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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider amending regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The purpose of the proposed action is to make changes to the minimum standards of practice and conduct and make other changes as needed.

Statutory Authority: § 54.1-404 of the Code of Virginia.

Written comments may be submitted until April 22, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

BOARD FOR BRANCH PILOTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Branch Pilots intends to consider amending regulations entitled: **VR 535-01-01. Branch Pilot Regulations.** The purpose of the proposed action is to make (i) changes to the requirements for license renewal; (ii) changes requiring ARPA radar training, and (iii) other changes as needed.

Statutory Authority: § 54.1-902 of the Code of Virginia.

Written comments may be submitted until April 22, 1993.

Contact: Willie Fobbs, III, Assistant Director, Department of Commerce, 3600 W. Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 367-8514.

STATE EDUCATION ASSISTANCE AUTHORITY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the State Education Assistance Authority intends to consider amending regulations entitled: **VR 275-01-1. Regulations Governing Virginia Administration of the Federally Guaranteed Student Loan Programs.** The purpose of the proposed action is to reflect recent changes in federal laws and regulations governing the student loan programs.

Statutory Authority: § 23-38.33:1 C of the Code of Virginia.

Written comments may be submitted until April 9, 1993, to Marvin Ragland, Virginia Student Assistance Authorities, 411 East Franklin Street, Richmond, Virginia 23219.

Contact: Lyn Hammond or Sherry Scott, Policy Analysts, Virginia Student Assistance Authorities, 411 E. Franklin St., Richmond, VA 23219, telephone (804) 775-4000 or toll-free 1-800-792-5626.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider promulgating regulations entitled: **Rules and Regulations Governing Emergency Medical Services Do Not Resuscitate Program.** The purpose of the proposed action is to promulgate permanent regulations for the Emergency Medical Services Do Not Resuscitate Program to replace emergency regulations currently in effect.

Statutory Authority: §§ 32.1-151, 32.1-153, and 54.1-2987.1 of the Code of Virginia.

Written comments may be submitted until April 20, 1993.

Contact: Susan D. McHenry, Director, Office of Emergency Medical Services, Virginia Department of Health, 1538 East Parham Road, Richmond, VA 23228, telephone (804) 371-3500 or toll-free 1-800-523-6019.

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 amend regulations entitled: **VR 355-33-100 (formerly VR 355-33-01). Regulations for the Licensure of Nursing Homes.** The purpose of the proposed action is to amend the current regulations to incorporate additional state and federal requirements.

Notices of Intended Regulatory Action

Statutory Authority: § 32.1-127 of the Code of Virginia.

Written comments may be submitted until April 22, 1993.

Contact: Deborah Little-Spurlock, Director, Office of Health Facilities Regulation, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 371-2102.

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 amend regulations entitled: **VR 355-33-500. Regulations for the Licensure of Hospitals.** The purpose of the proposed action is to amend the current regulations to incorporate additional requirements contained within the Code of Virginia.

Statutory Authority: § 32.1-127 of the Code of Virginia.

Written comments may be submitted until April 22, 1993.

Contact: Deborah Little-Spurlock, Director, Office of Health Facilities Regulation, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 371-2102.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-2. Certification Standards for Building Inspection Personnel, Amusement Device Inspectors, Blasters, Plumbers, Electricians, and Building Related Mechanical Workers/1990.** The purpose of the proposed action is to amend current regulations to comply with other revised regulations and standards.

Statutory Authority: §§ 15.1-11.4, 36-98.3, 36-137, and 27-97 of the Code of Virginia.

Written comments may be submitted until April 22, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing

and Community Development intends to consider amending regulations entitled: **VR 394-01-4. Virginia Amusement Device Regulations/1990.** The purpose of the proposed action is to amend current regulations to comply with other revised regulations and standards.

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

Written comments may be submitted until April 22, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code/1990.** The purpose of the proposed action is to amend current regulations to comply with other revised regulations and standards.

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

Written comments may be submitted until April 22, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Vol. I - New Construction Code/1990.** The purpose of the proposed action is to amend current regulations to comply with other revised regulations and standards.

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

Written comments may be submitted until April 22, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501

Notices of Intended Regulatory Action

N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code - Vol. II - Building Maintenance Code/1990.** The purpose of the proposed action is to amend current regulations to comply with other revised regulations and standards.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Written comments may be submitted until April 22, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1990.** The purpose of the proposed action is to amend current regulations to comply with other revised regulations and standards.

Statutory Authority: §§ 36-73 and 36-85.7 of the Code of Virginia.

Written comments may be submitted until April 22, 1993, to the Department of Housing and Community Development, Code Development Office, 501 N. 2nd St., Richmond, VA 23219-1321.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-200. Virginia Private Activity Bond Regulations.** The purpose of the proposed action is to change allocation priorities and make minor administrative changes.

Statutory Authority: § 15.1-1399.15 of the Code of Virginia.

Written comments may be submitted until April 8, 1993.

Contact: Charles Gravatt, Financial Assistance Coordinator, Department of Housing and Community Development, Division of Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7025.

VIRGINIA MANUFACTURED HOUSING BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Manufactured Housing Board intends to consider promulgating regulations entitled: **VR 449-01-01. Public Participation Guidelines for Formation, Promulgation and Adoption of Regulations.** The purpose of the proposed action is to develop permanent public participation guidelines to replace the public participation guidelines adopted as emergency regulations.

Statutory Authority: §§ 9-6.14:7.1 and 36-85.18 of the Code of Virginia.

Written comments may be submitted until April 22, 1993.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Code Enforcement Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Manufactured Housing Board intends to consider promulgating regulations entitled: **VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations.** The purpose of the proposed action is to develop regulations to be used in the administration and enforcement of the Manufactured Housing Licensing Law and Recovery Fund.

Statutory Authority: § 36-85.18 of the Code of Virginia.

Written comments may be submitted until April 22, 1993.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Code Enforcement Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7160.

BOARD OF OPTOMETRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

Notices of Intended Regulatory Action

public participation guidelines that the Board of Optometry intends to consider amending regulations entitled: **VR 510-01-1. Board of Optometry Regulations.** The purpose of the proposed action is to consider amending § 3.1 4 f to define what constitutes a complete contact lens prescription and to adjust fees for initial licensure, examination, and renewal of licensure for optometrists; the fee for professional designation application; and the late fee.

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

Written comments may be submitted until May 10, 1993, to Carol Stamey, Board of Optometry, 6606 West Broad Street, 4th Floor, Richmond, Virginia 23230-1717.

Contact: Elizabeth A. Carter, Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9942.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Social Services intends to consider promulgating regulations entitled: **Virginia Department of Social Services Administrative Hearing Procedure: Telephone Hearings.** The purpose of the proposed action is to streamline the existing administrative hearing process.

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

Written comments may be submitted until April 30, 1993, to Donna Douglas, Bureau of Customer Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Margaret J. Friedenber, Regulatory Coordinator, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

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 ~~355-39-01~~ 355-39-100 . Regulations Governing Eligibility Standards and Charges for Medical Health Care Services to Individuals .

Statutory Authority: § 32.1-11 and 32.1-12 of the Code of Virginia.

Public Hearing Date: May 4, 1993 - 1 p.m.

Written comments may be submitted until June 7, 1993.

(See Calendar of Events section for additional information)

Summary:

This regulation establishes the basis for the Department of Health's charges and eligibility process. The proposed amendments are being made to (i) change the basis for the department's charges; (ii) bring eligibility guidelines closer to those used for Medicaid determination; (iii) change the waiver process; (iv) clarify the roles of the Board of Health, commissioner, and district directors in determining the scope of services provided by the department; and (v) reflect changes in the Code of Virginia.

VR 355-39-100. Regulations Governing Eligibility Standards and Charges for Health Care Services to Individuals.

PART I DEFINITIONS.

§ 1.1. Definitions.

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

"Applicant" means the person requesting medical health care services for themselves himself or on whose behalf of a dependent family member or foster child a request is made .

"Automatic eligibility" means applicants who are recipients of public assistance programs:

Aid to Dependent Children (ADC)

General Relief

Title XIX - MEDICAID

Food Stamp Benefits

Dental services for children who qualify for the national school lunch program or its equivalent.

Identifying information shall be collected on these persons in order to make the above determinations.

"Board" means the State Board of Health. *The Board of Health is the policy board of the state Department of Health.*

"Charges for services" means the reasonable charges established by the board for medical care services. In calculating service charges consideration will be given to (i) patient caseloads; (ii) manpower requirements; and (iii) the cost of support services, supplies and equipment. These charges shall be based on the state average cost for providing the services. The charges may be further adjusted when cost changes occur.

"Child" means a any biological or adopted child, and any child placed for adoption or foster care unless otherwise treated as a separate unit by these regulations.

"Commissioner" means the Commissioner of Health. *The commissioner is the chief executive officer of the state Department of Health. The commissioner has the authority to act for the Board of Health when it is not in session.*

"Department" means the state Department of Health and includes central office, regional offices and health districts, and local health departments.

"Disabled" means any person crippled or otherwise incapacitated from earning a living. Incapacity must be supported by a physician's determination.

Adult disabled children (persons) may or may not be included in the family unit depending on the support received from the parents. If the adult disabled child operates as a separate economic unit, he will be excluded even though he shares the parent's residence.

"Eligibility determination" means the process of obtaining required information regarding family size, income, and other related data in order to establish charges to the applicant.

"Family" or "family unit" means the economic unit which may include the patient, the spouse of the patient, the parent or parents of a patient who is an unemancipated minor, the parents of a patient who has

Proposed Regulations

been declared by a physician to be disabled, and any other person actually and properly dependent upon or contributing to the family's income for subsistence the applicant and other such household members who together constitute one economic unit. The economic unit shall include the constellation of persons among whom legal responsibilities of support exist; or an individual, even if otherwise within such a constellation, if he independently receives subsistence funds in his own right. The economic unit shall count in its income any contributions to the unit from persons not necessarily living with the constellation .

Parent includes a biological, adoptive, or step parent ; or a cohabiting partner included in the family unit .

A woman who is pregnant may be counted as a multiple beneficiary when the pregnancy has been verified by a physician or a nurse practitioner working under the supervision of a physician.

A husband and wife who have been separated and are not living together, and who are not dependent on each other for support shall be considered separate family units.

The family unit which is based on cohabitation is considered to be a separate family unit for determining eligibility for services. The cohabiting partners and any children shall be considered a family unit. (§ 63.1-00.1 of the Code of Virginia.)

Eligible Medicaid children shall be considered a separate family unit.

"Flat rate charges" means charges for specified services which are to be charged to all patients regardless of income and with no eligibility determination.

"Free services" means services which the Health Department provides to all persons without charge as mandated by the Code of Virginia (see Part IV).

The department may also provide certain free services to all citizens, i.e., hypertension check-ups, pregnancy testing, etc., which are not necessarily required by the Code of Virginia.

"Gross income" means total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from own business or farm expenses) income, plus any depreciation shown on income tax forms . They include regular payments from public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, emergency assistance money payments and federally funded General Assistance or General Relief money payments); social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends,

alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; and income from dividends, interest, net rental income, net royalties, or periodic receipts from estates or trusts, college or university scholarships, grants, fellowships, assistantships lump sum settlements , and net gambling or lottery winnings.

"Gross income" does not include the value of food stamps, WIC checks, fuel assistance payments , housing assistance, money borrowed, tax refunds, gifts, lump sum settlements, inheritances or one-time insurance payments or compensation for injury, withdrawal of bank deposits from earned income , earnings of minor children, money received from the sale of property , general relief from the Department of Social Services, or college or university scholarships, grants, fellowships, and assistantships .

"Income scales" means scales based on individual or family gross income which shall be established: . They shall be based on the official poverty guidelines updated annually by the U.S. Department of Health and Human Services in accordance with §§ 652 and 6763(2) of the Omnibus Reconciliation Act of 1981 (Public Law 97-35). There shall be two income scales: one for Northern Virginia and one for the remainder of the Commonwealth as follows:

Income Level A - will be set at up to and including 100% of the poverty income guidelines, except for Northern Virginia where the Income Level A will be set at up to and including 110% of the poverty income guidelines.

Income Level B - will be set at 110% of the poverty income guidelines those clients with incomes above 100% and no more than 110% of the poverty guidelines will qualify as Income Level B clients , except for Northern Virginia where the Income Level B will be set at above 110% and no more than 133.3% of the federal poverty income guidelines.

Income Level C - will be set at 133.3% of the poverty income guidelines those clients with incomes above 110% and no more than 133.3% of the poverty income guidelines will qualify as Income Level C clients , except for Northern Virginia where the Income Level C will be set at above 133.3% and no more than 166.6% of the federal poverty income guidelines.

Income Level D - will be set at 166.6% of the poverty income guidelines those clients with incomes above 133.3% and no more than 166.6% of the poverty income guidelines will qualify as Income Level D clients , except for Northern Virginia where the Income Level D will be set at above 166.6% and no more than 200% of the federal poverty income

guidelines.

Income Level E - will be set at 200% of the poverty income guidelines those clients with incomes above 166.6% and less than 200% of the poverty income guidelines will qualify as Income Level E clients , except for Northern Virginia where the Income Level E will be set at above 200% and less than 233.3% of the federal poverty income guidelines.

Income Level F - will be set at 233.3% of the poverty income guidelines those clients with incomes equal to or above 200% of the poverty level guidelines will qualify as Income Level F clients , except for Northern Virginia where the Income Level F will be set at 266.6% all clients with incomes equal to or above 233.3% of federal poverty income guidelines will qualify as Income Level F clients .

"Legally responsible" means the biological or adoptive parent(s), or those parents whose parentage has been admitted by affidavit or by order of the court.

"Medically indigent" means applicants whose individual or family gross income is defined at Income Level A and below .

"Minor" means a person less than 18 years of age whose parents are responsible for his care. A minor will be considered a separate family unit when married ; or when 15 years of age and over and not living with any relatives relative or deemed an adult.

A minor shall be deemed an adult for the purposes of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious and or contagious disease which the State Board of Health requires to be reported.
2. Medical and health services required in case of birth control, pregnancy, or family planning except for the purposes of sexual sterilization.

"Nonchargeable services" means the health services which the department has determined will be provided without charge and without an eligibility determination to all citizens regardless of income. There is no charge for WIC services, but WIC services do require an eligibility determination.

"Northern Virginia" means the area which includes the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the counties of Arlington, Fairfax, Loudoun, and Prince William.

"Students" means individuals, regardless of their residence, who are supported by their parents or others related by birth, marriage, or adoption are considered to be residing with those who support them.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

Section 32.1-12 of the Code of Virginia establishes the responsibility of the board as follows: "The board may formulate a program of environmental health services, laboratory services and preventive, curative and restorative medical care services, including home and clinic health services described in Titles V, XIII and XIX of the United States Social Security Act and amendments thereto, to be provided by the department on a regional, district or local basis. The board shall define the income limitations within which a person shall be deemed to be medically indigent. Persons so deemed to be medically indigent shall receive the medical care services of the department without charge. The board may also prescribe the charges to be paid for the medical care services of the department by persons who are not deemed to be medically indigent and may, in its discretion and within the limitations of available funds, prescribe and a scale of such charges based upon ability to pay. Funds received in payment of such charges are hereby appropriated to the board for the purpose of carrying out the provisions of this title. The board shall review periodically the program and charges adopted pursuant to this section."

§ 2.2. Purpose of regulations.

The board has promulgated these regulations to: (i) establish financial eligibility criteria to determine if a person is medically indigent and therefore qualified to receive medical health care services of from the department without charge; and (ii) to establish income scales and charges a mechanism for services for medical determining charges for health care provided by the department to individuals who are not medically indigent, based upon their ability to pay ; (iii) establish a mechanism for handling appeals and waivers; and (iv) establish continuity of eligibility among state agencies . The regulations are constructed to assure that eligibility criteria remain appropriate for changing economic conditions.

§ 2.3. Administration of regulations.

These regulations are administered by the following: commissioner.

A. State Board of Health. The Board of Health is the governing body of the State Department of Health. The commissioner shall assure uniformity and consistency by interpreting and implementing the rules by the department for health care services

B. State Health Commissioner. The State Health Commissioner is the chief executive officer of the State Department of Health. The commissioner has the authority to act for the board when it is not in session. The commissioner shall publish specific income levels

Proposed Regulations

expressed in dollar amounts for determining eligibility for medical health care services of the department. The income levels shall be based on the official poverty guidelines updated annually by the Department of Health and Human Services in accordance with §§ 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 (P. L. 97-35).

§ 2.4. Recipients of services.

These regulations shall apply to all persons seeking laboratory and preventive, curative and restorative services including medical and dental clinic health care services provided by the department, except where other eligibility criteria are required for programs administered under federal statute.

§ 2.5. Effective date of regulations.

These regulations will be effective July 10, 1989.

§ 2.6. § 2.5. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act govern the adoption of these regulations and any subsequent amendments.

§ 2.7. § 2.6. Powers and procedures of regulations not exclusive.

The board reserves the right to authorize any procedure necessary for the enforcement of the provisions set forth herein under the provisions of § 32.1-12 of the Code of Virginia.

PART III. CHARGES FOR SERVICES APPLICATION AND CHARGES .

§ 3.1. Income levels Application process .

A. Applicants for medical care services, who are found to be medically indigent as defined by Part I of these regulations shall be provided care at no charge to the applicant. Upon an applicant's request for health services (excepting those services described in § 4.1) the department will require information as to the family size, financial status and other related data as described on the application for health care. The applicant must be informed during the interviewing process of the provisions as described in this section of the regulations.

An application date is established when the applicant completes and signs the application for health care services.

