of this proposal is to promulgate permanent regulations to supersede the current emergency regulation containing substantially the same policies.

House Bill 30, passed by the 1990 session of the General Assembly, directed the Department of Medical Assistance Services (DMAS) to develop a plan to test the feasibility of establishing a statewide managed care system for Medicaid patients. The plan was developed and submitted to the Committee of Health Care for All Virginians (SJR 118) on October 1, 1990. The committee examined the plan based on three criteria: (i) the feasibility of expanding the system, (ii) alternatives for the design and staffing of such a system, (iii) costs and benefits associated with the preferred options. DMAS subsequently was instructed to proceed with its coordinated care program, named "MEDALLION."

The Commonwealth has requested and received approval from the Health Care Financing Administration (HCFA) for a waiver under § 1915(b) of the Social Security Act. DMAS will provide coordinated care services to those selected Medicaid recipients of the Commonwealth.

The services provided by this waiver would establish and support Primary Care Providers (PCP) who would become recipient care managers responsible for coordination of "MEDALLION" recipients' overall health care. The PCP will assist the client in gaining access to the health care system and will monitor on an ongoing basis the client's condition, health care needs, and service delivery to include referrals to specialty care. This form of health care delivery is expected to foster a more productive physician/patient relationship, reduce inappropriate use of medical services, and increase client knowledge and use of preventive care.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

January 15, 1993 – Written comments may be submitted until 5 p.m. on 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 460-01-79.7, 460-02-3.1100, 460-02-3.1200, 460-03-3.1100, 460-03-3.1105, 460-02-4.1920. Amount, Duration, and Scope of Services: Discontinue Coverage of Certain Optional Drugs and Fertility Services.** The purpose of these proposed regulations is to (i) conform with federal requirements for rebates on certain drugs; (ii) redefine family planning services to exclude the coverage of certain fertility drugs and services; (iii) discontinue coverage of certain optional drugs; and (iv) modify the method of the payment of pharmaceutical dispensing fees to allow for more or less frequent dispensing as is appropriate per drug.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on January 15, 1993, to Rebecca Miller, Pharmacy Consultant, Division of Policy and Research, DMAS, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

Drug Utilization Review Board

† **January 7, 1993 - 3 p.m.** – Open Meeting
600 East Broad Street, Suite 1300, Richmond, Virginia.

A regular meeting to conduct routine business.

Contact: Carol B. Pugh, Pharm.D., DUR Program Consultant, Quality Care Assurance Division, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3820.

BOARD OF MEDICINE

† **February 4, 1993 - 8 a.m.** – Open Meeting
† **February 5, 1993 - 8 a.m.** – Open Meeting
† **February 6, 1993 - 8 a.m.** – Open Meeting
† **February 7, 1993 - 8 a.m.** – Open Meeting
Location to be announced.

The Board of Medicine will meet on Thursday, February 4, 1993, in open session, to conduct general board business, receive committee and board reports, and discuss any other items which may come before the board. The board will also meet on Thursday, Friday, Saturday and Sunday, February 4, 5, 6, and 7, to review reports, interview licensees, and make case decisions on disciplinary matters. The president may

Calendar of Events

entertain brief public comments at the beginning of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Informal Conference Committee

† **January 5, 1993 - 9 a.m.** – Open Meeting
† **January 8, 1993 - 9 a.m.** – Open Meeting
Sheraton-Fredericksburg, I-95 and Route 3, Fredericksburg, Virginia. ☒

† **January 11, 1993 - 8:30 a.m.** – Open Meeting
† **January 12, 1993 - 8:30 a.m.** – Open Meeting
† **January 13, 1993 - 8:30 a.m.** – Open Meeting
Marriott Waterside, 235 East Main Street, Norfolk, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Disc., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

Credentials Committee

† **February 5, 1993 - 8:15 p.m.** – Open Meeting
Location to be announced.