When an applicant is in need of emergency medical services, the district director, or his designee, shall waive this application process for that individual until such time as the individual is able to respond normally to the interviewing process.

It is the applicant's responsibility to furnish the department with the proof of the financial data in order to be appropriately classified according to income level and family size so that eligibility for discounts for health care services can be determined.

Any individual who is acting on behalf of an applicant will be responsible for the accuracy of all financial data provided to the department.

§ 3.2. Charges for services.

Charges for services means the reasonable charges established by the board for health care services. The department may prescribe a scale of discounts for certain health services. Charges will be based on current published Medicaid reimbursement levels. In those instances where Medicaid does not reimburse for a service provided by the department, charges shall be based on the costs of providing the services.

§ 3.3. Flat rate fees.

Certain health services (e.g., public health screenings) that are not essential for public health protection may be set at a flat rate not subject to discounting. All flat rate fees must be expressly approved by the commissioner.

§ 3.4. Income levels for charges.

The department shall annually publish specific income levels expressed in dollar amounts for determining eligibility for discounts to the charges for health care services.

The charges made to the applicant shall be subject to 100% discounting for those who are found to be medically indigent as defined in Part I.

B. Applicants for medical health care services, including those in Northern Virginia as defined in Part I, whose family income exceeds Income Level A shall be assessed a fee charge as follows:

1. Income Level A - No charge for service 100% discount for the service .
2. Income Level B - 10% 90% discount of the established charge for the service.
3. Income Level C - 25% 75% discount of the established charge for the service.
4. Income Level D - 50% discount of the established charge for the service.
5. Income Level E - 75% 25% discount of the established charge for the service.
6. Income Level F - 100% of the established charge for the service No discount will be given .

§ 3.5. Automatic eligibility.

Automatic eligibility is given to applicants who currently receive any of the following public assistance programs:

General Relief

Title XIX - Medicaid

National School Lunch Program for children receiving school meals at no cost. For child dental services only.

§ 3.6. Explanation of charges.

Prior to services being rendered, an explanation of the charges, applicable discounts, and expected payment shall be provided to the applicant.

§ 3.7. Redetermination of eligibility.

Eligibility to receive discounts from established charges must be redetermined at least every 12 months, or when income or family status change, unless otherwise dictated by law or regulation.

PART IV. FREE NONCHARGEABLE SERVICES.

§ 4.1. Services provided at no charge.

The following services are provided without at no charge and without an eligibility determination to all citizens regardless of income as required by the Code of Virginia .

1. Immunization of children against diphtheria, tetanus, whooping cough, poliomyelitis, measles (rubeola), german measles (rubella) and mumps Those immunizations for children as required by § 32.1-46 of the Code of Virginia, and of persons up to the age of 21 when the person lacks evidence of complete and appropriate immunizations for these diseases.
2. Examination of persons suspected of having or known to have tuberculosis as required by § 32.1-50 of the Code of Virginia.
3. Examination, testing and treatment of persons for venereal disease sexually transmitted diseases as required by § 32.1-57 of the Code of Virginia.
4. Screening of persons for the disease of sickle cell anemia or the sickle cell trait as required by § 32.1-68 of the Code of Virginia Anonymous testing for human immunodeficiency virus as required by § 32.1-55.1 of the Code of Virginia .
5. Screening for phenylketonuria, hypothyroidism homocystinuria, galactosemia and Maple Syrup Urine Disease as required by §§ 32.1-65 and 32.1-67 of the Code of Virginia.

§ 4.2. Immunization services.

The department may provide immunization services free of charge to all individuals in the event of an epidemic or when declared necessary by the commissioner to protect the public health of all citizens of the Commonwealth.

§ 4.3. Other health care services.

The department may elect to provide other medical health care services at no charge to all citizens of the Commonwealth when directed by the board or the commissioner.

PART V. CHARGEABLE SERVICES.

§ 5.1. Chargeable services.

The department may prescribe charges for certain medical services to be paid by persons who are not deemed to be medically indigent and may within the limitations of available funds prescribe a scale of such charges based upon ability to pay.

PART VI V . EXCEPTIONS.

§ 6.1. § 5.1. Exceptions.

A. A continuing exception to the above standard principles for assessing charges /fees for clinic services will exist for patients determined to be eligible for services provided under the Handicapped Children's Services Program, the Special Supplemental Food Program for Women, Infants and Children (WIC), the Child Development Clinic Network, and to recipients of treatment and medical food products under the Phenylketonuria (PKU) Program. The conditions under which each of these programs is operated constitute unusual circumstances which dictate the following special principles for determining the charges to be made as reimbursement for those programs' services those programs of the department specified in the Code of Virginia or published in separate state plans .

B. The Handicapped Children's Services Program shall charge the annual patient fee for those persons determined to be above Income Level A. Charges shall be imposed in accordance with regulations as stated in the latest State Plan for Provision of Crippled Children's Services approved by the Board of Health.

C. The Phenylketonuria (PKU) Program shall impose no charges for screening, clinic, or laboratory services which are necessary to establish a diagnosis or to recommend treatment of PKU. Charges for specific medical food products will not be made to families in Income Level A nor will charges for these products be made to persons financially eligible for the services authorized under the Women, Infants and Children (WIC) Program.

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D. Specific medical food products which from time to time may be required by recipients of other programs offered by the department, and which may be provided by the department will be supplied in the same manner as provided in subsection C of § 6-1 of these regulations.

E. The Child Development Clinic Network shall impose no charges for services provided children from families in Income Level A.

§ 6-2. § 5.2. When necessary, the health or medical program director can deny certain medical services to full-paying patients (Income Levels F and above). Such denial is appropriate when the following situations exist: The district director or program director can limit the provision of certain health services based on an assessment of public need and available department resources.

1. The demand is great for providing services to lower income patients or when local restrictions apply to giving certain services; and

2. The same services are available in the community by the private sector.

§ 5.3. The district director or program director may establish policies to limit the provision of certain health services provided by the department based on legal residence and visa status except where federal funds are appropriated for the service.

§ 5.4. The district director, with department approval, may establish appropriate charges for services that are provided in the district and for which no statewide charges are identified.

PART VII. ELIGIBILITY DETERMINATION:

§ 7-1. Upon request for medical services by an individual, the department will require information as to the family size, financial status and other related data as described on the application for health care (CHS-1). The applicant shall be informed during the interviewing process of the provisions as described in this section of the regulations. This process does not apply to services described in § 4-1 of these regulations.

A. An application date is established when the applicant, his authorized representative, or other persons acting in his behalf, completes and signs the application for medical care services.

1. For the Special Supplemental Food Program for Women, Infants and Children (WIC), the application date is established when an individual visits the health department during office hours to make an oral or written request for WIC Program benefits.

B. When an applicant is in need of emergency medical

care services, the district director, or his designee shall waive this application process for that individual until such time as the individual is able to respond normally to the interviewing process.

C. It is the applicant's responsibility to furnish the department with the correct financial data in order to be appropriately classified according to income level and to determine applicable charges for medical care services. The applicant shall be required to provide written verification of financial income such as check stubs, written letter from an employer, W-2 or W-4 forms, etc., in order to provide documentation for the application.

D. Any individual who is acting on behalf of a minor will be held responsible for the accuracy of all financial data provided the department.

§ 7-2. If the patient's family gross income is such that a partial or full charge for service is determined to be required, an explanation of the charges shall be provided to the patient prior to services being rendered.

§ 7-3. A person's financial eligibility to receive chargeable medical care services shall be redetermined every 12 months, except when the department has reason to believe an applicant's financial or family status has changed sooner or when laws or regulations dictate otherwise.

§ 7-4. The department's policy is to require that a reasonable effort shall be made to collect any fees due for chargeable services.

The department should request payment for a chargeable service at the time the service is given.

When payments are not made at the time of service, the department will present to the patient, guardian or other authorized person, a bill each 30, 60, 90 and 120 calendar days.

If the payment is not made within 120 calendar days of the date of service, additional chargeable services will be discontinued to individuals whose income levels have been determined Income Levels B through F, until arrangements for payment have been made.

A written notice, including the development of a payment plan, on overdue payments, shall be presented to the patient at least 30 days prior to the effective date on which additional chargeable services will be refused because of payment delinquency.

The notice shall describe how a temporary waiver can be obtained in order for the individual to have a fair opportunity to settle on an overdue account.

If a waiver is denied, the department will continue to bill the patient, guardian, or the authorized person according to the above criteria.

§ 7-5. The individual, family unit, or other authorized person, may seek relief from the application of the above provisions by using Parts VIII and IX of these regulations.

PART VIII VI. WAIVER OF PAYMENTS CHARGES .

§ 8-1. § 6.1. When an unusual family or individual in instances when patients have unusually serious health problem problems or extraordinary financial hardships are demonstrated to exist, and there are no other avenues of care, the patient, guardian or other authorized person may request a waiver of payment for chargeable services charges for up to 90 calendar days. A waiver may shall be requested orally or in writing to the program or district Health Department director . A new eligibility determination will be completed on the patient at this time. If the new eligibility determination places the patient in a lower payment plan, the amount of service payments incurred before the new eligibility determination and subsequent to the bona fide change in circumstances will be considered for possible discharge by the department or for payment at a level consistent with the newly determined income level. If complete waiver is allowed, during the waiver period the patient will not be charged for continued medical care. If partial waiver is allowed in the form of reduced payments, during the waiver period the patient will be charged at the reduced rate. Once the waiver period has elapsed, or earlier if the reason for the waiver no longer exists, if the patient's eligibility determination status has returned to its previous status or has improved to a higher payment level, the patient will be required to make payments on future medical care at the original or other appropriate level.

If the new eligibility determination made in response to the waiver request reveals no change in income level status, extraordinary circumstances may be taken into account to allow complete or partial waiver for up to 60 days, at which time the continuation of the extraordinary circumstances will be reassessed and the waiver terminated or extended for an additional period up to 30 days, with a repeat reassessment at the end of that time. Extraordinary circumstances will include but not necessarily be limited to natural disasters, uninsured real or personal property damage or legal liability to another for the same, obligatory and unavoidable expenditures for close relatives outside the family unit. Waivers shall not be accorded in the absence of a finding of hardship.

If the new eligibility determination proves that the patient's income level status has not changed, the department will continue to charge the patient at the appropriate level for medical care. At this time, the department will work with the patient, guardian, or other authorized person to assure that a reasonable payment plan for services received is established as described in subsection D of § 7-1. Documentation shall be made in the patient's medical file that proper procedures have been taken to assist the patient.

If the waiver request is approved, the patient will receive a full discount for all services charged to him while covered by the waiver. If the waiver request is denied, the charges will continue as before.

§ 8-2. § 6.2. The Commissioner of Health is designated to act for the Board of Health to grant or deny requested waivers and may delegate the authority to the program or district directors who may then designate the authority to individuals under their supervision to grant or deny the waiver .

§ 8-3. At his discretion, the commissioner may delegate the authority to grant or deny waivers to medical directors in the central, regional and district offices.

§ 8-4. Medical directors may designate other individuals within their supervision to grant or deny waivers of patient payments in accordance with § 8-1.

§ 8-5. § 6.3. In the event of an adverse decision, the patient, guardian or other authorized person will be advised of their rights to appeal under Part IX VII .

§ 8-6. At the time of request in a waiver, the applicant should provide information regarding the length of time he anticipates the waiver may be in force, with a justification for that estimate. The medical director or his designee will then determine and specify a reasonable time period based on the facts and circumstances of the particular case. The time specified should serve only as a guide; in operation the waiver should apply only for the duration of the change in the applicant's circumstances. Prior to the expiration date of the waivers, each case will be reviewed by the medical director or his designee for further determination. A waiver may be requested orally or in writing to the Health Department. No waiver can be extended beyond a six-month period without review.

After the waiver period has elapsed, a new eligibility determination will be performed to determine the patient's new income level status, or whether another waiver needs to be extended for continued care.

Services to patients shall continue pending a final decision on a request for a waiver.

§ 6.4. Waivers will not be continued past 90 days. Additional waivers can be granted, but the applicant will have to reapply at least every 90 days.

§ 6.5. No person believed to be eligible for Medicaid and having failed to complete a Medicaid application will be eligible for a waiver.

PART IX VII. APPEAL PROCESS.

§ 9-1. § 7.1. If applicant for or recipient of medical health care services as defined in these regulations is denied such services, has services terminated, wishes to contest

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the determined income level, or is denied a waiver as defined in Part VIII VI of these regulations, the applicant/recipient is entitled to appeal that action as set forth under this part. There are no further rights of appeal except as set forth in this part.

A. The applicant/recipient has the right to be informed in writing of the appeal process, including time limits ; , and the right to receive a written statement of the reasons for denial. If a person already receiving services is denied those services, a written notice of termination shall be given 30 days in advance of discontinuing services. The person has the right to confront any witnesses who may have testified against him.

B. An individual or his representative may make a written or oral appeal to the district health director or program medical director within 30 days of the denial of service.

C. Upon receipt of the appeal, the district health director shall review and make written recommendations to the regional medical operations director and commissioner within 15 days. The regional medical operations director shall submit his recommendations to the commissioner within 15 days of the receipt of the local health district director's recommendations. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

D. Upon receipt of the appeal, the program medical director shall review and make written recommendations to the division director and the commissioner within 15 days. The division director shall submit his recommendations to the commissioner within 15 days of the receipt of the division director's recommendation. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

E. Services to applicants/recipients shall continue during an the appeal process.

PART X VIII . FRAUD.

~~§ 10-1.~~ § 8.1. If the district health director finds a pattern of abuse of services such as willful misrepresentation, identifies a patient willfully misrepresenting himself, or withholding or falsification of falsifying information in an attempt to obtain medical health services free or at a reduced rate, he the director may discontinue services to the affected person 30 days after notification to the person of the intended discontinuation notifying the person that services will be discontinued . Such recipient is entitled to the appeal process set forth in Part IX VII of these regulations.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

REGISTRAR'S NOTICE: The following regulation is exempted from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) in accordance with § 9-6.14:4.1 B 4 of the Code of Virginia, which excludes agency action relating to grants of state or federal funds or property.

Title of Regulations: VR 394-01-107. Procedures for Allocation of Low-Income Housing Tax Credits.

Statutory Authority: § 42 of the Internal Revenue Code; §§ 36-143, 36-146 and 36-147 of the Code of Virginia; and Governor's Executive Order No. Forty (91).

Public Hearing Date: N/A -- Written comments may be submitted through May 5, 1993.

(See Calendar of Events section for additional information)

Summary:

These procedures establish the administrative framework for the allocation of low-income housing tax credits by the Virginia Department of Housing and Community Development. The procedures have been changed to revise the distribution of scoring points and the provisions for monitoring compliance with federal law.

VR 394-01-107. Procedures for Allocation of Low-Income Housing Tax Credits.

§ 1. Definitions.

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

"Applicant" means an applicant for federal credits or state credits, or both, under these procedures and, upon and subsequent to an allocation of such credits, also means the owner of the development to whom the federal credits or state credits or both are allocated.

"Estimated highest per bedroom credit amount for new construction units" means, in subdivision 6 of § 6, the highest amount of federal credits and 50% of state credits estimated by the director to be allocated per bedroom (within the low-income housing units) to any development in the Commonwealth (or, if the director shall so determine, in each pool or subpool) composed solely of new construction units.

"Estimated highest per bedroom credit amount for rehabilitation units" means, in subdivision 6 of § 6, the highest amount of federal credits and 50% of state credits estimated by the director to be allocated per bedroom (within the low-income housing units) to any development in the Commonwealth (or, if the director shall so determine, in each pool or subpool) composed solely of rehabilitation units.

"Estimated highest per unit credit amount for new construction units" means, in subdivision 5 of § 6, the highest amount of federal credits and 50% of state credits estimated by the director to be allocated per low-income unit to any development in the Commonwealth (or if the director shall so determine, in each pool or subpool) composed solely of new construction units.

"Estimated highest per unit credit amount for rehabilitation units" means, in subdivision 5 of § 6, the highest amount of federal credits and 50% of state credits estimated by the director to be allocated per low-income unit to any development in the Commonwealth (or, if the director shall so determine, in each pool or subpool) composed solely of rehabilitation units.

"Federal credits" means the low-income housing tax credits as described in § 42 of the IRC.

"IRC" means the Internal Revenue Code of 1986, as amended, and the rules, regulations, notices and other official pronouncements promulgated thereunder.

"Low-income housing units" means those units which are defined as "low income units" under § 42 of the IRC.

"Qualified low-income buildings" or *"qualified low-income development"* means the buildings or development which meets the applicable requirements in § 42 of the IRC to qualify for an allocation of federal credits thereunder.

"Single-room occupancy units (SRO)" means permanent facilities for the homeless, consisting of a single room housing unit with either private or shared bath facilities with the optional provision of kitchen facilities.

"State code" means Chapter 1.4 of Title 36 of the Code of Virginia.

"State credits" means the low-income housing tax credits as described in the state code.

"Transitional housing" means facilities for the homeless in which the housing units contain sleeping accommodations and kitchen and bathroom facilities and are located in a building which is used exclusively to facilitate the transition of homeless individuals (within the meaning of § 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302)) to independent living within 24 months, and in which a governmental entity or qualified nonprofit organization provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

"Virginia taxpayer" means any individual, estate, trust or corporation which, in the determination of the department, is subject to the payment of Virginia income taxes and will be able to claim in full against such taxes the amount of state credits reserved or allocated to such individual,

estate, trust or corporation under these procedures.

§ 2. Purpose and applicability.

The following procedures will govern the allocation by the department of federal credits pursuant to § 42 of the IRC and state credits pursuant to the state code.