The Credentials Committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia and discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Eugenia K. Dorson, Deputy Executive Director, 6606 W. Broad St., Richmond, VA 23233, telephone (804) 662-9923.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD)

February 15, 1993 – Written comments may be submitted through 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 **repeal** regulations entitled **VR**

460-06-01. Rules and Regulations to Assure the Protection of the Subjects of Human Research and adopt regulations entitled VR 470-06-01:1. Regulations to Assure the Protection of Participants in Human Research. These regulations respond to Chapter 603 of the 1992 Acts of Assembly (HB 220), passed by the General Assembly, which limits the scope of the DMHMRSAS' oversight responsibility for human research to the department and institutions operated, funded or licensed by the DMHMRSAS. Current regulations require all human research be conducted in compliance with regulations promulgated by DMHMRSAS. The regulations further require that all organizations conducting human research forward reports of their reviews and any violations pertaining to the conduct of human research to the Commissioner of the DMHMRSAS. Other proposed changes to the regulations are intended to increase consistency with federal regulations (i.e., 45 CFR Part 46).

Written comments may be submitted through February 15, 1993, to J. Randy Koch, Director of Research and Evaluation, P.O. Box 1797, Richmond, Virginia 23214.

Statutory Authority: §§ 37.1-10 and 37.1-24.01 of the Code of Virginia.

Contact: Rubyjean Gould, Director of Administrative Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3915.

DEPARTMENT OF MINES, MINERALS AND ENERGY

February 3, 1993 - 10 a.m. – Public Hearing
Department of Mines, Minerals and Energy Office Building, Mountain Empire Community College, Big Stone Gap, Virginia.

February 3, 1993 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled **VR 480-03-19. Virginia Coal Surface Mining Reclamation Regulations.** The purpose of the proposed amendments is to be consistent with changes in corresponding federal rules, as required by law. The amendments (i) establish requirements for operations where the weight of coal is 16 2/3% or less of the total tonnage of mineral mined; (ii) clarify the applicability of certain reclamation operations; (iii) clarify the notice and permitting requirements for exploration for coal; (iv) establish additional protection for prime farmland; (v) clarify the definition of "road" and identify plans and descriptions to be included in the permit application for the road system for the permit area; (vi) enhance public safety by changing requirements for the operation of

impoundments; (vii) clarify the revegetation success standards and provide for the planting of wildlife enhancement shrubs; (viii) clarify the applicability of preparation plants not at the mine site; (ix) delete the definition of support facilities; and (x) make changes for consistency in numbering.

Statutory Authority: §§ 45.1-1.3(4) and 45.1-230 of the Code of Virginia.

Contact: Bill Edwards, Policy Analyst, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-6855 or toll-free 1-800-552-3831/TDD ☎

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

† **January 13, 1993 - 1 p.m.** – Open Meeting
2300 West Broad Street, Richmond, Virginia. ☒

A regular business meeting open to the public.

Contact: Karen Ruby, Manager, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-0481.

BOARD OF NURSING

† **January 7, 1993 - 11 a.m.** – Open Meeting
Community Hospital of Roanoke Valley, 101 Elm Avenue, S.E., Fourth Floor, Gray Room, Roanoke, Virginia. ☒ (Interpreter for the deaf provided upon request)

A hearing officer will conduct a formal hearing with licensee. Public comment will not be received.

† **January 26, 1993 - 8:30 a.m.** – Open Meeting
† **January 29, 1993 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A panel of the Board of Nursing will conduct formal hearings. Public comment will not be received.

† **January 27, 1993 - 9 a.m.** – Open Meeting
† **January 27, 1993 - 1:30 p.m.** – Public Hearing
† **January 28, 1993 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting to consider matters relating to nursing education programs, discipline of licensees, licensure by examination and endorsement and other matters under the jurisdiction of the board. At 1:30 p.m. on January 27, 1993, the board will conduct a public hearing to receive comments on the existing Board of Nursing Regulations.

Contact: Corinne F. Dorsey, R.N., Executive Director, 6606 W. Broad St., Fourth Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

January 19, 1993 - 10 a.m. – Open Meeting
Brookfield Office Park-Southern States Building, Room 6, 6606 West Broad Street, Richmond, Virginia. ☒

Informal conferences.