Notwithstanding anything to the contrary herein, acting at the request or with the consent of the applicant for federal credits or state credits or both, the director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the IRC and the state code.

The procedures set forth herein are intended to provide a general description of the department's processing requirements and are not intended to include all actions involved or required in the processing and administration of the federal credits and state credits. These procedures are subject to change at any time by the department and may be supplemented by policies and procedures adopted by the department from time to time.

Any determination made by the department pursuant to these procedures as to the financial feasibility of any development or its viability as a qualified low-income development shall not be construed to be a representation or warranty by the department as to such feasibility or viability.

Notwithstanding anything to the contrary herein, all procedures and requirements in the IRC and the state code must be complied with and satisfied.

§ 3. General description.

The IRC provides for federal credits to the owners of residential rental projects comprised of qualified low-income buildings in which low-income housing units are provided, all as described therein. The aggregate amount of such credits (other than federal credits for developments financed with certain tax-exempt bonds as provided in the IRC) allocated in any calendar year within the Commonwealth may not exceed the Commonwealth's annual state housing credit ceiling for such year under the IRC. An amount equal to 10% of such ceiling is set-aside for developments in which certain qualified nonprofit organizations hold an ownership interest and materially participate in the development and operation thereof. Federal credit allocation amounts are counted against the Commonwealth's annual state housing credit ceiling for federal credits for the calendar year in which the federal credits are allocated. The IRC provides for the allocation of the Commonwealth's state housing credit ceiling for federal credits to the housing credit agency of the Commonwealth. The department has been designated by executive order of the Governor as the housing credit agency under the IRC and, in such capacity, shall allocate for each calendar year federal credits to qualified low-income buildings or developments in accordance

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herewith.

Federal credits may be allocated to each qualified low-income building in a development separately or to the development as a whole in accordance with the IRC.

Federal credits may be allocated to such buildings or development either (i) during the calendar year in which such building or development is placed in service or (ii) if the building or development meets the requirements of § 42(h)(1)(E) of the IRC, during one of the two years preceding the calendar year in which such building or development is expected to be placed in service. Prior to such allocation, the department shall receive and review applications for reservations of federal credits as described hereinbelow and shall make such reservations of federal credits to eligible applications in accordance herewith and subject to satisfaction of certain terms and conditions as described herein. Upon compliance with such terms and conditions and, as applicable, either (i) the placement in service of the qualified low-income buildings or development or (ii) the satisfaction of the requirements of § 42(h)(1)(E) of the IRC with respect to such buildings or the development, the federal credits shall be allocated to such buildings or the development as a whole in the calendar year for which such federal credits were reserved by the department.

Except as otherwise provided herein or as may otherwise be required by the IRC, these procedures shall not apply to federal credits with respect to any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder.

The department is authorized by the state code to establish the amount, if any, of state credits to be allocated to any buildings or development qualified for and claiming federal credits. The amount of state credits is calculated as a percentage of federal credits. Such percentage is established by the department as provided herein. The state code provides for a maximum allocation of \$3,500,000 state credits in any calendar year. The state credits will be available for buildings or developments for which federal credits shall be allocated in 1990 and subsequent years or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal tax credits hereunder, for which such bonds shall be issued in 1990 and subsequent years. In the event that legislation is adopted by the General Assembly to defer the date set forth in §§ 36-55.63 A, 58.1-336 A or 58.1-435 A of the state code, then the year 1990 in the preceding sentence shall likewise be deferred and the provisions of these procedures relating to state credits shall not become effective until the date set forth in such legislation.

The department shall charge to each applicant fees in such amount as the director shall determine to be necessary to cover the administrative costs to the

department, but not to exceed the maximum amount permitted under the IRC. Such fees shall be payable at such time or times as the director shall require.

§ 4. Adoption of allocation plan; solicitations of applications.

The IRC requires that the department adopt a qualified allocation plan which shall set forth the selection criteria to be used to determine housing priorities of the department which are appropriate to local conditions and which shall give certain priority to and preference among developments in accordance with the IRC. The director from time to time may cause housing needs studies to be performed in order to develop the qualified allocation plan and, based upon any such housing needs study and any other available information and data, may direct and supervise the preparation of and approve the qualified allocation plan and any revisions and amendments thereof in accordance with the IRC. The IRC requires that the qualified allocation plan be subject to public approval in accordance with rules similar to those in § 147(f)(2) of the IRC. The director may include all or any portion of these procedures in the qualified allocation plan.

The director may from time to time take such action as he may deem necessary or proper in order to solicit applications for federal credits and state credits. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the director may select as appropriate under the circumstances. The director may impose requirements, limitations and conditions with respect to the submission of applications and the selection thereof as he shall consider necessary or appropriate.

§ 5. Application.

Application for a reservation of federal credits or state credits or both shall be commenced by filing with the department an application, on such form or forms as the director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the department in order to comply with the IRC, the state code and these procedures and to make the reservation and allocation of the federal credits and state credits in accordance with these procedures. The application shall include a breakdown of sources and uses of funds sufficiently detailed to enable the department to ascertain where and what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or placement proceeds that will be raised. The following cost information must be included in the application: site acquisition costs, site preparation costs, construction costs, construction contingency, general contractor's overhead and profit, architect and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational

costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, syndication and legal fees, development fees, and other costs and fees.

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, (ii) lease of such site by the applicant for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire or lease such site pursuant to a valid and binding written option or contract between the applicant and the fee simple owner of such site, provided that such option or contract shall have no conditions within the discretion or control of such owner of such site. No application shall be considered for a reservation or allocation of federal credits or state credits unless such evidence is submitted with the application and the department determines that the applicant owns, leases or has the right to acquire or lease the site of the proposed development as described in the preceding sentence.

The application shall include pro forma financial statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The director may also require the submission of a legal opinion or other assurances satisfactory to the director as to, among other things, compliance of the proposed development with the IRC and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the director, setting forth the calculation of the amount of federal credits requested by the application and certifying, among other things, that under the existing facts and circumstances the applicant will be eligible for the amount of federal credits requested.

The director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application, and any such criteria and assumptions shall be indicated on the application form or instructions.

The director may prescribe such deadlines for submission of applications for reservation and allocation of federal credits and state credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the department to make such reservations and allocations.

After receipt of the applications, the department shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such individuals a reasonable opportunity to comment on the developments.

The development for which an application is submitted

may be, but shall not be required to be, financed by the department. If any such development is to be financed by the department, the application for such financing shall be submitted to and received by the department in accordance with its applicable procedures.

The department may consider and approve, in accordance herewith, both the reservation and the allocation of federal credits and state credits to buildings or developments which the department may own or may intend to acquire, construct or rehabilitate.

§ 6. Review and selection of applications; reservation of federal credits.

The director may divide the amount of federal credits into separate pools and may further subdivide those pools into subpools. The division of such pools and subpools may be based upon one or more of the following factors: geographical areas of the Commonwealth; types or characteristics of housing, construction, financing, owners, or occupants; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

An amount, as determined by the director, not less than 10% of the Commonwealth's annual state housing credit ceiling for federal credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. With respect to all reservations and allocations of federal credits, a "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) is to materially participate (within the meaning of § 469(h) of the IRC) in the development and operation of the development throughout the "compliance period" (as defined in § 42(i)(1) of the IRC); and
2. With respect to only those reservations of federal credits made by the director on or after December 18, 1990, and with respect to only those allocations made pursuant to such reservations, (i) the "qualified nonprofit organization" described in the preceding subdivision 1 is to own an interest in the development (directly or through a partnership) as required by the IRC; (ii) such qualified nonprofit organization is to, prior to the allocation of federal credits to the buildings or development, own a general partnership interest in the development which shall constitute not less than 51% of all of the general partnership interests of the ownership entity thereof (such that the qualified nonprofit organizations have at least a 51% interest in both the income and profit allocated to all of the general partners and in all items of ~~cash flow~~ cash flow distributed to the general partners) and which will result in such qualified nonprofit organization receiving not less than 51% of all fees, except builder's overhead and builder's profit, paid or to be paid to all of the general partners (and any other entities determined by the department to be related to or affiliated with one or more of such

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general partners) in connection with the development; (iii) the director of the department shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; and (iv) the director of the department shall have determined that the qualified nonprofit organization was not or will not be formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools or subpools (as defined below) established by the director. In making the determination required by this subdivision 2(iv), the director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, and the relationship of the staff, directors or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis. The director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization holds stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the director may require in order to determine that the foregoing requirements have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for federal credits be available for developments other than those satisfying the preceding requirements. The director may establish such pools or subpools ("nonprofit pools or subpools") of federal credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools or subpools are so established, the director may rank the applications therein and reserve federal credits (and, if applicable, state credits) to such applications before ranking applications and reserving federal credits (and, if applicable, state credits) in other pools and subpools, and any such applications in such nonprofit pools or subpools not receiving any reservations of federal credits (and, if applicable, state credits) or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough federal credits then

available in such nonprofit pools or subpools to make such reservations) shall be assigned to such other pool or subpool as shall be appropriate hereunder; provided, however, that if federal credits are later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of federal credits made from any nonprofit pools or subpools or a rescission in whole or in part of an allocation of federal credits made from such nonprofit pools or subpools or otherwise) for reservation and allocation by the department during the same calendar year as that in which applications in the nonprofit pools or subpools have been so assigned to other pools or subpools as described above, the director may, in such situations, designate all or any portion of such additional federal credits for the nonprofit pools or subpools (or for any other pools or subpools as he shall determine) and may, if additional federal credits have been so designated for the nonprofit pools or subpools, reassign such applications to such nonprofit pools or subpools, rank the applications therein and reserve federal credits to such applications in accordance with the IRC and these procedures. In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of federal credits reserved within such nonprofit pools or subpools is less than the total amount of federal credits made available therein, the director may either (i) leave such unreserved federal credits in such nonprofit pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved federal credits to such other pools or subpools as the director shall designate and in which there are or remain applications for federal credits which have not then received reservations therefor in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess applications") or (iii) carry over such unreserved federal credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Any redistribution made pursuant to clause (ii) above shall be made pro rata based on the amount originally distributed to each such pool or subpool with excess applications divided by the total amount originally distributed to all such pools or subpools with excess applications. Notwithstanding anything to the contrary herein, no allocation of credits shall be made from any nonprofit pools or subpools to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. In addition, no application for credits from any nonprofit pools or subpools may receive a reservation or allocation of credits from any nonprofit pools or subpools, or any combination of those pools with other pools, in an amount greater than \$500,000. For the purposes of implementing this limitation, the director may determine that more than one application for more than one development which he deems to be a single development shall be considered as a single application.

The director may elect to allocate no more than \$1,000,000 in annual tax credits to any new construction

project until all other eligible projects within the applicable pool have received an allocation of credits.

The department shall review each application, and, based on the application and other information available to the department, shall assign points to each application as follows:

1. The extent to which the project addresses Public Purpose. This category carries a maximum of ~~350~~ 400 points. Of those:

A maximum of 50 points may be earned based upon the Type of Project, with 50 points for new construction, 50 points for substantial rehabilitation (greater than \$15,000/unit), 50 points for acquisition of a HUD expiring use project, and 15 points for moderate rehabilitation (greater than \$2,000/unit);

A maximum of 30 points may be earned for Documented Local Need;

A maximum of 30 points may be earned for Local Support, with 15 points for a letter of support from the local government's chief executive officer that states without qualification or limitation, the following:

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC § 42 for that development will help meet the housing needs and priorities of (name of locality). Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development," and up to 15 points for other evidence of support;

A maximum of 30 points may be earned for Project Quality, with up to 10 points for building materials, 10 points for amenities and unit size, and up to 10 points for energy efficiency;

A maximum of 100 points may be earned based upon the Project Location and Quality Characteristics. For new construction and rehabilitation projects located in a HUD defined qualified census tract or difficult to develop area, up to 50 points will be awarded for amenities and unit size, 25 points for energy efficiency, and 25 points for historic certification. For new construction and rehabilitation projects not located in a HUD defined qualified census tract or difficult to develop area, up to 30 points will be awarded for amenities and unit size, 15 points for energy efficiency, and 15 points for historic certification.

A maximum of 100 points may be earned for Documented Local Need and Local Support distributed as follows:

A maximum of 40 points may be earned for Local

Need documented by a letter from the locality's chief executive officer certifying that the project meets a priority need identified in the locality's Comprehensive Housing Affordability Strategy (CHAS). In those areas without a local CHAS, points will be awarded for a letter from the local CEO explaining how the project meets a need identified in a current housing study or comprehensive plan, and/or a private market study, and secondary data from other research on housing needs in the area. A maximum of 50 points may be earned for documented funding provided by the locality to be determined on a pro rata basis. If the local funding accounts for 20% or more of the total sources, the project will receive full points. A maximum of 10 points will be awarded for other evidence of support from local referral agencies and neighborhood and local interest groups.

A maximum of 20 points may be earned for Special Needs Preference. Using a weighted average of the number of units, up to 10 points may be earned for elderly housing, where "elderly" means 62 years of age or older, up to 10 points for housing for handicapped persons, and up to 10 points for housing for large families (3 bedrooms or more).

Five points may be earned for giving Leasing Preference to persons from either local housing authority waiting lists or § 8 waiting lists.

A maximum of 25 points may be earned for involvement by a qualified Nonprofit Organization with 25 points available for projects in which that qualified Nonprofit Organization has a 51% or greater interest, and up to 10 points available for projects in which that qualified Nonprofit Organization has less than a 51% interest, if such organization owns a 51% or greater interest in the general partner of the owning entity.

A maximum of 150 points may be earned for projects with rents below the maximums allowed, or which have low-income restrictions, allocating points as follows: which have low-income restrictions on a higher percentage of units than the minimum required, and which serve the following households or some combination thereof:

150 Maximum points for households at 40% of median income

125 Maximum points for households at 50% of median income

100 Maximum points for households at 60% of median income

A maximum of 10 points may be earned for Special Characteristics that add to the overall project quality or public purpose, such as, but not limited to, rehabilitation of an historic structure, coordination

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with neighborhood revitalization efforts, or special tenant services.

2. The extent to which the project demonstrates Readiness to move forward quickly. This category carries a maximum of 150 points. Of those: This category carries a maximum of 100 points and each project eligible for credits must meet a threshold of 50 points. The department reserves the right to reduce the threshold level at its sole discretion. Of these points:

Twenty-five points may be earned for having documented appropriate zoning or written evidence satisfactory to the department that no zoning requirements are applicable.

Five points may be earned for having all required public utilities in place;

A maximum of 25 points may be earned for having appropriate zoning, with 25 for documented appropriate zoning or written evidence satisfactory to the department that no zoning requirements are applicable; 15 for undocumented appropriate zoning if no change in use is proposed; and 5 for evidence that application for appropriate zoning is in process;

Ten points may be earned for having an approved plan of development or written evidence that such a plan is not required;

A maximum of 20 40 points may be earned for the degree to which the project's plans and specifications (where the project is a new construction project or a rehabilitation project involving major reconfiguration), or work write-ups and specifications (where the project is a rehabilitation project not involving major reconfiguration) are complete. This will be calculated by multiplying 20 points by the percentage of completion, as determined typically by a letter from the project's architect or other appropriate third-party professional. This will be calculated by multiplying 40 points by the percentage of completion of final, sealed construction documents. The degree of completion will typically be determined by a letter from the project's architect or other appropriate third-party professional. In the absence of this documentation, the department will determine the degree of completion. Full points will be awarded for completion greater than or equal to 75%.

A maximum of 60 points may be earned for having financing in place (including documented equity sources), with a maximum of 10 for construction financing (10 for a firm financing commitment, 6 for a conditional commitment, 2 for a letter of intent), and a maximum of 50 points divided proportionally between permanent financing and equity sources (50 for a firm financing or equity commitment, 30 for a conditional financial or equity commitment, and 10 for

a letter of intent). For the purposes of this section, a firm financing commitment means a written commitment issued by a financial institution or a governmental authority to provide permanent financing for a term of 15 years or more for the proposed development without any conditions within the sole discretion or control of the lender. The director may treat a reservation of funds from the Virginia Housing Partnership Fund as a firm financing commitment. A conditional financing commitment means a written commitment issued by a financial institution or a governmental authority to provide permanent financing for a term of 15 years or more for the proposed development that includes conditions within the sole discretion or control of the lender. A letter of intent means a letter indicating that the lending institution has received and reviewed the project's application for financing, and that the institution has agreed to proceed further with processing. A firm equity commitment means a written commitment issued by a financially sound third party syndicator or third party investor without any conditions within the sole discretion or control of such syndicator or investor. A conditional equity commitment means a written commitment issued by a financially sound third party syndicator or third party investor that includes conditions within the sole discretion or control of such syndicator or investor. A letter of intent means a letter indicating that the third party syndicator or third party investor has received and reviewed the project's application for financing, and that the third party syndicator or third party investor has agreed to proceed further with processing. Such third party syndicator or investor shall neither be directly or indirectly related to nor controlled by the applicant. Notwithstanding the foregoing, in the case of a development comprised of 15 or fewer units only, all or a portion of the aforementioned aggregate amount of funds to be provided for the proposed development may be made available by the applicant or another party if the department receives satisfactory evidence of the availability of those funds;

Five points may be earned for having a Building Permit for the project;

Twenty-five points may be earned for a complete and reasonable time line for putting the project into service.

3. The extent to which the application demonstrates project Financial Workability. This category carries a maximum of 225 points. Of those: This category carries a maximum of 250 points and each project eligible for credits must meet a threshold of 125 points. The department reserves the right to reduce the threshold level at its sole discretion. Of those points:

A maximum of 100 110 points may be earned based on the Completeness (up to 15 20 points) and

Reasonableness (up to ~~85~~ 95 points) of the Project Budget, with Reasonableness points being awarded based upon consideration of *factors including, but not limited to*, the cost per unit, debt per unit, estimated ~~cap~~ capitalization rate, projected tax credit proceeds, developer's fee, builder overhead and profit, and project reserves ~~provided for~~ .

A maximum of ~~125~~ 140 points may be earned based on the Completeness (up to 20 points) and Reasonableness (up to ~~105~~ 120 points) of the Operating Budget, with Reasonableness points being awarded based upon consideration of factors including , but not limited to , the rent as a percentage of HUD Fair Market Rents, utility allowance, management fee, maintenance expense per unit, replacement reserve per unit, total operating expenses per unit, and the debt coverage ratio.

4. The extent to which the application demonstrates the Administrative Capacity of the applicants. This category carries a maximum of 100 points. Of those: A maximum of ~~50~~ 65 points may be earned for Project Sponsor/Development Team's demonstrated experience, qualifications, ~~and~~ ability and financial capacity to perform their respective functions ; . *Applications will not be accepted from sponsors who have filed, as an individual or corporation entity, for bankruptcy protection under Chapter 7 or Chapter 11 during the last five years.*

A maximum of 15 points may be earned for Development Team/General Partner Financial strength;

A maximum of 15 points may be earned for Contractor Experience and Financial Strength;

A maximum of 20 points may be earned for Property Management Experience and the Property Management Plan;

A maximum of ~~25~~ 50 points may be deducted for failure to address Displacement;

A maximum of ~~15~~ 50 points may be deducted for failure to complete the Application, with ~~five~~ 10 points deducted if the correct number of copies is not submitted, and ~~10~~ 20 points deducted if all required documentation is not submitted , and up to 20 points deducted if answers to questions are not reasonably complete .

5. A maximum of ~~50~~ 35 points will be available for scoring the per unit credit amount. For new construction and substantial rehabilitation projects, the number of points awarded shall be determined by multiplying ~~50~~ 35 points by the percentage by which the total of the amount of federal credits and 50% of the amount of state credits per low-income housing unit (the "per unit credit amount") of the proposed

development is less than the estimated highest per unit credit amount for new construction and substantial rehabilitation projects *adjusted for location* . For moderate rehabilitation projects, the number of points awarded shall be determined by multiplying ~~50~~ 35 points by the percentage by which the total of the amount of federal credits and 50% of the amount of state credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the estimated highest per unit credit amount for moderate rehabilitation projects *adjusted for location* . In the case of projects which combine new construction or substantial rehabilitation with moderate rehabilitation, this calculation will use a weighted average based on the number of each unit type in the proposed development.

6. A maximum of ~~25~~ 15 points will be available for scoring the per bedroom credit amount. For new construction and substantial rehabilitation projects, the number of points awarded shall be determined by multiplying ~~25~~ 15 points by the percentage by which the total of the amount of federal credits and 50% of the amount of state credits per bedroom (the "per bedroom credit amount") of the proposed development is less than the estimated highest per bedroom credit amount for new construction and substantial rehabilitation projects *adjusted for location* . For moderate rehabilitation projects, the number of points awarded shall be determined by multiplying ~~25~~ 15 points by the percentage by which the total of the amount of federal credits and 50% of the amount of state credits per bedroom (the "per bedroom credit amount") of the proposed development is less than the estimated highest per bedroom credit amount for moderate rehabilitation projects *adjusted for location* . In the case of projects which combine new construction or substantial rehabilitation with moderate rehabilitation, this calculation will use a weighted average based on the number of each unit type in the proposed development.

For the purpose of calculating the points to be assigned pursuant to such items 5 and 6 above, all credit amounts shall be those requested in the applicable application, and the per unit credit amount and per bedroom credit amount for any building located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding the use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of federal credits as provided in the IRC. *Furthermore, the department reserves the right to exclude from these calculations any project which has such a high request that it unreasonably distorts the results of these measures.*

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7. Extent to which the application addresses Extended Compliance, Reasonable Intermediary Costs, a ~~Plan to Meet the 10% Carryover Requirement,~~ and Special Needs Preferences. This category carries a maximum of 100 points. Of those:

A maximum of ~~15~~ 30 points may be earned for a commitment by the applicant to maintain the development as a qualified low-income housing development beyond the 15-year compliance period as defined in the IRC; such commitment beyond the end of the 15-year compliance period and prior to the end of the 30-year extended use period (as defined in the IRC) being deemed to represent a waiver of the applicant's right under the IRC to cause a termination of the extended use period in the event the department is unable to present during the period specified in the IRC a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building, ~~one point~~ two points being awarded for each year of compliance beyond 15 years ; .

A maximum of 40 points may be earned for limiting Intermediary Costs, with the maximum number being awarded for the lowest Efficiency Measure score resulting from the application of the following formulas:

Step 1. Net Equity =

(Project Equity) - (Bridge Loan Interest + Syndication fees and Expenses)

Step 2. Efficiency Measure =

(Construction Cost)/(Net Equity - Front-end Developer's Fee)

where "Front-end Developer's Fee" means any fee withdrawn from the project prior to the first ~~three~~ five years following placement in service, less the amount of any loans made by the developer to the project that are not to be repaid within that ~~three-year~~ five-year period.

~~A maximum of 15 points may be earned for the applicant's Plan to meet the 10% carryover requirement imposed by § 42(h) (1) (E) of the IRC.~~

Using a weighted average of the total number of units, up to 30 points may be earned for providing either permanent housing (30 points), including single room occupancy facilities, or temporary housing (30 points), including transitional housing, for homeless persons.

In the event of a tie in the number of points assigned to two or more applications within the same pool or subpool, or, if none, within the Commonwealth, and if the amount of federal credits available for reservation to such

applications is determined by the director to be insufficient for the financial feasibility of both or, as applicable, all of the developments described therein, the department shall, in order to fully utilize the amount of credits available for reservation within such pool or subpool or, if none, within the Commonwealth select one or more of the applications, by lot, to receive a reservation of federal credits in the lesser of the full amount determined by the director to be permissible hereunder or the amount of federal credits then available in such pool or subpool.

The director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the director shall rank the applications based on the number of points so assigned. If any pools or subpools shall have been established, each application shall be assigned to a pool or subpool and shall be ranked within such pool or subpool. Those applications assigned more points shall be ranked higher than those applications assigned fewer points.

For each application which may receive a reservation of federal credits, the director shall determine the amount, as of the date of the deadline for submission of applications for reservation of federal credits, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the department to be generated with respect to the development, and the percentage of the federal credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable. (If the applicant requests any state credits, the amount of state credits to be reserved to the applicant shall be determined pursuant to § 7 prior to the foregoing determination, and any funds to be derived from such state credits shall be included in the above described sources and uses of funds.) The director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the federal credit dollar amount used for development costs, other than the costs of intermediaries, as the director shall determine to be

reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan.

At such time or times during each calendar year as the director shall designate, the director shall reserve federal credits to applications in descending order of ranking within each pool or subpool, if applicable, until either substantially all federal credits therein are reserved or all applications therein have received reservations. (For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the director, of federal credits remaining in a pool or subpool after reservations have been made, "substantially all" of the federal credits in such pool shall be deemed to have been reserved.) The director may rank the applications within pools or subpools at different times for different pools or subpools and may reserve federal credits, based on such rankings, one or more times with respect to each pool or subpool. The director may also establish more than one round of review and ranking of applications and reservation of federal credits based on such rankings, and he shall designate the amount of federal credits to be made available for reservation within each pool or subpool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of federal credits so reserved exceed the maximum amount permissible under the IRC.

If the amount of federal credits available in any pool is determined by the director to be insufficient for the financial feasibility of the proposed development to which such available federal credits are to be reserved, the director may (i) permit the applicant to modify such proposed development and his application so as to achieve financial feasibility based upon the amount of such available federal credits or (ii), for projects which meet the requirements of § 42(h)(1)(E) of the IRC only, reserve additional federal credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development. Any modifications shall be subject to the approval of the director; provided, however, that in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to § 6 hereof. The reservation of federal credits from the Commonwealth's annual state housing credit ceiling for the following year shall be made only to proposed developments that rank high enough to receive some federal credits from the state housing credit ceiling for the current year. However, any such reservation shall be in the sole discretion of the director if

he determines it to be in the best interest of the Plan. In the event a reservation or an allocation of federal credits from the current year or a prior year is reduced, terminated or cancelled, the director may substitute such federal credits for any federal credits reserved from the following year's annual state housing credit ceiling.

In the event that during any round of application review and ranking the amount of federal credits reserved within any pools or subpools is less than the total amount of federal credits made available therein during such round, the director may either (i) leave such unreserved federal credits in such pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved federal credits to such other pools or subpools as the director may designate and in which there remain excess applications or (iii) carry over such unreserved federal credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Any redistribution made pursuant to subparagraph (ii) above shall be made pro rata based on the amount originally distributed to each of such pools or subpools so designated by the director with excess applications divided by the total amount originally distributed to all such designated pools or subpools with excess applications. Such redistributions may continue to be made until either all of the federal credits are reserved or all applications have received reservations.

Within a reasonable time after federal credits are reserved to any applicants' applications, the director shall notify each applicant for such reservations of federal credits either of the amount of federal credits reserved to such applicant's application (by issuing to such applicant a written binding commitment to allocate such reserved federal credits subject to such terms and conditions as may be imposed by the director therein, by the IRC and by these procedures) or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved federal credits in accordance herewith.

The director may require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to assure that the applicant will comply with all requirements under the IRC (and, in the case of state credits, the state code), these procedures and the binding commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to § 6 hereof). Upon satisfaction of all such aforementioned requirements (including any post-allocation requirements), such deposit (or a pro rata portion thereof based upon the portion of federal credits and, if applicable, state credits so allocated) shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

If, as of the date the application is approved by the

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director, the applicant is entitled to an allocation of the federal credits under the IRC, these procedures and the terms of any binding commitment that the department would have otherwise issued to such applicant, the director may at that time allocate the federal credits (and, if applicable, state credits) to such qualified low income buildings or development without first providing a reservation of such federal credits (and, if applicable, state credits). This provision in no way limits the authority of the director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of federal credits.

The director may require that applicants to whom federal credits (and, if applicable, state credits) have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application, the binding commitment and any contractual agreements between the applicant and the department. If on the basis of such written confirmation and documentation as the director shall have received in response to such a request, or on the basis of such other available information, or both, the director determines any or all of the buildings in the development which were to become qualified low-income buildings will not do so within the time period required by the IRC (and, in the case of state credits, the state code) or will not otherwise qualify for such federal credits (and, if applicable, state credits) under the IRC, these procedures or the binding commitment, then the director may terminate the reservation of such federal credits (and, if applicable, state credits) and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the director determines that any contractual agreements between the applicant and the department have been breached by the applicant, whether before or after allocation of the federal credits, he may seek to enforce any and all remedies to which the department may then be entitled under such contractual agreements.

The director may establish such deadlines for determining the ability of the applicant to qualify for an allocation of federal credits (and, if applicable, state credits) as he shall deem necessary or desirable to allow the department sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such federal credits (and, if applicable, state credits) to other eligible applications and to allocate such federal credits pursuant thereto.

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the federal credits (and, if applicable, state credits) therefor shall be subject to the prior written approval of the director. As a condition to any such approval, the director may, as necessary to comply with these procedures, the IRC, the binding

commitment and any other contractual agreement between the department and the applicant, reduce the amount of federal credits (and, if applicable, state credits) applied for or reserved or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the director, he may terminate or reduce the reservation of such federal credits (and, if applicable, state credits), impose additional terms and conditions with respect thereto, seek to enforce any contractual remedies to which the department may then be entitled, draw on any good faith deposit, or any combination of the foregoing.

In the event that any reservation of federal credits is terminated or reduced by the director under this section, he may reserve, allocate or carry over, as applicable, such federal credits in such manner as he shall determine consistent with the requirements of the IRC and these procedures.

§ 7. Reservation of state credits.

Each applicant may also request a reservation of state credits in his application for a reservation of federal credits. State credits may be reserved only to those applications (i) to which federal credits have been reserved or (ii) which represent that the applicant will be the owner of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder. In the case of (ii) above, the applicant for state credits shall submit an application for federal credits (as well as for state credits), and such application shall be submitted, reviewed, and ranked in accordance with these procedures; provided, however, that a reservation shall be made for the state credits only and not for any federal credits.

In order to be eligible for a reservation and allocation of state credits, the development must be owned by one of the following: (i) an individual who is a Virginia taxpayer, (ii) a corporation (other than an S corporation) which is a Virginia taxpayer, (iii) a partnership or an S corporation in which at least 75% of the state credits received by such partnership or S corporation will be allocated to partners or shareholders who are Virginia taxpayers, or (iv) any other legal entity which is a Virginia taxpayer or, in the case of an entity that is taxed on a pass-through basis with respect to tax credits, in which at least 75% of the state credits received by such entity will be allocated to Virginia taxpayers. If more than one of the foregoing shall be joint owners of the development, then the joint tenancy shall be treated as a partnership for purposes of applying the foregoing ownership test. In the case of tiered partnerships, S corporations, and other entities that are taxed on a pass-through basis with respect to tax credits, the ownership test will be applied by looking through such pass-through entities to the underlying owners. The application shall include such information as the director may require in order to determine the owner or owners of the development and the status of such owner or

owners or those owning interests therein as Virginia taxpayers. The prior written approval of the department shall be required for any change in the ownership of the development prior to the end of the calendar year in which all of the buildings in such development shall be placed in service, unless the transferee certifies that it is a Virginia taxpayer or, in the case of a pass-through entity, that 100% of its owners of such entity are Virginia taxpayers.

State credits may be reserved by the director to an application only if the maximum amount of federal credits (determined by the use of the full applicable percentage as defined in the IRC, regardless of the amount requested by the applicant) which could be claimed for any development is determined by the director not to be sufficient for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. The amount of state credits which may be reserved shall be equal to the lesser of (i) the amount requested by the applicant or (ii) the amount which is necessary for such financial feasibility and viability as so determined by the director. Such determination shall be made by the director in the same manner and based upon the same factors and assumptions as the determination described in § 6 with respect to reservation of federal credits. In addition, the director may establish assumptions as to the amount of additional net syndication proceeds to be generated by reason of the state credits (based upon such percentage of the state credit dollar amount used for development costs, other than costs of intermediaries, as the director shall determine to be reasonable for the proposed development). The amount of state credits which may be so reserved shall be based upon a percentage of the federal credits as the director shall determine to produce such amount of state credits.

The director may divide the amount of state credits into pools and may further divide those pools into subpools based upon the factors set forth in § 6 with respect to the federal credits; however, the state credits need not be so divided in the same manner or proportions as the federal credits. Applications for state credits shall be assigned points and ranked at the same time or times and in the same manner as described in § 6. The director shall reserve state credits to applications in descending order of ranking within each pool or subpool, if applicable, until either all state credits therein are reserved or all applications therein eligible for state credits hereunder have received reservations for state credits. Any amounts in any pools or subpools not reserved to applications shall be reallocated at the time or times and in the same manner as the federal credits, among the pools or subpools in which applications eligible for state credits hereunder shall have not received reservations of state credits in the full amount permissible under these procedures. Such allocation shall be made pro rata based on the amount originally allocated to each such pool or subpool with such excess applications divided by the total amount originally allocated to all such pools or subpools

with such excess applications. Such reallocations shall continue to be made until either all of the state credits are reserved or all applications for state credits have received reservations.

Section 6 hereof contains certain provisions relating to requirements for good faith deposits and contractual agreements, allocation of state credits without any prior reservation thereof, deadlines for determining the ability of the applicant to qualify for state credits, and reduction and termination of state credits. Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder. In the event that any reservation of state credits is reduced or terminated, the director may reserve or allocate, as applicable, such state credits to other eligible applicants in such manner as he shall determine consistent with the requirements of the state code.

§ 8. Allocation of federal credits.

At such time as one or more of an applicant's buildings or an applicant's development which has received a reservation of federal credits is (i) placed in service or satisfies the requirements of § 42(h)(1)(E) of the IRC and (ii) meets all of the preallocation requirements of these procedures, the binding commitment and any other applicable contractual agreements between the applicant and the department, the applicant shall so advise the department, shall request the allocation of all of the federal credits so reserved or such portion thereof to which the applicant's buildings or development is then entitled under the IRC, these procedures, the binding commitment and the aforementioned contractual agreements, if any, and shall submit such application, certifications, legal and accounting opinions, evidence as to costs, a breakdown of sources and uses of funds, pro forma financial statements setting forth anticipated cash flows, and other documentation as the director shall require in order to determine that the applicant's buildings or development is entitled to such federal credits as described above. The applicant shall certify to the department the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to the buildings or the development.

As of the date of allocation of federal credits to any building or development and as of the date such building or such development is placed in service, the director shall determine the amount of federal credits to be necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. In making such determinations, the director shall consider the sources and uses of the funds (including, without limitation, any funds to be derived from the state credits), the available federal, state and local subsidies committed to the development, the total financing planned for the

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development as well as the investment proceeds or receipts expected by the department to be generated with respect to the development and the percentage of the federal credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable. The director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The director may establish such criteria and assumptions as he shall then deem reasonable (or he may apply the criteria and assumptions he established pursuant to § 6) for the purpose of making such determinations, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the federal credit dollar amount used for development costs, other than the costs of intermediaries, as the director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined in § 6 hereinabove) at fixed interest rates, debt service on the proposed mortgage loan. The amount of federal credits allocated to the applicant shall in no event exceed such amount as so determined by the director by more than a de minimis amount of not more than \$100.