January 20, 1993 - 10 a.m. – Open Meeting
Brookfield Office Park-Southern States Building, Rooms 1 and 2, 6606 West Broad Street, Richmond, Virginia. ☒

Formal conferences and board meeting.

January 21, 1993 - 10 a.m. – Open Meeting
Brookfield Office Park-Southern States Building, Rooms 1 and 2, 6606 West Broad Street, Richmond, Virginia. ☒

A meeting of the board.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111.

PREVENTION PROMOTION ADVISORY COUNCIL

† **January 21, 1993 - 10 a.m.** – Open Meeting
Madison Building, 109 Governor Street, 13th Floor Board Room, Richmond, Virginia. ☒

A quarterly business meeting.

Contact: Harriet M. Russell, Director, Prevention, DMHMRSAS, Office of Prevention, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530 or (804) 371-8977/TDD ☎

BOARD FOR PROFESSIONAL COUNSELORS

† **January 11, 1993 - 10 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒

Task Force on Substance Abuse and regulatory review.
Public comments will not be heard.

† **January 15, 1993 - 9 a.m.** – Open Meeting
† **January 16, 1993 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. ☒

A formal hearing. Public comments will not be heard.

Contact: Evelyn B. Brown, Director, or Bernice Parker,

Calendar of Events

Program Support Technician, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7328.

BOARD OF PSYCHOLOGY

† January 12, 1993 - 9:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☐

A meeting to (i) conduct general board business; (ii) approve applicants for licensure recommendations; and (iii) approve applicants to sit for written examinations. There will be no public comment.

Contact: Evelyn B. Brown, Executive Director, or Jane Ballard, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9913.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† January 14, 1993 - 2 p.m. – Teleconference
Department of Information Technology, 110 South 7th Street, 1st Floor, Richmond, Virginia 23219.

The board will hold a joint Legislative Executive Committee by audio teleconference to deal with any matters raised for the 1993 Session of the General Assembly. Parties wishing to participate should contact Florence Strother to obtain an audio bridge number.

† January 29, 1993 - 10 a.m. – Open Meeting
Radisson Hotel, 555 East Canal Street, Richmond, Virginia.

A quarterly board meeting will include legislative update, director's report and other topics of interest. At 1 p.m. the board will hold a joint meeting with the Council on Information Management.

Contact: Florence M. Strother, Acting Executive Secretary, 110 S. 7th St., 1st Floor, Richmond, VA 23219, telephone (804) 344-5552.

REAL ESTATE APPRAISER BOARD

January 5, 1993 - 10 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☐

A general business meeting.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

REAL ESTATE BOARD

January 14, 1993 - 9 a.m. – Open Meeting
Richmond Marriot Hotel, 500 East Broad Street, Richmond, Virginia. ☐

A meeting to conduct board business including review of applications, disciplinary cases, correspondence, etc. The board will also consider publishing a notice of intent to commence regulatory review.

Contact: Joan L. White, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

January 15, 1993 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled VR 615-01-48. **General Relief Program - Deeming Income From Alien Sponsors.** This regulation makes policy in the General Relief Program consistent with policy in the Aid to Families with Dependent Children Program which requires considering the income and resources of the alien's sponsor for three years after the alien's entry into the U.S. as a permanent resident when determining program eligibility.

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

Written comments may be submitted through January 15, 1993, to Diana Salvatore, Program Manager, Medical Assistance Unit, 8007 Discovery Dr., Richmond, VA 23229.

Contact: Peggy Friedenberg, Legislative Analyst, Bureau of Governmental Affairs, Division of Planning and Program Review, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217.

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January 19, 1993 - 5:30 p.m. – Public Hearing
Koger Center, West End, Wythe Building, Conference Room A, 1604 Santa Rosa Road, Richmond, Virginia.

January 20, 1993 - 5:30 p.m. – Public Hearing
Virginia Beach Public Library (Central), Auditorium, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia.

January 21, 1993 - 5:30 p.m. – Public Hearing
Albemarle County Office Building, Meeting Room 7, 2nd Floor, 401 McIntire Road, Charlottesville, Virginia.