In the case of any buildings or development to be financed by certain tax-exempt bonds in such amount so as not to require under the IRC an allocation of federal credits hereunder, the director shall, upon timely request by the owner thereof, make the foregoing determination as of the date the buildings or the development is placed in service, and for the purpose of such determination, the owner of the buildings or development shall submit to the department such of the above described information and documents and such other information and documents as the director may require. The director shall also determine, in accordance with the IRC and upon timely request by the owner thereof, for such buildings or development (and, in addition, for any buildings or development to be financed by certain tax-exempt bonds of an issuer other than the department in such amount so as not to require under the IRC an allocation of federal credits hereunder) whether such buildings or development satisfies the requirements for allocation of federal credits hereunder.

Prior to allocating the federal credits to an applicant, the director shall require the applicant to execute, deliver and record among the land records of the appropriate jurisdiction or jurisdictions an extended low-income housing commitment in accordance with the requirements of the IRC. Such commitment shall require that the applicable fraction (as defined in the IRC) for the buildings for each taxable year in the extended use period (as defined in the

IRC) will not be less than the applicable fraction specified in such commitment and which prohibits both (i) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of a low-income unit and (ii) any increase in the gross rent with respect to such unit not otherwise permitted under the IRC. The amount of federal credits allocated to any building shall not exceed the amount necessary to support such applicable fraction, including any increase thereto pursuant to § 42(f)(3) of the IRC reflected in an amendment to such commitment. The commitment shall provide that the extended use period will end on the day 15 years after the close of the compliance period (as defined in the IRC) or on the last day of any longer period of time specified in the application during which low-income housing units in the development will be occupied by tenants with incomes not in excess of the applicable income limitations; provided, however, that the extended use period for any building shall be subject to termination, in accordance with the IRC, (i) on the date the building is acquired by foreclosure or instrument in lieu thereof unless a determination is made pursuant to the IRC that such acquisition is part of an agreement with the current owner thereof, a purpose of which is to terminate such period or (ii) the last day of the one-year period following the written request by the applicant as specified in the IRC (such period in no event beginning earlier than the end of the fourteenth year of the compliance period) if the department is unable to present during such one-year period a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building. In addition, such termination shall not be construed to permit, prior to close of the three-year period following such termination, the eviction or termination of tenancy of any existing tenant of any low-income housing unit other than for good cause or any increase in the gross rents over the maximum rent levels then permitted by the IRC with respect to such low-income housing units. Such commitment shall also contain such other terms and conditions as the director may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC (and, in the case of an allocation of state credits, the state code) and these procedures. Such commitment shall be a restrictive covenant on the buildings binding on all successors to the applicant and shall be enforceable in any state court of competent jurisdiction by individuals (whether prospective, present or former occupants) who meet the applicable income limitations under the IRC. Such commitment shall also be required with respect to any development financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder and the form thereof shall be made available to owners of such developments upon their timely request therefor.

In accordance with the IRC, the director may, for any calendar year during the project period (as defined in the IRC), allocate federal credits to a development, as a

whole, which contains more than one building. Such an allocation shall apply only to buildings placed in service during or prior to the end of the second calendar year after the calendar year in which such allocation is made, and the portion of such allocation allocated to any building shall be specified not later than the close of the calendar year in which such building is placed in service. Any such allocation shall be subject to satisfaction of all requirements under the IRC.

If the director determines that the buildings or development is so entitled to the federal credits, he shall allocate the federal credits (or such portion thereof to which he deems the buildings or the development to be entitled) to the applicant's qualified low income buildings or to the applicant's development in accordance with the requirements of the IRC. If the director shall determine that the applicant's buildings or development is not so entitled to the federal credits, he shall not allocate the federal credits and shall so notify the applicant within a reasonable time after such determination is made. In the event that any such applicant shall not request an allocation of all of its reserved federal credits or whose buildings or development shall be deemed by the director not to be entitled to any or all of its reserved federal credits, the director may reserve or allocate, as applicable, such unallocated federal credits to the buildings or developments of other qualified applicants at such time or times and in such manner as he shall determine consistent with the requirements of the IRC and these procedures.

The director may prescribe (i) such deadlines for submissions of requests for allocations of federal credits (and, if applicable, state credits) for any calendar year as he deems necessary or desirable to allow sufficient processing time for the department to make such allocations within such calendar year and (ii) such deadlines for satisfaction of all preallocation requirements of the IRC (and, in the case of state credits, the state code), the binding commitment, any contractual agreements between the department and the applicant and these procedures as he deems necessary or desirable to allow the department sufficient time to allocate to other eligible applicants any federal credits for which the applicants fail to satisfy such requirements.

The director may make the allocation of federal credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development comply with the requirements of the IRC.

The director may also (to the extent not already required under § 6 hereof) require that all applicants make such good faith deposits or execute such contractual agreements with the department as the director may require with respect to the federal credits (and, if applicable, state credits), (i) to ensure that the buildings or development are completed in accordance with the binding commitment, including all of the representations made in the application for which points were assigned pursuant to § 6 hereof and (ii) only in the case of any

buildings or development which are to receive an allocation of federal credits hereunder and which are to be placed in service in any future year, to assure that the buildings or the development will be placed in service as a qualified low-income housing project (as defined in the IRC) in accordance with the IRC and that the applicant will otherwise comply with all of the requirements under the IRC.

In the event that the director determines that a development for which an allocation of federal credits is made shall not become a qualified low-income housing project (as defined in the IRC) within the time period required by the IRC or the terms of the allocation or any contractual agreements between the applicant and the department, the director may terminate the allocation and rescind the federal credits in accordance with the IRC and, in addition, may draw on any good faith deposit and enforce any of the department's rights and remedies under any contractual agreement. An allocation of federal credits to an applicant may also be cancelled with the mutual consent of such applicant and the director. Upon the termination or cancellation of any federal credits, the director may reserve, allocate or carry over, as applicable, such federal credits in such manner as he shall determine consistent with the requirements of the IRC and these procedures.

§ 9. Allocation of state credits.

Upon the allocation of federal credits to the buildings or development described in an application which received a reservation of state credits under § 7, the director shall allocate state credits to such buildings or development in an amount equal to the amount of federal credits so allocated times such percentage of federal credits as shall have been determined by the director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the application under § 7. If the amount of state credits so allocated to the buildings or development under this § 9 is less than the amount of state credits reserved to the application under § 7, then the director may reserve to other applications or allocate to other buildings or developments, as applicable, such unallocated state credits at such time or times and in such manner as he shall determine consistent with the requirements of the state code.

In the case of any buildings or development to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder, the director shall, prior to the last day of the calendar year in which such building or development is reserved state credits, allocate state credits to the buildings or development in an amount equal to the amount of federal credits to be claimed annually by the applicant times such percentage of federal credits as shall have been determined by the director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the application under § 7.

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Prior to any allocation of state credits, the director may require the applicant to confirm the status of the owner or owners as Virginia taxpayers who are eligible for an allocation of state credits under § 7.

The director may make the allocation of state credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments, and information in the application and comply with the requirements of the IRC, the state code, and these procedures.

The state credits allocated may be claimed for the first five taxable years in which the federal credits shall be claimed. The amount of state credits claimed in each such year shall be such percentage of the federal credits so claimed as shall have been established by the director pursuant to § 7; provided, however, that the amount of state credits which may be claimed by the applicant in the initial taxable year shall be calculated for the entire development on the basis of a twelve-month period during such initial taxable year, notwithstanding that the federal credits may be calculated on the basis of some (but not all) of the buildings in such development or on the basis of a period of less than twelve months or both; provided, further, that in no event shall the amount of state credits claimed in any year exceed the amount allocated under this § 9.

In the event that any federal credits claimed by the applicant for any taxable year in which the applicant also claimed state credits shall be recaptured pursuant to the IRC, the state credits for such taxable year shall be recaptured in an amount equal to the amount of federal credits recaptured for such taxable year times such percentage as shall have been established by the director pursuant to § 7. The applicants receiving state credits shall provide the department with such information as the director may from time to time request regarding any recapture of the federal credits.

On or before such date each year as the director may require, each applicant shall apply to the department to determine the amount of state credits which such applicant may claim for the applicable taxable year. Each such applicant shall submit such documents, certifications and information as the director may require. The department shall certify to the Department of Taxation on forms prepared by the department that the applicant qualified for the state credits in the amount set forth therein and shall provide such certification to the applicant. Such certification is required to be attached to the applicant's state income tax return to be filed with the Department of Taxation.

Section 8 hereof contains certain provisions relating to (i) the establishment of deadlines for submission of requests for allocation of state credits and for satisfaction of requirements of the IRC and state code and (ii) requirements for good faith deposits and contractual

agreements. Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder.

In the event that any allocation of federal credits shall be terminated and rescinded or cancelled pursuant to § 8 (or, in the case of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, in the event that the development shall not become a qualified low-income housing project as defined in the IRC within the time period required by the IRC or by the terms of the allocation of state credits), the director may also terminate and rescind or cancel the state credits and, if permitted by the state code, may reserve or allocate, as applicable, such state credits to other qualified applicants at such time or times and in such manner as he shall determine consistent with the requirements of the state code.

§ 10. Reservation and allocation of additional federal credits and state credits.

Prior to the initial determination of the "qualified basis" (as defined in the IRC) of the qualified low-income buildings of a development pursuant to the IRC, an applicant to whose buildings federal credits or state credits or both have been reserved may submit an application for a reservation of additional federal credits or state credits or both. Subsequent to such initial determination of the qualified basis, the applicant may submit an application for an additional allocation of federal credits or state credits or both by reason of an increase in qualified basis based on an increase in the number of low-income housing units or in the amount of floor space of the low-income housing units. Any application for an additional allocation of federal credits or state credits or both shall include such information, opinions, certifications and documentation as the director shall require in order to determine that the applicant's buildings or development will be entitled to such additional federal credits or state credits or both under the IRC, the state code and these procedures. The application shall be submitted, reviewed, ranked and selected by the director in accordance with the provisions of §§ 6 and 7 hereof, and any allocation of federal credits or state credits or both shall be made in accordance with §§ 8 and 9 hereof. For the purposes of such review, ranking and selection and the determinations to be made by the director under the procedures as to the financial feasibility of the development and its viability as a qualified low-income development during the credit period, the amount of federal credits or state credits, or both, previously reserved to the application or allocated to the buildings or development (or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, the amount of federal credit which may be claimed by the applicant) shall be included with the amount of such federal credits

or state credits or both so requested.

§ 11. Monitoring for IRS compliance.

All applicants who receive an allocation of federal credits are responsible for complying with § 42 of the IRC.

The federal law requires that the Commonwealth monitor projects receiving federal credits for noncompliance with the provisions of § 42 of the IRC and notify the Internal Revenue Service of such noncompliance with which it becomes aware.

All applicants who receive an allocation of federal credits shall take or cause to be taken all action required of the applicant by the department in order to satisfy the department's monitoring requirements. The department shall set forth such monitoring requirements in writing and shall make copies available to all applicants. The department may amend and revise such requirements from time to time in order to comply with § 42 of the IRC.

Applicants must pay to the department a fee in such amount and at such time as the department, in its sole discretion, shall reasonably require the applicant to pay in order to reimburse the department for the costs of such monitoring.

In the event that the director shall become aware of noncompliance by any applicant with any of the provisions of § 42 of the IRC, the director shall notify the Internal Revenue Service of such noncompliance within the timeframes established by the Internal Revenue Service. Such notification shall identify the applicant and the buildings and shall describe the noncompliance.

A. General.

Federal law requires the Commonwealth to monitor projects receiving federal credits for compliance with the requirements of § 42 of the IRC and notify the IRS of any noncompliance of which it becomes aware.

Compliance with the requirements of § 42 is the responsibility of the owner of the building for which the federal credit is allowable. The monitoring requirements set forth hereinbelow are to qualify the Commonwealth's allocation plan of federal credits. The Commonwealth's obligation to monitor for compliance with the requirements of § 42 does not make the Commonwealth liable for an owner's noncompliance, nor does the Commonwealth's failure to discover any noncompliance by an owner excuse such noncompliance.

B. Recordkeeping.

The owner of a low-income housing project must keep records for each qualified low-income building in the project that show for each year in the compliance period:

1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
2. The percentage of residential rental units in the building that are low-income units;
3. The rent charged on each residential rental unit in the building (including any utility allowances);
4. The number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under § 42(g)(2) (as in effect before the amendments made by the Revenue Reconciliation Act of 1989);
5. The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;
6. The annual income certification of each low-income tenant per unit;
7. Documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937 ("Section 8"), not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of subdivision B 7 is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under § 42(g);
8. The eligible basis and qualified basis of the building at the end of the first year of the credit period; and
9. The character and use of the nonresidential portion of the building included in the building's eligible basis under § 42(d) (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

The owner of a low-income housing project must retain the records described in the foregoing paragraph for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

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C. Certification.

The owner of a low-income housing project must certify annually to the Commonwealth, on the form prescribed by the Commonwealth, that, for the preceding 12-month period:

1. The project met the requirements of the 20-50 test under § 42(g)(1)(A) or the 40-60 test under § 42(g)(2)(B), whichever minimum set-aside test was applicable to the project;
2. There was no change in the applicable fraction (as defined in § 42(c)(1)(B)) of any building in the project, or that there was a change, and a description of the change;
3. The owner has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving Section 8 housing assistance payments, the statement from a public housing authority described in subdivision B 7 of this section;
4. Each low-income unit in the project was rent-restricted under § 42(g)(2);
5. All units in the project were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under § 42(i)(3)(B)(iii));
6. Each building in the project was suitable for occupancy, taking into account local health, safety, and building codes;
7. There was no change in the eligible basis (as defined in § 42(d)) of any building in the project, or if there was a change, the nature of the change (e.g., a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge);
8. All tenant facilities included in the eligible basis under § 42(d) of any building in the project, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;
9. If a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income;
10. If the income of tenants of a low-income unit in the project increased above the limit allowed in § 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was or will be rented to

tenants having a qualifying income; and

11. An extended low-income housing commitment as described in § 42(h)(6) was in effect (for buildings subject to § 7108(c)(1) of the Revenue Reconciliation Act of 1989).

Such certifications shall be made annually covering each year of the compliance period and must be made under the penalty of perjury.

In addition, each owner of a low-income housing project must provide to the Commonwealth, on a form prescribed by the Commonwealth, a certification containing such information necessary for the Commonwealth to determine the eligibility of tax credits for the first year of the project's compliance period.

D. Review.

The Commonwealth will review each certification set forth in subsection C of this section for compliance with the requirements of § 42 of the IRC. Also, the Commonwealth will inspect at least 20% of low-income housing projects each year and will inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for each low-income tenant in at least 20% of the low-income units in those projects. The Commonwealth will determine which low-income housing projects will be reviewed in a particular year and which tenant's records are to be inspected.

In addition, the Commonwealth, at its option, may request an owner of a low-income housing project not selected for the review procedure set forth above in a particular year to submit to the Commonwealth for compliance review copies of the annual income certifications, the documentation such owner has received to support those certifications and the rent record for each low-income tenant of the low-income units in their project.

All low-income housing projects may be subject to review at any time during the compliance period.

E. Inspections.

The Commonwealth has the right to perform, and each owner of a project receiving federal credits shall permit the performance of, an on-site inspection of any low-income housing project through the end of the compliance period of the building. The inspection provision of this subsection E is separate from the review of low-income certifications, supporting documents and rent records under subsection D of this section.

F. Notices.

The Commonwealth will provide written notice to the owner of a low-income housing project if the Commonwealth does not receive the certification described

in subsection C of this section, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records described in subsection D of this section or discovers by inspection, review, or in some other manner, that the project is not in compliance with the provisions of § 42.

Such written notice will set forth a correction period which shall be that period specified by the Commonwealth during which an owner must supply any missing certifications and bring the project into compliance with the provisions of § 42. The Commonwealth will set the correction period for a time not to exceed 90 days from the date of such notice to the owner. The Commonwealth may extend the correction period for up to six months, but only if the Commonwealth determines there is good cause for granting the extension.

The Commonwealth will file Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance," with the IRS no later than 45 days after the end of the correction period (as described above, including extensions permitted under that paragraph) and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The Commonwealth must explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis under subdivisions C 2 and C 7 of this section, respectively, that results in a decrease in the qualified basis of the project under § 42(c)(1)(A) is noncompliance that must be reported to the IRS under this subsection F. If the Commonwealth reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the Commonwealth need not file Form 8823 in subsequent years to report that building's noncompliance.

The Commonwealth will retain records of noncompliance or failure to certify for six years beyond the Commonwealth's filing of the respective Form 8823. In all other cases, the Commonwealth must retain the certifications and records described in subsection C of this section for three years from the end of the calendar year the Commonwealth receives the certifications and records.

G. Exception for certain buildings.

If the Commonwealth decides to enter into the agreements described below, the review requirements under subsection D of this section will not require owners to submit, and the Commonwealth is not required to review, the tenant income certifications, supporting documentation and rent records for buildings financed by the Farmers Home Administration (FmHA) under the § 515 program, or buildings of which 50% or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the interest on which is exempt from tax under § 103 (tax-exempt bonds). In order for a monitoring procedure

to except these buildings, the Commonwealth must enter into an agreement with the FmHA or tax-exempt bond issuer. Under the agreement, the FmHA or tax-exempt bond issuer must agree to provide information concerning the income and rent of the tenants in the building to the Commonwealth. The Commonwealth may assume the accuracy of the information provided by FmHA or the tax-exempt bond issuer without verification. The Commonwealth will review the information and determine that the income limitation and rent restriction of § 42(g)(1) and (2) are met. However, if the information provided by the FmHA or tax-exempt bond issuer is not sufficient for the Commonwealth to make this determination, the Commonwealth will request the necessary additional income or rent information from the owner of the buildings. For example, because FmHA determines tenant eligibility based on its definition of "adjusted annual income," rather than "annual income" as defined under Section 8, the Commonwealth may have to calculate the tenant's income for § 42 purposes and may need to request additional income information from the owner.

H. Fees.

The owners of low-income housing projects must pay to the Commonwealth such fees in such amounts and at such times as the Commonwealth shall, in its sole discretion, reasonably require the owners to pay in order to reimburse the Commonwealth for the costs of monitoring compliance with § 42.

§ 12. Allocation pools.

Under the low-income housing tax credit program established by § 42 of the Internal Revenue Code, the Commonwealth of Virginia has a certain dollar amount allocated each calendar year to qualified low-income housing developments located therein. In order to promote a distribution of the federal credits which effectively addresses the low-income housing needs of the state, the department hereby divides its Annual Credit Authority for calendar year 1993 (the "1993 Credit Authority") into several pools of federal credits, each containing a portion of the 1993 Credit Authority, all as set forth below:

Allocation Pools	% of 1993
.....	Credit Authority

1. Nonprofit, Non-FmHA Pool	25.0%
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Each development (i) which is eligible for inclusion in this pool under the Rules and Regulations and (ii) which is not eligible for the FmHA pool will initially compete in this pool regardless of where it is located within the state.

2. Farmers Home Administration Pool	10.0%
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Each development for which a commitment of FmHA Section 515 financing has been issued will compete in this pool, regardless of whether or not a nonprofit organization

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is involved in its development and operation and regardless of where it is located within the state.

3. Urban Pool 42.3%

Defined as developments located within: (i) an MSA county with a population of 50,000 or greater and a population density of 1,000 per square mile or greater; (ii) an independent city with a population of 50,000 or greater and a population density of 1,000 per square mile or greater; and (iii) a Community Development Block Grant entitlement city. Geographic pool size is based on the percentage of households at or below 60% of the area median income paying more than 30% of their income for housing.

Developments located within one of the jurisdictions listed below and which are not eligible for the FmHA pool, will compete in this pool.

Urban localities include the cities of: Alexandria, Bristol, Charlottesville, Chesapeake, Danville, Fairfax City, Falls Church, Hampton, Hopewell, Lynchburg, Newport News, Norfolk, Petersburg, Portsmouth, Richmond City, Roanoke City, Suffolk, and Virginia Beach, and the counties of Arlington County and Fairfax County.

4. Suburban and Rural Pool (Remaining Geographic Areas) 22.7%

Developments located within one of the jurisdictions listed below and which are not eligible for the FmHA pool or the urban geographic pool described above will compete in this pool.

Suburban localities are defined as independent cities and counties which are part of an MSA, but which do not meet the definition of the urban pool. This includes the cities of: Bedford City, Colonial Heights, Fredericksburg City, Manassas City, Manassas Park City, Poquoson, Salem, and Williamsburg, and the counties of: Albemarle, Amherst, Bedford County, Botetourt, Campbell, Charles City County, Chesterfield, Clarke, Culpeper, Dinwiddie, Fauquier, Fluvanna, Gloucester, Goochland, Greene, Hanover, Henrico, Isle of Wight, James City County, King George, Loudoun, Mathews County, New Kent, Pittsylvania, Powhatan, Prince George, Prince William, Roanoke County, Scott, Spotsylvania, Stafford, Warren, Washington, and York.

Rural localities are defined as independent cities or counties which are not part of an MSA and do not meet the definition of urban or suburban localities described above. This includes the cities of Buena Vista, Clifton Forge, Covington, Emporia, Franklin City, Galax, Harrisonburg, Lexington, Martinsville, Norton, Radford, South Boston, Staunton, Waynesboro, and Winchester, and the counties of: Accomack, Alleghany, Amelia, Appomattox, Augusta, Bath, Bland County, Brunswick, Buchanan, Buckingham, Caroline, Carroll, Charlotte, Craig, Cumberland, Dickenson, Essex, Floyd, Franklin County,

Frederick, Giles, Grayson, Greensville, Halifax, Henry, Highland, King and Queen, King William, Lancaster, Lee, Louisa, Lunenburg, Madison, Mecklenburg, Middlesex, Montgomery, Nelson, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Prince Edward, Pulaski, Rappahannock, Richmond County, Rockbridge, Rockingham, Russell, Shenandoah, Smyth, Southampton, Surry, Sussex, Tazewell, Westmoreland, Wise, and Wythe.

..... 100%

No single MSA may receive more than 40% of the credits allocated through the geographic pools while unfunded projects from other areas of the state remain in the urban or suburban/rural pools.

The reservation and allocation of the federal credit to applications shall be governed by §§ 1 through 11 of the plan.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-04-8.7. Client Appeals Regulations.

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

Public Hearing Date: N/A - Written comments may be submitted through June 4, 1993.

(See Calendar of Events section for additional information)

Summary:

The purpose of this proposal is to amend regulations governing the management and conduct of client appeals for the Medicaid program.

The regulations affected by this action are the Regulations for Client Appeals (VR 460-04-8.7).

The Code of Federal Regulations § 431 Subpart E contains the federal requirements for fair hearings for applicants and recipients. This subpart, in implementing the Social Security Act § 1902(a)(3), requires that the State Plan for Medical Assistance provide an opportunity for a fair hearing to any person whose claim for assistance is denied or not acted upon promptly. Hearings are also available for individuals if Medicaid takes action to suspend, terminate, or reduce services. The State Plan conforms to this requirement on preprinted page 33.

The Virginia General Assembly amended the Administrative Process Act effective July 1, 1989, to allow judicial review of public assistance case decisions. While granting recipients the right to judicial review, the General Assembly limited the scope of that review to the application of the law to

an individual case; the validity of the law itself is not subject to review. At that time, the DMAS revised its administrative procedures for recipient appeals, replacing its then current Medicaid Appeals Board with a panel of administrative law judges. The Client Appeals system now provides for two levels of review of Medicaid recipients' and applicants' appeals. The first level is a hearing officer's decision and the second is a decision by a panel of administrative law judges.

Prior to emergency regulations effective October 5, 1992, a decision of a hearing officer was considered a final agency decision. The regulations required further appeal to the Medical Assistance Appeals Panel (the panel) before an appeal to the circuit court could have been taken. Those regulations further provided for benefits to continue while appealing to the panel.

On July 8, 1992, a class action lawsuit was filed in federal district court (Shifflett, et al. v. Kozlowski, C.A. No. 92-0071H, Western District of Virginia, Harrisonburg Division) challenging the timeliness of administrative decisions. Federal law requires that a final agency decision be issued within 90 days. Panel review is not a process required by federal law. The 90-day federal limit cannot be met if panel review is included. This timeliness issue is being pressed in this litigation. These amendments are designed to resolve the issue by requiring an appellant to acknowledge the nonapplicability of the 90-day requirement to panel review as a condition of appeal. They also give an appellant the right to seek judicial review directly from the decision of the hearing officer. Panel review thus becomes optional with the appellant.

An issue has also been raised regarding DMAS receiving federal matching dollars (FFP) for benefits paid during appeals after the 90-day period. Accordingly, the regulations have been amended to permit benefits only through the hearing officer level of the appeal.

These amendments are intended to address the issues raised in the earlier referenced lawsuit.

The proposed amendments also eliminate the requirement that a hearing officer hold a hearing if an appellant objects to an administrative dismissal. Under the proposed regulations, the hearing officer shall issue a decision without an opportunity for a hearing. That decision is a final agency decision and may thereafter be appealed to the panel or the circuit court.

The proposed amendments also add a provision which would allow a hearing officer to reconsider his own decision within 10 days if he determines that an error has been made. Current regulations give the hearing officer no authority to reconsider and require an appeal to the panel even in cases where the hearing

officer may subsequently determine that the decision should be in favor of the appellant. The addition of this hearing officer reconsideration policy would also allow the hearing officer to reconsider a decision that was initially in favor of the appellant.

VR 460-04-8.7. Client Appeals Regulations.

PART I. GENERAL.

Article 1. Definitions.

§ 1.1. Definitions.

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

"Agency" means:

1. An agency which, on the department's behalf, makes determinations regarding applications for benefits provided by the department; and ;
2. The department itself when it makes initial determinations regarding client benefits .

"Appellant" means an applicant for or recipient of medical assistance benefits from the department who seeks to challenge an adverse action regarding his benefits or his eligibility for benefits.

"Department" means the Department of Medical Assistance Services.

"Division" means the department's Division of Client Appeals.

"Final decision" means a written determination by a hearing officer which is binding on the department, unless modified on appeal or review.

"Hearing" means the evidentiary hearing described in this regulation, conducted by a hearing officer employed by the department.

"Panel" means the Medical Assistance Appeals Panel.

"Representative" means an attorney or agent who has been authorized to represent an appellant pursuant to these regulations.

Article 2. The Appeal System.

§ 1.2. Division of Client Appeals.

The division shall maintain a two-step maintains an appeals system for clients to challenge adverse actions

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regarding services and benefits provided by the department:

1. Hearing officer review. ~~The first level of appeal is~~ *Appellants shall be entitled to a hearing before a hearing officer. See Part II of these regulations.*

2. Medical Assistance Appeals Panel Review. An appellant who believes the hearing officer's decision is incorrect may, *at his option*, appeal to the Medical Assistance Appeals Panel for review. See Part III of these regulations.

§ 1.3. Time limitation for appeals.

Hearing officer appeals shall be scheduled and conducted to comply with the 90-day time limitation imposed by federal regulations, unless waived in writing by the appellant or the appellant's representative. *Any further review by the panel shall not be considered subject to the 90-day limitation.*

§ 1.4. Judicial review.

An appellant who believes ~~the~~ *a final decision as defined herein* or a decision of the Medical Assistance Appeals Panel is incorrect may seek judicial review of *either* pursuant to § 9-6.14:1 et seq. of the *Virginia* Code of Virginia and Part 2A, Rules of the Virginia Supreme Court. *An appellant must receive a final decision from the panel before seeking judicial review.*

Article 3. Representation.

§ 1.5. Right to representation.

An appellant shall have the full right to representation by an attorney or agent at all stages of appeal.

§ 1.6. Designation of representative.

A. Agents.

An agent must be designated in a written statement which is signed by the appellant. If the appellant is physically or mentally unable to sign a written statement, the division may allow a family member or other person acting on appellant's behalf to represent the appellant.

B. Attorneys.

If the agent is an attorney, a signed statement by an attorney that he is authorized to represent the appellant prepared on the attorney's letterhead, shall be accepted as a designation of representation.

C. Substitution.

A member of the same law firm as a designated representative shall have the same rights as the designated

representative.

D. Revocation.

An appellant may revoke representation by another person at any time. The revocation is effective when the department receives written notice from the appellant.

Article 4. Notice and Appeal Rights.

§ 1.7. Notification of adverse agency action.

The agency which makes an initial adverse determination shall inform the applicant or recipient in a written notice:

1. What action the agency intends to take;
2. The reasons for the intended action;
3. The specific regulations that support or the change in law that requires the action;
4. The right to request an evidentiary hearing, and the methods and time limits for doing so;
5. The circumstances under which benefits are continued if a hearing is requested (see § 1.10); and
6. The right to representation.

§ 1.8. Advance notice.

When the agency plans to terminate, suspend or reduce an individual's eligibility or covered services, the agency must mail the notice described in § 1.7 at least 10 days before the date of action, except as otherwise permitted by federal law.

§ 1.9. Right to appeal.

An individual has the right to file an appeal when:

1. His application for benefits administered by the department is denied. However, if an application for State Local Hospitalization coverage is denied because of a lack of funds which is confirmed by the hearing officer, ~~and no factual dispute exists~~, there is no right to appeal.
2. The agency takes action or proposes to take action which will adversely affect, reduce, or terminate his receipt of benefits;
3. His request for a particular medical service is denied, in whole or in part;
4. The agency does not act with reasonable promptness on his application for benefits or request for a particular medical service; or

5. Federal regulations require that a fair hearing be granted.

§ 1.10. Maintaining services.

A. If the agency mails the 10-day notice described in § 1.8 and the appellant files his Request for Appeal before the date of action, his services shall not be terminated or reduced until all appeals have been finally decided; a final decision is issued, unless it is determined at the hearing that the sole issue is one of federal or state law or policy and the appellant is promptly informed in writing that services are to be terminated or reduced pending the hearing decision.

B. If the agency's action is sustained on appeal, the agency may institute any available recovery procedures against the appellant to recoup the cost of any services furnished to the appellant, to the extent they were furnished solely by reason of § 1.10 A of these regulations.

Article 5. Miscellaneous Provisions.

§ 1.11. Division records.

A. Removal of records.

No person shall take from the division's custody any original record, paper, document, or exhibit which has been certified to the division except as the Director of Client Appeals authorizes, or as may be necessary to furnish or transmit copies for other official purposes.

B. Confidentiality of records.

Information in the appellant's record can be released only to a properly designated representative or other person(s) named in a release of information authorization signed by an appellant, his guardian or power of attorney.

C. Fees.

The fees to be charged and collected for any copies will be in accordance with Virginia's Freedom of Information Act or other controlling law.

D. Waiver of fees.

When copies are requested from records in the division's custody, the required fee shall be waived if the copies are requested in connection with an individual's own review or appeal.

§ 1.12. Computation of time limits.

A. Acceptance of postmark date.

Documents postmarked on or before a time limit's expiration shall be accepted as timely.

B. Computation of time limit.

In computing any time period under these regulations, the day of the act or event from which the designated period of time begins to run shall be excluded and the last day included. If a time limit would expire on a Saturday, Sunday, or state or federal holiday, it shall be extended until the next regular business day.

PART II. HEARING OFFICER REVIEW.

Article 1. Commencement of Appeals.

§ 2.1. Evidentiary hearings.

A hearing officer shall review all agency determinations which are properly appealed; conduct informal, fact-gathering hearings; evaluate evidence presented; and issue a written decision sustaining, reversing, or remanding each case to the agency for further proceedings.

§ 2.2. § 2.1. Request for appeal.

Any written communication from an appellant or his representative which clearly expresses that he wants to present his case to a reviewing authority shall constitute an appeal request. This communication should explain the basis for the appeal.

§ 2.3. § 2.2. Place of filing a Request for Appeal.

A Request for Appeal shall be delivered or mailed to the Division of Client Appeals.

§ 2.4. § 2.3. Filing date.

The date of filing shall be the date the request is postmarked, if mailed, or the date the request is received by the department, if delivered other than by mail.

§ 2.5. § 2.4. Time limit for filing.

A Request for Appeal shall be filed within 30 days of the appellant's receipt of the notice of an adverse action described in § 1.8 1.7 of these regulations. It is presumed that appellants will receive the notice three days after the agency mails the notice. A Request for Appeal on the grounds that an agency has not acted with reasonable promptness may be filed at any time until the agency has acted.

§ 2.6. § 2.5. Extension of time for filing.

An extension of the 30-day period for filing a Request for Appeal may be granted for good cause shown. Examples of good cause include, but are not limited to, the following situations:

1. Appellant was seriously ill and was prevented from

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contacting the division;

2. Appellant did not receive notice of the agency's decision;

3. Appellant sent the Request for Appeal to another government agency in good faith within the time limit;

4. Unusual or unavoidable circumstances prevented a timely filing.

§ 2-7: § 2.6. Provision of information.

Upon receipt of a Request for Appeal, the division shall notify the appellant and his representative of general appeals procedures and shall provide further detailed information upon request.

Article 5 2 . Prehearing Review.

§ 2-8: § 2.7. Review.

A hearing officer shall initially review an assigned case for compliance with prehearing requirements and may communicate with the appellant or his representative and the agency to confirm the agency action and schedule the hearing.

§ 2-9: § 2.8. Medical Assessment.

A. A hearing officer may order an independent medical assessment when:

1. The hearing involves medical issues such as a diagnosis, an examining physician's report, or a medical review team's decision; and

2. The hearing officer determines it necessary to have an assessment by someone other than the person or team who made the original decision, for example, to obtain more detailed medical findings about the impairments, to obtain technical or specialized medical information, or to resolve conflicts or differences in medical findings or assessments in the existing evidence.

B. A medical assessment ordered pursuant to this regulation shall be at the department's expense and shall become part of the record.

§ 2-10: § 2.9. Prehearing action.

A. Invalidation.

A Request for Appeal may be invalidated if it was not filed within the time limit imposed by § 2-5 § 2.4 or extended pursuant to § 2-6 § 2.5 .

1. If the hearing officer determines that the appellant has failed to file a timely appeal, the hearing officer

shall notify the appellant and the appellant's representative of the opportunity to show good cause for the late appeal.

2. If a factual dispute exists about the timeliness of the Request for Appeal, the hearing officer shall receive evidence or testimony on those matters before taking final action.

3. *If the individual filing the appeal is not the appellant or an authorized representative of the appellant under the provisions of § 1.6 A, the appeal shall be determined invalid.*

3- 4. If a Request for Appeal is invalidated, the hearing officer shall issue a decision pursuant to § 2-22 § 2.24 .

B. Administrative dismissal.

A Request for Appeal may be administratively dismissed without a hearing if the appellant has no right to appeal under § 1.9 of these regulations.