February 12, 1993 – Written comments may be submitted through this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled **VR 615-34-01. Voluntary Registration of Small Family Day Care Homes - Requirements for Contracting Organizations.** The proposed regulation sets forth the requirements for organizations that shall administer the voluntary registration program for small family day care homes on behalf of the Commissioner of Social Services.

Written comments may be submitted through February 12, 1993, to Mary Zoller, Department of Social Services, Division of Licensing Programs, 8007 Discovery Drive, Richmond, Virginia 23229.

Statutory Authority: §§ 63.1-25 and 63.1-196.04 C of the Code of Virginia.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217.

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January 19, 1993 - 5:30 p.m. - Public Hearing
Koger Center, West End, Wythe Building, Conference Room A, 1604 Santa Rosa Road, Richmond, Virginia.

January 20, 1993 - 5:30 p.m. - Public Hearing
Virginia Beach Public Library (Central), Auditorium, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia.

January 21, 1993 - 5:30 p.m. - Public Hearing
Albemarle County Office Building, Meeting Room 7, 2nd Floor, 401 McIntire Road, Charlottesville, Virginia.

February 12, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled **VR 615-35-01. Voluntary Registration of Small Family Day Care Homes - Requirements for Providers.** The proposed regulation sets forth registration procedures and general information for providers operating small family day care homes who voluntarily register.

Written comments may be submitted through February 12, 1993, to Alfreda Redd, Department of Social Services, Division of Licensing Programs, 8007 Discovery Drive, Richmond, Virginia 23229.

Statutory Authority: §§ 63.1-25 and 63.1-196.04 C of the Code of Virginia.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217.

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February 12, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled **VR 615-01-50. Food Stamp Program - Income Conversion Method.** The income conversion method of multiplying weekly income by 4.3 and bi-weekly amounts by 2.15 will be required to determine eligibility for food stamp benefits.

Written comments may be submitted through February 12, 1993, to Burt Richman, Food Stamp Program Manager, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Statutory Authority: §§ 63.1-25 and 63.1-110 of the Code of Virginia.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

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February 14, 1993 - Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled **VR 615-37-01. Regulations for Criminal Records Checks for Homes for Adult Day Care Centers.** The purpose of the proposed regulation is to protect adults in licensed homes for adults and adult day care centers from persons charged or convicted of certain crimes. The proposed regulation will require a sworn disclosure statement prior to employment and a criminal record check within 30 days of employment for all compensated employees. The sworn disclosure statement indicates that the individual has neither a conviction nor pending charges in or outside the Commonwealth of Virginia of those crimes which act as barriers to employment. The criminal record check is conducted to ensure that the employee does not have any convictions of barrier crimes.

Written comments may be submitted through February 14, 1993, to Cheryl Worrell, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Statutory Authority: § 63.1-174 of the Code of Virginia.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

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Calendar of Events

March 1, 1993 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled **VR 615-01-43. Aid to Families with Dependent Children (AFDC) Program - Fifth Degree Specified Relative.** The purpose of the proposed regulation is to revise the AFDC policy to expand the definition of specified relative to include caretakers who are of fifth degree kinship to the dependent child.

STATEMENT

Subject: This regulation adds relatives of fifth degree to the current definition of specified relative. At this time this regulation is an option to states based on an interpretation from the Department of Health and Human Services (HHS). In order to be eligible for AFDC a child must be living with a relative of prescribed degree based on the Social Security Act. This regulation will permanently add relatives such as first cousin once removed, great great grandparents, great great aunt and uncle, etc.

Substance: This regulation will permanently revise the definition of specified relative to include the above stated degree of relatives. This will enable children living with such relatives to qualify for AFDC.

Issues: This regulation is an option under federal regulations and will allow children living with a relative of fifth degree to meet the definition of living with a specified relative and to qualify for AFDC.

Basis: §§ 63.1-25 and 63.1-110 of the Code of Virginia and Administration for Children and Families (ACF) Action Transmittal 91-33 issued by HHS.

Impact: If adopted, all 124 local social services agencies will be required to implement the proposed regulation when determining eligibility for assistance in the AFDC Program. The proposed regulation will only affect individuals on AFDC, but will have no impact on individual citizens, organizations, or businesses including those classified as "eligible small businesses."