1. If the hearing officer determines that the appellant does not have the right to an appeal, the hearing officer shall issue a *final decision dismissing the appeal and notify the appellant and appellant's representative of the opportunity to contest the hearing officer's proposed administrative dismissal of the request appeal to the Medical Assistance Appeals Panel or seek judicial review .*

2. *If the appellant or the appellant's representative objects to the proposed administrative dismissal, the hearing officer shall conduct a hearing on the matter before taking final action.*

3- 2. If a Request for Appeal is administratively dismissed, the hearing officer shall issue a decision pursuant to § 2-22 § 2.24 .

C. Judgment on the record.

If the hearing officer determines from the record that the agency's determination was clearly in error and that the case should be resolved in the appellant's favor, he shall issue a decision pursuant to § 2-22 § 2.24 .

D. Remand to agency.

If the hearing officer determines from the record that the case might be resolved in the appellant's favor if the agency obtains and develops additional information, documentation, or verification, he may remand the case to the agency for action consistent with the hearing officer's written instructions. The remand order shall be sent to the appellant and any representative.

E. Removal to the Medical Assistance Appeals Panel.

In cases where the sole issue is one of state or federal law or policy, the case may, with the appellant's approval, be removed to the Medical Assistance Appeals Panel. ~~Such cases will~~ *The panel shall render a decision on the merits of the appeal solely upon the facts as stipulated to by the appellant and the hearing officer. Otherwise, said cases shall proceed according to the provisions of Part III of these regulations.*

1. Before such removal, the hearing officer will send the appellant a statement of undisputed facts and identify the legal questions involved.

2. If the appellant accepts the hearing officer's statement of facts and legal questions involved, he may agree to removal to the panel.

3. If appellant disputes any facts, wants to present additional evidence, or desires a face-to-face hearing, removal is inappropriate, and a hearing must be held.

Article 7 3 . Hearing.

§ 2.10. Evidentiary hearings.

A hearing officer shall review all agency determinations which are properly appealed; conduct informal, fact-gathering hearings; evaluate evidence presented; and issue a written final decision sustaining, reversing, or remanding each case to the agency for further proceedings.

§ 2.11. Scheduling.

To the extent possible, hearings will be scheduled at the appellant's convenience, with consideration of the travel distance required.

§ 2.11:1. Rescheduling.

A hearing shall be rescheduled at the claimant's request no more than twice unless compelling reasons exist.

§ 2.12. Notification.

When a hearing is scheduled, the appellant and his representative shall be notified in writing of its time and place.

§ 2.13. Postponement.

A hearing may be postponed for good cause shown. No postponement will be granted beyond 30 days after the date of the Request for Appeal was filed unless the appellant or his representative waives in writing the 90-day deadline for the final decision.

§ 2.14. Location.

The hearing location shall be determined by the

division. If for medical reasons the appellant is unable to travel, the hearing may be conducted at his residence.

The agency may respond to a series of individual requests for hearings by conducting a single group hearing:

1. *Only in cases in which the sole issue involved is one of federal or state law or policy; and*

2. *Each person must be permitted to present his own case or be represented by his authorized representative.*

§ 2.15. Client access to records.

Upon the request of the appellant or his representative, at a reasonable time before the date of the hearing, as well as during the hearing, the appellant and his representative may examine the content of appellant's case file and all documents and records the agency will rely on at the hearing.

§ 2.16. Subpoenas.

Appellants who require the attendance of witnesses or the production of records, memoranda, papers, and other documents at the hearing may request issuance of a subpoena in writing. The request must be received by the division at least five business days before the hearing is scheduled. Such request must include the witness' name, home and work address, county or city of work and residence, and identify the sheriff's office which will serve the subpoena.

§ 2.17. Role of the hearing officer.

The hearing officer shall conduct the hearing, decide on questions of evidence and procedure, question witnesses, and assure that the hearing remains relevant to the ~~issue(s)~~ *issue or issues* being appealed. The hearing officer shall control the conduct of the hearing and decide who may participate in or observe the hearing.

§ 2.18. Informality of hearings.

Hearings shall be conducted in an informal, nonadversarial manner. The appellant or his representative has the right to bring witnesses, establish all pertinent facts and circumstances; present an argument without undue interference, and question or refute the testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

§ 2.19. Evidence.

The rules of evidence shall not strictly apply. All relevant, nonrepetitive evidence may be admitted, but the probative weight of the evidence will be evaluated by the hearing officer.

§ 2.20. Record of hearing.

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All hearings shall be recorded either by court reporter, tape recorders, or whatever other means the agency deems appropriate. All exhibits accepted or rejected shall become part of the hearing record.

§ 2.21. Oath or affirmation.

All witnesses shall testify under oath which shall be administered by the court reporter or the hearing officer, as delegated by the department's director.

§ 2.22. Dismissal of Request for Appeal.

Request for Appeal may be dismissed if:

1. The appellant or his representative withdraws the request in writing; or
2. The appellant or his representative fails to appear at the scheduled hearing without good cause, and does not reply within 10 days after the hearing officer mails an inquiry as to whether the appellant wishes further action on the appeal.

§ 2.23. Post-hearing supplementation of the record.

A. Medical assessment.

Following a hearing, a hearing officer may order an independent medical assessment as described in § 2.0 § 2.8 .

B. Additional evidence.

The hearing officer may leave the hearing record opened for a specified period of time in order to receive additional evidence or argument from the appellant. If the record indicates that evidence exists which was not presented by either party, with the appellant's permission, the hearing officer may attempt to secure such evidence.

C. Appellant's right to reconvene hearing or comment.

If the hearing officer receives additional evidence from a person other than the appellant or his representative, the hearing officer shall send a copy of such evidence to the appellant and his representative and give the appellant the opportunity to comment on such evidence in writing or to reconvene the hearing to respond to such evidence.

D. Any additional evidence received will become a part of the hearing record, but the hearing officer must determine whether or not it will be used in making the decision.

§ 2.24. Final decision.

After conducting the hearing and reviewing the record, the hearing officer shall issue a written final decision which either sustains or reverses the agency action or remands the case to the agency for further action

consistent with his written instructions. The hearing officer's final decision shall be considered as the agency's final administrative action pursuant to 42 CFR, 431.244(f). The final decision shall include:

1. A description of the procedural development of the case;
2. Findings of fact which identify supporting evidence;
3. Citations to supporting regulations and law;
4. Conclusions and reasoning;
5. The specific action to be taken by the agency to implement the decision; and
6. Notice of further appeal rights to the Medical Assistance Appeals Panel or state court . This notice shall include information about the right to representation, time limits for requesting review, the right to submit written argument ; and the right to present oral argument ; and the right to receive benefits pending review .

7. The notice shall state that a final decision may be appealed directly to circuit court as provided in § 9-6.14:16 B of the Code of Virginia and § 1.4 of these regulations. If an optional appeal is taken to the panel, judicial review shall not be available until the panel has acted under Part III.

§ 2.25. Transmission of the hearing record.

The hearing record shall be forwarded to the appellant and his representative with the hearing final decision.

§ 2.26. Reconsideration of hearing officer decision.

On his own motion the hearing officer may reconsider a decision within 10 days of rendering that decision if he determines that an error has been made in the original decision.

PART III. MEDICAL ASSISTANCE APPEALS PANEL.

Article 1. General.

§ 3.1. Composition of the Medical Assistance Appeals Panel.

The panel shall consist of a senior administrative law judge and two administrative law judges who are appointed by the director of the department and shall serve at his pleasure.

§ 3.2. Function of the panel.

Taking into consideration the record made below, The

panel shall review and decide all appeals from hearing officers' decisions by evaluating the evidence in the record and any written and oral argument submitted, consistent with relevant federal and state law, regulations, and policy.

Article 2. Commencement of Panel Review.

§ 3.3. Commencing panel review.

An appeal is commenced when the appellant or his representative files a Request for Review, or another written statement indicating the appellant's belief that the hearing officer's decision is incorrect *which includes a written acknowledgement that the 90-day requirement set forth in 42 C.F.R. § 431.244(f) does not apply*.

§ 3.4. Place of filing Request for Review and Acknowledgement.

The Request for Review and Acknowledgement shall be filed with the Medical Assistance Appeals Panel, Department of Medical Assistance Services, 600 E. Broad St. Richmond, VA 23219.

§ 3.5. Time limit for filing.

A Request for Review shall be filed within 12 days from the date the hearing officer's decision is mailed.

§ 3.6. Extension of time for filing.

An extension of the 12-day period for filing a Request for Review may be granted for good cause shown. A request for an extension shall be in writing and filed with the panel. The request shall include a complete explanation of the reasons that an extension is needed. Good cause includes unusual or unavoidable circumstances which prevented a timely appeal (see § 2-6 2.5).

§ 3.7. Dismissal.

A. A Request for Review shall be dismissed if it *an Acknowledgement is not executed or if the request was not filed within the time limit imposed by § 3.5 or extended pursuant to § 3.6*. If a factual dispute exists about the timeliness of the Request for Review and Acknowledgement, the panel shall receive evidence or testimony on those matters before taking final action.

B. A dismissal shall constitute the panel's final disposition of the appeal.

C. Judgment on the record.

If the panel determines from the evidence in the record that the hearing officer's decision was clearly in error and that the case should be resolved in the appellant's favor, the panel may issue a final decision without receiving written or oral argument from appellant.

Article 5 3 . Written Argument.

§ 3.8. Right to present written argument.

An appellant may file written argument to present reasons why the hearing officer's decision is incorrect.

§ 3.9. Time limitation.

Written argument by the appellant, if any, shall be filed with the panel within 10 days after the Request for Review is filed.

§ 3.10. Extension.

An extension of the time limit for filing written argument may be granted for good cause shown.

§ 3.11. Evidence.

No additional evidence shall be accepted with the written argument unless it is relevant, nonrepetitive and not reasonably available at the hearing level through the exercise of due diligence.

Article 6 4 . Oral Argument.

§ 3.12. Requesting oral argument.

An appellant or his representative may ask for a hearing to present oral argument with the Request for Review.

§ 3.13. Place of hearing.

Hearings shall be held at the Department of Medical Assistance Services' central office in Richmond, 600 E. Broad Street, Suite 1300, Richmond, Virginia 23219.

§ 3.14. Notice of hearing.

A. Scheduling the hearing.

Unless judgment on the record is issued pursuant to § 3.7 C, a hearing will be set, and, to the extent possible, scheduled at the appellant's convenience.

B. Notification.

As soon as a hearing is scheduled, the person requesting it will be notified at least seven days in advance.

C. Postponement.

A hearing may be postponed by the appellant or his representative for good cause shown.

§ 3.15. Function of the senior administrative law judge.

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The senior administrative law judge shall be the presiding member of the panel *and shall issue all decisions on behalf of the panel*. If the senior administrative law judge is absent, *the director shall appoint one of the administrative law judges shall preside on a rotating basis to assume the duties of the senior administrative law judge*.

§ 3.16. Recorded hearing.

The hearing shall be tape recorded.

§ 3.17. Evidence.

No additional evidence will be accepted at the oral argument unless it meets the requirements of § 3.11 and is presented to the panel in advance of the hearing date.

Article 7 5 . Disposition.

§ 3.18. Disposition.

A. Vote.

The panel decision is made by majority vote, and the decision may be to sustain, reverse or remand the hearing officer's decision.

B. Summary affirmance.

By majority vote the panel may summarily affirm the hearing officer's decision by adopting the hearing officer's decision as its own.

C. Content of decisions.

Decisions shall be accompanied by a written *be in writing and shall consist of an* opinion stating facts with supporting evidence, reasons and conclusions, citations to supporting law and regulations, and an order describing the specific action to be taken to implement the decision. Information about further appeal rights will also be provided.

D. Remand to hearing officer.

A remand order shall clearly state the panel's instructions for further development of the evidence or the legal or policy interpretation to be applied to the facts on record.

E. The panel decision shall be sent to appellant and his representative and the agency. This shall constitute the panel's final disposition of the appeal.

Article 8 6 . Reconsideration.

§ 3.19. When reconsideration is accorded.

A decision unfavorable to the appellant may be reconsidered by the panel on its own motion or upon motion by the appellant or his representative alleging error of fact or application of law or policy.

§ 3.20. Filing and content.

Appellant's motion for reconsideration must be filed within 12 days after entry of the panel's decision. This motion shall set forth clearly and specifically the alleged error(s) in the panel's decision.

§ 3.21. Review.

The administrative law judge who wrote the majority opinion shall review the sufficiency of the allegations set forth in the motion and may request additional written argument from the appellant.

§ 3.22. Disposition.

The ruling on the motion for reconsideration shall be in writing and entered as the final order in the case. If the motion is granted, a new decision will be issued in accordance with § 3.18.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Title of Regulation: VR 674-01-01. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-201 of the Code of Virginia.

Public Hearing Date: N/A – Written comments may be submitted until 5 p.m. on June 4, 1993.

Summary:

The proposed public participation guidelines are intended to replace those guidelines published as emergency regulations in April of 1992. The purpose of these guidelines is to establish a procedure whereby interested persons and organizations may be placed on a mailing list to receive regulatory information concerning the Board for Waste Management Facility Operators. Further, these guidelines mandate a term of 30 days to receive comment on any Notice of Intended Regulatory Action. The guidelines establish procedures for public hearings, informational proceedings, meetings, petitions for rulemaking and advisory committees. Lastly, the guidelines are applicable for all regulations promulgated by the board except emergency regulations.

VR 674-01-01. Public Participation Guidelines.

§ 1. Mailing list.

The Board for Waste Management Facility Operators (the agency) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of Intent" to promulgate regulations.
2. "Notice of Public Hearing" or "Information Proceeding," the subject of which is proposed or existing regulations.
3. Final regulations adopted.

§ 2. Being placed on list; deletion.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in § 1. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals and organizations will be deleted from the list.

§ 3. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 et seq. of the Code of Virginia, the board will publish a "Notice of Intent." This notice will contain a brief and concise statement of the possible regulation or problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in The Virginia Register.

§ 4. Informational proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informal proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar for inclusion in The Virginia Register. Such proceeding may be held separately or in conjunction with other informational proceedings.

§ 5. Petition for rulemaking.

Any person may petition the board to adopt, amend, or repeal any regulation. Any petition received shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

§ 6. Notice of formulation and adoption.

At any meeting of the board or any subcommittee where it is anticipated the formulation or adoption of the regulations will occur, the subject matter shall be transmitted to the Registrar for inclusion in The Virginia Register.

§ 7. Advisory committees.

The board may appoint advisory committees as it deems necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

§ 8. Applicability.

Sections 1 through 3 and 5 through 7 shall apply to all regulations promulgated except emergency regulations adopted in accordance with § 9-6.14:9 of the Code of Virginia.

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 MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD)

Title of Regulation: VR 470-06-01. Rules and Regulations to Assure the Protection of the Subjects of Human Research (REPEALED).

Title of Regulation: VR 470-06-01:1. Regulations to Assure the Protection of Participants in Human Research.

Statutory Authority: §§ 37.1-10 and 37.1-24.01 of the Code of Virginia.

Effective Date: May 15, 1993.

Summary:

These regulations are being adopted to protect mentally ill, mentally retarded and substance abusing individuals participating in human research. The regulations:

1. Limit applicability of regulations to the DMHMRSAS community services boards and to any facility operated, funded or licensed by the department as required by the Code of Virginia.

2. Extend the requirement that participants in biomedical research be informed of risks discovered after the research has been conducted by participants in all types of human research.

3. Revise the definitions of:

a. "Human research" to be consistent with the Code of Virginia. More specifically defined exemptions are described in a separate section.

b. "Legally authorized representative" to clarify that an official or employee of the institution conducting the research cannot act as the authorized representative and to authorize the use of an attorney-in-fact.

c. "Informed consent" to clarify the basic elements of informed consent. Requirements have been added that informed consent must include a description of the expected duration of participation and the extent to which confidentiality will be maintained. The participants rights regarding refusal to participate and withdrawal from the study are clarified.

4. Replace the definition "to present a hazardous risk" with a definition of "minimal risk" as it is defined in federal regulations.

5. Clarify that the summary of the proposed human research must be submitted prior to the initiation of the research project.

6. Add the requirement that consideration be given to race, gender and cultural background in assuring diversity in the membership of the review committee.

7. Change the requirement that each committee must include "several members" who are not affiliated with the institution sponsoring the research to "at least one member," and add the requirement that this member must not be part of the immediate family of a person who is affiliated with the institution.

8. Add the requirement that a quorum must include at least one member whose primary concerns are in nonscientific areas.

9. Add a provision allowing an institution or agency to expedite the review of a human research project if the project has been reviewed and approved by the human research review committee of another institution. Committees are required to review human research proposals within 45 days rather than 60 days.

10. Reflect that, in reviewing human research, the review committee must consider whether or not the selection of subjects is "equitable" rather than "valid" as previously indicated.

11. Define specific types of research that present no risk to participants and are, therefore, exempt from these regulations. This would increase the consistency with federal regulations.

12. Define conditions under which the procedures for conducting an "expedited" review for particular types of research as provided for in federal regulations. An expedited review may be used for minor changes in previously approved research and specific types of research as identified in federal regulations.

13. Clarify conditions required to assure voluntary and informed consent.

14. Define conditions under which the research review committee may allow some elements of informed consent to be omitted or altered and for the requirement of written informed consent to be waived.

These may be allowed when the research involves no more than minimal risk, the waiver or alteration will not adversely affect the participants, the research could not otherwise be conducted, and additional pertinent information is provided to the participant after participation.

15. Outline new requirements for the preparation and maintenance of committee records. Committees must prepare and retain copies of all research proposals, progress reports, reports of injuries to participants, minutes of committee meetings, etc., for three years.

VR 470-06-01:1. Regulations to Assure the Protection of Participants in Human Research.