Statutory Authority: §§ 63.1-25 and 63.1-110 of the Code of Virginia.

Written comments may be submitted through March 1, 1993, to Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF) AND CHILD DAY-CARE COUNCIL

February 14, 1993 – Written comments may be submitted through 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 and the Child Day-Care Council intend to repeal regulations entitled **VR 615-32-02. Regulations for Criminal Record Checks: Licensed Child Caring Institutions** and **VR 175-04-01. Criminal Record Checks for Licensed Child Care Centers.** These regulations are proposed for repeal while concurrently promulgating Criminal Record Checks for Child Welfare Agencies.

Written comments may be submitted through February 14, 1993, to Cheryl Worrell, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

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February 14, 1993 – Written comments may be submitted through 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 and the Child Day-Care Council intend to adopt regulations entitled **VR 615-36-01** and **VR 175-10-01. Regulations for Criminal Record Checks for Child Welfare Agencies.** The proposed regulations replace VR 615-32-02 and VR 175-04-01 and apply to all licensed or registered child welfare agencies. The regulations incorporate statutory changes made during the 1992 General Assembly session.

Written comments may be submitted through February 14, 1993, to Cheryl Worrell, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217.

BOARD OF SOCIAL WORK

† January 28, 1993 - 9 a.m. – Open Meeting
† January 28, 1993 - 1 p.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒

Informal conferences. Public comments will not be heard.

January 29, 1993 - 10 a.m. - Open Meeting
6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A meeting to conduct general board business and respond to correspondence.

Contact: Evelyn B. Brown, Executive Director, or Bernice Parker, Program Support, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9914.

SPECIALIZED TRANSPORTATION COUNCIL

† **January 8, 1993 - 8 a.m. - Open Meeting**
City Hall, 900 East Broad Street, 2nd Floor, Richmond, Virginia.

A meeting to conduct business of the council.

Contact: Bob Knox, Staff to the Council, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-3140.

VIRGINIA COUNCIL ON TEEN PREGNANCY PREVENTION

† **February 4, 1993 - 11 a.m. - Open Meeting**
Virginia Housing Development Authority, 601 Belvidere Street, Richmond, Virginia. ☒

A quarterly business meeting.

Contact: Jeanne McCann, Coordinator, Office of Prevention, DMHMRSAS, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530 or (804) 371-8977/TDD ☎

COMMONWEALTH TRANSPORTATION BOARD

† **January 27, 1993 - 2 p.m. - Open Meeting**
Virginia Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session of the board and Department of Transportation staff.

† **January 28, 1993 - 10 a.m. - Open Meeting**
Virginia Department of Transportation, 1401 East Board Street, Board Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. 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 E. Broad St., Richmond, VA 23219, telephone (804) 786-6670.

TREASURY BOARD

January 20, 1993 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☒

A regular meeting of the board.

January 6, 1993 - 9:45 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ☒

A special meeting.

Contact: Linda F. Bunce, Administrative Assistant to the Treasurer, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 225-2142.

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

† **January 6, 1993 - 10 a.m. - Open Meeting**
General Assembly Building, 910 Capitol Street, Speakers Conference Room, 6th Floor, Richmond, Virginia. ☒

A quarterly meeting.

Contact: Shuron M. Booker, Executive Assistant, 1001 E. Broad St., Suite 245, Richmond, VA 23219, telephone (804) 786-5895.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

January 9, 1993 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request.)

The Advisory Committee on Services will meet to advise the board on matters related to services for blind and visually impaired citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Ave., Richmond, VA 23227, telephone (804)

Calendar of Events

371-3140, (804) 371-3140/TDD ☎, or toll-free (800) 622-2155.

VIRGINIA VOLUNTARY FORMULARY BOARD

January 14, 1993 - 10:30 a.m. – Open Meeting
1100 Bank Street, Washington Building, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B 1-9, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WAR MEMORIAL FOUNDATION

† **January 14, 1993 - 3 p.m. – Open Meeting**
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

First meeting of the foundation.

Contact: Nathan I. Broocke, Director, Department of General Services, Division of Engineering and Buildings, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD ☎

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

January 11, 1993 - 2 p.m. – Public Hearing
Headquarters Branch, Roanoke County Library, 3131 Electric Road, Roanoke, Virginia.

February 9, 1993 - 2 p.m. – Public Hearing
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

February 18, 1993 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waste Management Facility Operators intends to adopt regulations entitled **VR 674-01-02. Waste Management Facility Operators Regulations**. The purpose of the proposed regulations is to establish standards, certification qualifications and fees for individuals acting as waste management facility operators.

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

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

† **January 29, 1993 - 8:30 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☒

A general board meeting.

Contact: Nelle P. Hotchkiss, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

January 7, 1993 - 7 p.m. – Public Hearing
Chesapeake Sheriff Training Center, 401 Albemarle Drive, Chesapeake, Virginia.

Pursuant to the requirements of Part VII, Virginia Solid Waste Management Regulations (VSWMR), Permitting of Solid Waste Management Facilities, the Department of Waste Management will hold a public hearing on the draft permit amendment for Industrial Landfill Permit No. 440 located at the Chesapeake Energy Center, between Route 13 and I-64, in the city of Chesapeake. The permit amendment was drafted by the Department of Waste Management for Virginia Power in accordance with Part VII of the VSWMR. The purpose of the public hearing will be to solicit comments regarding the technical merits of the amended issues. The public comment period will extend until January 19, 1993. Copies of the proposed draft permit may be obtained from Sanjay V. Thirunagari. Comments concerning the draft permit must be in writing and directed to Howard Freeland of the Department of Waste Management.

Contact: Sanjay V. Thirunagari, Environmental Engineer Senior, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 371-2518.

† **January 8, 1993 - 9 a.m. – Open Meeting**
State Water Control Board Offices, (Innsbrook) 4900 Cox Road, Glen Allen, Virginia.

A general business meeting. Staff will (i) seek final approval for amendment of the Solid Waste Management Regulations; (ii) seek final approval of Amendment 11 to the Hazardous Materials Transportation Regulations; and (iii) give a presentation on enforcement activities. This meeting was previously scheduled for December 22. The December 22 meeting was canceled to allow staff more time to review and incorporate public comments received on the Solid Waste Management regulations.

Contact: Loraine Williams, Executive Secretary, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2998 or (804) 371-8737/TDD ☎

† **February 1, 1993 - 7 p.m. – Public Hearing**

Charles City County Community Center, 10600 Courthouse Road, Charles City, Virginia.

Pursuant to the requirements of Part VII, Virginia Solid Waste Management Regulations (SWMR), Permitting of Solid Waste Management Facilities, the Department of Waste Management will hold a public hearing on the draft permit amendment for the Charles City County Landfill and proposed by Chambers Development Inc. for a change in the financial assurance for the facility. The permit was drafted by the Department of Waste Management for Chambers Development Inc. in accordance with Part VII of the SWMR. The purpose of the public hearing will be to solicit comments regarding the technical merits of the permit issues. The public comment period will extend until February 11, 1993. Copies of the proposed draft permit may be obtained from Paul Farrell of the Department of Waste Management. Comments concerning the draft permit must be in writing and directed to Aziz Farahmand, Department of Waste Management, 11th Floor, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219.

Contact: Paul Farrell, Environmental Engineer Senior, Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 371-2974.

STATE WATER CONTROL BOARD

December 30, 1992 – Written comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-01-01. Fees for Permits and Certificates.** The purpose of the proposed regulation is to establish a fee assessment and collection system to recover a portion of costs associated with the processing of an application to issue, reissue, or modify any permit or certificate which the board has the authority to issue.

Statutory Authority: § 62.1-44.15:6 of the Code of Virginia.

Written comments may be submitted until 4 p.m. on Monday, December 30, 1992, to Ms. Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Pat Woodson, Policy Analyst, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5166.

† **January 27, 1993** - 2 p.m. – Open Meeting
Prince William County Board of Supervisors Room, 1 County Complex, McCourt Building, 4850 Davis Ford Road, Prince William, Virginia.

† **January 28, 1993** - 2 p.m. – Open Meeting

Harrisonburg City Council Chambers, Municipal Building, 345 South Main Street, Harrisonburg, Virginia.

† **February 2, 1993** - 2 p.m. – Open Meeting
James City County Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg, Virginia.

† **February 4, 1993** - 2 p.m. – Open Meeting
Municipal Office, Multi-Purpose Room, 150 East Monroe Street, Wytheville, Virginia.

A meeting to receive views and comments and to answer questions of the public on Notices of Intended Regulatory Action on the adoption of a Virginia Pollutant Discharge Elimination System Permit Regulation (VR 680-14-01:1) and a Virginia Pollution Abatement Permit Regulation (VR 680-14-21) and the repeal of the Permit Regulation (VR 680-14-01) and the Toxics Management Regulation (VR 680-14-03).

Contact: Richard Ayers, Office of Water Resources Management, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

† **January 29, 1993** - 2 p.m. – Open Meeting
State Water Control Board Office, Innsbrook Corporate Center, Board Room, 4900 Cox Road, Glen Allen, Virginia.

A meeting to receive views and comments and answer questions of the public on the Notice of Intended Regulatory Action on the adoption of a General Permit Regulation for Nonmetallic Mineral Mining (VR 680-14-20).

Contact: Richard Ayers, Office of Water Resources Management, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5059.

† **February 4, 1993** - 2 p.m. – Open Meeting
Roanoke County Administration Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia.

† **February 8, 1993** - 2 p.m. – Open Meeting
James City County Board of Supervisors Room, 101C Mounts Bay Road, Building C, Williamsburg, Virginia.

† **February 10, 1993** - 2 p.m. – Open Meeting
State Water Control Board Office, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting to receive views and comments and to answer questions of the public on Notices of Intended Regulatory Action on the adoption of General Permits for Storm Water Discharges from Heavy Manufacturing Facilities (VR 680-14-16); from Light Manufacturing Facilities (VR 680-14-17); from Transportation Facilities, Landfills, Land Application Sites and Open Dumps, Materials Recycling Facilities; and Steam Electric Power Generating Facilities (VR 680-14-18), and from Construction Sites (VR 680-14-19).

Calendar of Events

Contact: Cathy Boatwright, Office of Water Resources Management, P.O. Box 11143, Richmond, VA 23230, telephone (804) 527-5316 or (804) 527-4261/TDD ☎



DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

January 14, 1993 - 8:30 a.m. - Open Meeting
February 11, 1993 - 8 a.m. - Open Meeting
700 Centre Building, 7th and Franklin Streets, 4th Floor,
Richmond, Virginia. ☎

Committee meetings begin at 8:30 to be followed by a general meeting at 10 a.m. to (i) review programs recommended for certification or probation; (ii) consider adoption of draft policies; and (iii) take up other matters that may come before the board.

Contact: Donald R. Carignan, Policy Coordinator, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0692.

LEGISLATIVE

VIRGINIA COAL AND ENERGY COMMISSION

† January 12, 1993 - 1 p.m. - Open Meeting
General Assembly Building, 910 Capital Street, House
Room D, Richmond, Virginia.

An open meeting of the Virginia Coal and Energy Commission.

Contact: Thomas C. Gilman, Senate of Virginia, P. O. Box 396, Richmond, VA 23203, telephone (804) 786-3838, or Arlen K. Bolstad, Staff Attorney, Division of Legislative Services, 910 Capitol Street, Richmond, VA 23208, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

December 30
Compensation Board

January 4, 1993

† Fuels Tax Evasion, Governor's Task Force on
† Funeral Directors and Embalmers, Board of

January 5

† Air Pollution Control, Department of
Contractors, Board for
† Funeral Directors and Embalmers, Board of
Hopewell Industrial Safety Council
† Medicine, Board of
- Informal Conference Committee
Real Estate Appraiser Board

January 6

Contractors, Board for
- Recovery Fund Committee
Defense Conversion and Economic Adjustment,
Governor's Commission on
† Funeral Directors and Embalmers, Board of
Treasury Board
† Virginia Alcohol Safety Action Program, Commission
on

January 7

† DMAS Drug Utilization Review (DUR) Board
† Game and Inland Fisheries, Board of
† Labor and Industry, Department of
Local Emergency Planning Committee - Chesterfield
County
Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board
† Nursing, Board of

January 8

† Medicine, Board of
- Informal Conference Committee
† Specialized Transportation Council
† Waste Management Board, Virginia

January 9

Visually Handicapped, Department for the
- Advisory Committee on Services

January 11

† Local Government, Commission on
† Medicine, Board of
† Professional Counselors, Board of
† Valley ASAP Board

January 12

† Coal and Energy Commission, Virginia
† Council on the Environment
† Board of Audiology and Speech-Language Pathology
† Medicine, Board of
† Psychology, Board of

January 13

Contractors, Board for
Corrections, Board of
Dentistry, Board of
† Medicine, Board of

Calendar of Events

† Motor Vehicles, Department of
- Medical Advisory Board
Virginia Winegrowers Advisory Board

January 14

Agriculture and Consumer Services, Department of
- Pesticide Control Board
Corrections, Board of
- Liaison Committee
Dentistry, Board of
† Forestry, Board of
† Hazardous Materials Emergency Response Advisory
Council, Virginia
† Mapping, Surveying and Land Information Systems,
Advisory Committee on
† Public Telecommunications Board, Virginia
Real Estate Board
Voluntary Formulary Board, Virginia
† War Memorial Foundation, Virginia
Youth and Family Services, Board of

January 15

Agriculture and Consumer Services, Department of
- Pesticide Control Board
† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Dentistry, Board of
† Professional Counselors, Board of

January 16

Dentistry, Board of
† Professional Counselors, Board of

January 19

Nursing Home Administrators, Board of

January 20

† Local Emergency Planning Committee - Roanoke
Valley
† Longwood College
-Student Affairs/Academic Affairs Committees
Nursing Home Administrators, Board of
Treasury Board

January 21

Nursing Home Administrators, Board of
† Prevention Promotion Advisory Council

January 25

† Lottery Department, State
† Nursing, Board of

January 27

† Game and Inland Fishers, Board of
† Nursing, Board of
† Transportation Board, Commonwealth
† Water Control Board, State

January 28

† Game and Inland Fisheries, Board of
† Nursing, Board of

† Social Work, Board of
† Transportation Board, Commonwealth
† Water Control Board, State

January 29

† Game and Inland Fisheries, Board of
† Information Management, Council on
† Nursing, Board of
† Public Telecommunications Board, Virginia
Social Work, Board of
† Waste Management Facility Operators, Board for
† Water Control Board, State

February 2

Hopewell Industrial Safety Council
† Water Control Board, State

February 4

Local Emergency Planning Committee - Chesterfield
County
† Medicine, Board of
† Teen Pregnancy Prevention, Virginia Council on
† Water Control Board, State

February 5

† Medicine, Board of

February 6

† Medicine, Board of

February 7

† Medicine, Board of

February 8

Commerce, Board of
† Water Control Board, State

February 9

Employment Commission, Virginia
- State Advisory Board

February 10

Corrections, Board of
Employment Commission, Virginia
- State Advisory Board
† Water Control Board, State

February 11

Youth and Family Services, Board of

February 23

† Health Services Cost Review Council, Virginia

PUBLIC HEARINGS

January 5, 1993

† Air Pollution Control, Department of

Calendar of Events

January 6

Defense Conversion and Economic Adjustment,
Governor's Commission on

January 7

Waste Management, Department of

January 11

Waste Management Facility Operators, Board for

January 18

Housing and Community Development, Board of

January 19

Accountancy, Board for
Social Services, State Board of

January 20

Social Services, State Board of

January 21

Social Services, State Board of

January 27

† Nursing, Board of

February 1

† Waste Management Board, Department of

February 3

Mines, Minerals and Energy, Department of

February 9

Waste Management Facility Operators, Board for

February 10

Corrections, Department of

March 1

† Health, State Board of