§ 1. Definitions.

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

"Affiliated with the institution" means employed by the institution or a member of a household containing an employee of the institution.

"Board" means the State Mental Health, Mental Retardation and Substance Abuse Services Board.

"Commissioner" means the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Department" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Human participant" means a living individual about whom an investigator (whether professional or student) conducting research obtains (i) data through intervention or interaction with the individual, or (ii) identifiable private information. "Intervention" includes both physical procedures by which data are gathered (for example, venipuncture) and manipulations of the participant or participant's environment that are performed for research purposes. "Interaction" includes communication or interpersonal contact between investigator and participant. "Private information" includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the participant is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human participants.

"Human research" means any systematic investigation which utilizes human participants who may be exposed to

physical or psychological injury as a consequence of participation and which departs from the application of established and accepted therapeutic methods appropriate to meet the participant's needs.

"Institution" means any community services board or any facility or program operated, funded, or licensed by the department.

"Legally authorized representative" means the parent or parents having custody of a prospective participant, the legal guardian of a prospective participant or any person or judicial or other body authorized by law or regulation to consent on behalf of a prospective participant to such person's participation in the particular human research. For the purposes of this definition, any person authorized by law or regulation to consent on behalf of a prospective participant to his participation in the particular human research shall include an attorney-in-fact appointed under a durable power of attorney, to the extent the power grants the authority to make such a decision. The attorney-in-fact shall not be employed by the person, institution or agency conducting the human research and shall not be authorized to consent to nontherapeutic medical research. No official or employee of the institution or agency conducting or authorizing the research shall be qualified to act as a legally authorized representative.

"Minimal risk" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

"Nontherapeutic research" means human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the participant.

"Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to general knowledge. Activities which meet this definition constitute research for purposes of these regulations, whether or not they are supported or funded under a program which is considered research for other purposes. For example, some "demonstration" and "service" programs may include research activities.

"Voluntary informed consent" means the knowing consent of an individual so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress or other form of constraint or coercion. With regard to the conduct of human research, the basic elements of information necessary to such consent shall include:

1. A statement that the study involves research, and a reasonable and comprehensible explanation to the individual of the procedures to be followed and their purposes, including identification of any procedures which are experimental; the expected duration of the

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individual's participation; a statement describing the extent, if any, to which confidentiality of records identifying the participant will be maintained; and if any data from this study are published, the individual will not be identified without his written permission;

2. A description of any attendant discomforts and risks reasonably to be expected and a statement that there may be other risks not yet identified;

3. A description of any benefits to the individual or to others reasonably to be expected;

4. A disclosure of any appropriate alternative procedures or therapies that might be advantageous for the individual;

5. An offer to answer and answers to any inquiries by any individual concerning the procedure;

6. A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the individual is otherwise entitled, and the individual may discontinue participation at any time without penalty or loss of benefits to which he is otherwise entitled;

7. An explanation of whom to contact for answers to pertinent questions about the research and research participants' rights, and whom to contact in the event of a research-related injury;

8. For research involving more than minimal risk, an explanation as to whether any compensation or medical care is available if injury occurs and, if so, what they consist of or where further information may be obtained; and

9. An explanation of any costs or compensation which may accrue to the person and, if applicable, the availability of third party reimbursement for the proposed procedures or protocols.

§ 2. Authority.

These regulations are promulgated under the authority of §§ 37.1-24.01 and 37.1-10 6 of the Code of Virginia, to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.

§ 3. Applicability.

These regulations shall apply to the Department of Mental Health, Mental Retardation and Substance Abuse Services and to any community services board and to any facility operated, funded or licensed by the department which conducts or which proposes to conduct or authorize research which uses human participants.

§ 4. Policy.

A. No human research may be conducted without informing the participant or his legally authorized representative in writing of the risks, procedures, and discomforts of the research. The consent of the participant or his legally authorized representative to participate in the research must be documented in writing and supported by the signature of a witness not involved in the conduct of the research, except as provided for in § 10 F of these regulations. Arrangements shall be made for those who need special assistance in understanding the consequences of participating in the research.

B. Each human research activity shall be approved by a committee composed of representatives of varied backgrounds who shall assure the competent, complete, and professional review of human research activities.

C. Nontherapeutic research using institutionalized participants is prohibited unless it is determined by the research review committee that such nontherapeutic research will not present greater than minimal risk.

D. The individual conducting the research shall be required to notify all participants of research of the risks caused by the research which are discovered after the research has concluded.

§ 5. Certification process.

A. Institutions seeking to conduct or sponsor human research are required to submit statements to the department assuring that all human research activities will be reviewed and approved by a research review committee. Institutions shall report annually to the commissioner giving assurance that a committee exists and is functioning. These reports should include a list of committee members, their qualifications for service on the committee, their institutional affiliation and a copy of the minutes of committee meetings.

B. Prior to the initiation of a human research project, institutions shall also send to the commissioner a description of the research project to be undertaken, which shall include a statement of the criteria for inclusion of a participant in the research project, a description of what will be done to the participants, and a copy of the informed consent statement.

C. Each person engaged in the conduct of human research or proposing to conduct human research shall associate himself with any institution having a committee, and such human research as he conducts or proposes to conduct shall be subject to review and approval by the committee in the manner set forth in this section.

D. The commissioner may inspect the records of the committee.

E. The chairman of the committee shall report as soon as possible to the head of the institution and to the commissioner any violation of the research protocol which

led the committee to either suspend or terminate the research.

§ 6. Composition of research review committees.

A. Each committee shall have at least five members, appointed by the head of the institution, with varying backgrounds to provide complete and adequate review of activities commonly conducted by the institution. The committee shall be sufficiently qualified through the maturity, experience, and diversity of its members, including consideration of race, gender and cultural background, to promote respect for its advice and counsel in safeguarding the rights and welfare of participants in human research. In addition to possessing the professional competence necessary to review specific activities, the committee must be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. If a committee regularly reviews research that has an impact on an institutionalized or other vulnerable category of participants, including residents of mental health or mental retardation facilities, the committee shall have in its membership one or more individuals who are primarily concerned with the welfare of these participants and who have appropriate experience to serve in that capacity.

B. No committee shall consist entirely of men or entirely of women, or entirely of members of one profession, and at least one member must be an individual whose primary concerns are in nonscientific areas (e.g., lawyers, ethicists, members of the clergy).

C. Each committee shall include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution.

D. No member of a committee shall participate in the committee's initial or continuing review of any project in which the member is directly involved or for which he has administrative approval authority, except to provide information requested by the committee. The committee has responsibility for determining whether a member has a conflicting interest. The committee member shall be replaced in the case of conflicting interests resulting in a decrease of the committee below five persons.

E. A committee may, at its discretion, invite individuals with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the committee. These individuals may not vote with the committee.

F. A quorum of the committee shall consist of a majority of its members including at least one member whose primary concerns are in nonscientific areas.

G. The committee and the institution shall establish

procedures and rules of operation necessary to fulfill the requirements of these regulations.

§ 7. Elements of each committee's review process.

A. No human research shall be conducted or authorized by such institution or agency unless such committee has reviewed and approved the proposed human research project giving consideration to:

1. The adequacy of the description of the potential benefits and risks involved and the adequacy of the methodology of the research;

2. The degree of the risk, and, if the research is nontherapeutic, whether it presents greater than minimal risk;

3. Whether the rights and welfare of the participants are adequately protected;

4. Whether the risks to the participants are outweighed by the potential benefits to them;

5. Whether the voluntary informed consent is to be obtained by methods that are adequate and appropriate and whether the written consent form is adequate and appropriate in both content and language for the particular research and for the particular participants of the research;

6. Whether the persons proposing to supervise or conduct the particular human research are appropriately competent and qualified;

7. Whether criteria for selection of participants are equitable, especially in research regarding the future development of mental or physical illness;

8. Whether the research conforms with such other requirements as the board may establish; and

9. Whether appropriate studies in nonhuman systems have been conducted prior to the involvement of human participants.

B. Each committee shall review approved projects to ensure conformity with the approved proposal at least annually.

C. Research must be approved by the committee which has jurisdiction over the participant. When cooperating institutions conduct some or all of the research involving some or all of the participants, each cooperating institution is responsible for safeguarding the rights and welfare of human participants and for complying with these regulations, except that in complying with these regulations institutions may enter into joint review, rely upon the review of another qualified committee, or make similar arrangements aimed at avoiding duplication of effort. Such arrangements may be made by the committee chairperson

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with the approval of a majority of the members present at a meeting of the committee.

D. The committee shall consider research proposals within 45 days after submission to the committee's chairman. In order for the research to be approved, it shall receive the approval of a majority of those members present at a meeting in which a quorum exists. A committee shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure committee approval.

E. The committee shall develop a written description of the procedure to be followed by a participant who has a complaint about a research project in which he is participating or has participated.

F. Any participant who has a complaint about a research project in which he is participating or has participated shall be referred to the chairperson of the committee who shall refer it to the committee to determine if there has been a violation of the protocol.

G. The committee shall require periodic reports. The frequency of such reports should reflect the nature and degree of risk of each research project.

§ 8. Kinds of research exempt from committee review.

Research activities in which the only involvement of human participants will be in one or more of the following categories are exempt from these regulations unless the research is covered by other sections of these regulations:

1. Research conducted in established or commonly accepted educational settings, involving commonly used educational practices, such as:

- a. Research on regular and special education instructional strategies; or
- b. Research on the effectiveness of or the comparison among instructional techniques, curriculum or classroom management methods.

2. Research involving solely the use and analysis of the results of standardized psychological, educational, diagnostic, aptitude, or achievement tests, if information taken from these sources is recorded in such a manner that participants cannot be reasonably identified, directly or through identifiers linked to the participants.

3. Research involving survey or interview procedures, unless:

- a. Responses are recorded in such a manner that participants can be identified, directly or through identifiers linked to the participants; and

- (1) The participant's responses, if they became known outside the research, could reasonably place the participant at risk of criminal or civil liability or be damaging to the participant's financial standing, employability, or reputation; or

- (2) The research deals with sensitive aspects of the participant's own behavior, such as sexual behavior, drug or alcohol use, illegal conduct or family planning.

4. Research involving solely the observation (including observation by participants) of public behavior, unless:

- a. Observations are recorded in such a manner that participants can be identified, directly or through identifiers linked to the participants, and either:

- (1) The observations recorded about the individual, if they became known outside the research, could reasonably place the participant at risk of criminal or civil liability or be damaging to the participant's financial standing, employability, or reputation; or

- (2) The research deals with sensitive aspects of the participant's own behavior such as illegal conduct, drug use, sexual behavior, or use of alcohol.

5. Research involving solely the collection or study of existing data, documents, records, or pathological or diagnostic specimens, if these sources are publicly available or if the information taken from these sources is recorded in such a manner that participants cannot be identified, directly or through identifiers linked to the participants.

6. Research involving solely a combination of any of the activities described in this section.

§ 9. Expedited review procedures for certain kinds of research involving no more than minimal risk.

A. The committee may conduct an expedited review of a human research project which involves no more than minimal risk to the participants if (i) another institution's or agency's human research review committee has reviewed and approved the project or (ii) the review involves only minor changes in previously approved research and the changes occur during the approved project period. Under an expedited review procedure, the review may be carried out by the committee chairperson and one or more experienced reviewers designated by the chairperson from among members of the committee. In reviewing the research, the reviewers may exercise all of the authorities of the committee except that the reviewers may not disapprove the research. A research activity may be disapproved only after review in accordance with the nonexpedited procedure set forth in § 7 of these regulations.

B. Each committee which uses an expedited review

procedure shall adopt a method for keeping all members advised of research proposals which have been approved under the procedure.

C. Research activities involving no more than minimal risk and in which the only involvement of human participants will be in one or more of the following categories (carried out through standard methods) may be reviewed by the research review committee through the expedited review procedure.

1. Collection of hair and nail clippings, in a nondisfiguring manner; nonpermanent teeth; and permanent teeth if patient care indicates a need for extraction.
2. Collection of excreta and external secretions including sweat, uncannulated saliva, placenta removed at delivery, and amniotic fluid at the time of rupture of the membrane prior to or during labor.
3. Recording of data from participants 18 years of age or older using noninvasive procedures routinely employed in clinical practice. This includes the use of physical sensors that are applied either to the surface of the body or at a distance and do not involve input of matter or significant amounts of energy into the participant or an invasion of the participant's privacy. It also includes such procedures as weighing, testing sensory acuity, electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, diagnostic echography, and electroretinography. It does not include exposure to electromagnetic radiation outside the visible range (for example, x-rays, microwaves).
4. Collection of blood samples by venipuncture, in amounts not exceeding 450 milliliters in an eight-week period and no more often than two times per week, from participants 18 years of age or older and who are in good health and not pregnant.
5. Collection of both supra- and subgingival dental plaque and calculus, provided the procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.
6. Voice recordings made for research purposes such as investigations of speech defects.
7. Moderate exercise by healthy volunteers.
8. The study of existing data, documents, records, pathological specimens, or diagnostic specimens.
9. Research on individual or group behavior or characteristics of individuals, such as studies of perception, cognition, game theory, or test development, where the investigator does not manipulate participants' behavior and the research will

not involve stress to participants.

10. Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.

§ 10. Informed consent.

A. No human research may be conducted in this Commonwealth in the absence of voluntary informed consent subscribed to in writing by the participant or by the participant's legally authorized representative except as provided for in subsection F of this section. If the participant is a minor otherwise capable of rendering voluntary informed consent, the consent shall be subscribed to by both the minor and his legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective participant or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the participant or the representative shall be in language understandable to the participant or the representative.

B. No individual shall participate in research unless this requirement is met for each individual. The giving of consent by a legally authorized representative shall be subject to the provisions of subsection C of this section. No voluntary informed consent shall include any language through which the participant waives or appears to waive any of his legal rights, including any release of any individual, institution or agency or any agents thereof from liability for negligence. Notwithstanding consent by a legally authorized representative, no person shall be forced to participate in any human research. Each participant shall be given a copy of the signed consent form required by § 4 A of these regulations, except as provided for in § 10 F.

C. No legally authorized representative may consent to nontherapeutic research unless it is determined by the committee that such nontherapeutic research will present no more than a minor increase over minimal risk to the participant. No nontherapeutic research shall be performed without the consent of the participant.

D. The committee may approve a consent procedure which does not include, or which alters some or all of the elements of informed consent set forth in § 1 of these regulations, or waive the requirements to obtain informed consent provided the committee finds and documents that:

1. The research involves no more than minimal risk to the participants;
2. The waiver or alteration will not adversely affect the rights and welfare of the participants;
3. The research could not practicably be carried out without the waiver or alteration; and

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4. Whenever appropriate, the participants will be provided with additional pertinent information after participation.

E. Except as provided in subsection F of this section, the consent form may be either of the following:

1. A written consent document that embodies the elements of informed consent required by § 1 of these regulations. This form may be read to the participant or the participant's legally authorized representative, but in any event, the investigator shall give either the participant or the representative adequate opportunity to read it before it is signed; or

2. A short form written consent document stating that the elements of informed consent required by § 1 of these regulations have been presented orally to the participant or the participant's legally authorized representative. When this method is used, there shall be a witness to the oral presentation. Also, the committee shall approve a written summary of what is to be said to the participant or the representative. Only the short form itself is to be signed by the participant or the representative. However, the witness shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary shall be given to the participant or the representative, in addition to a copy of the short form.

F. The committee may waive the requirement for the investigator to obtain a signed consent form for some or all participants if it finds that the only record linking the participant and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality. Each participant will be asked whether the participant wants documentation linking the participant with the research, and the participant's wishes will govern. In cases where the documentation requirement is waived, the committee may require the investigator to provide participants with a written statement regarding the research.

§ 11. Committee records.

A. An institution, or when appropriate a committee, shall prepare and maintain adequate documentation of committee activities, including the following:

1. Copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to participants.

2. Minutes of committee meetings which shall be in sufficient detail to show attendance at the meetings; actions taken by the committee; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes

in or disapproving research; and a written summary of the discussion of controverted issues and their resolution.

3. Records of continuing review activities.

4. Copies of all correspondence between the committee and the investigators.

5. A list of committee members.

6. Written procedures for the committee.

7. Statements of significant new findings provided to participants.

B. The records required by this regulation shall be retained for at least three years, and records relating to research which is conducted shall be retained for at least three years after completion of the research. All records shall be accessible for inspection and copying by authorized employees or agents of the department at reasonable times and in a reasonable manner.

§ 12. Mandatory reporting.

Each research review committee shall submit to the Governor, the General Assembly, and the commissioner or his designee at least annually a report on the human research projects reviewed and approved by the committee, including any significant deviations from the proposals as approved.

§ 13. Role of the department, commissioner, and the board.

A. The commissioner shall establish and maintain records of institutional assurances, annual reports, and summary descriptions of research projects to be reviewed by the board.

B. The commissioner shall review communications from committees reporting violations of research protocols which led to suspension or termination of the research to ensure that appropriate steps have been taken for the protection of the rights of human research participants. The board shall be kept informed.

C. The commissioner shall arrange for the printing and dissemination of copies of these regulations.

§ 14. Applicability of state policies.

Nothing in these regulations shall be construed as limiting in any way the rights of participants in research under regulations promulgated by the board pursuant to § 37.1-84.1 of the Code of Virginia.

§ 15. Applicability of federal policies.

Human research at institutions which are subject to

policies and regulations for the protection of human participants promulgated by any agency of the federal government shall be exempt from these regulations. Such institutions shall notify the commissioner and the board annually of their compliance with the policies and regulations of federal agencies.

DEPARTMENT OF MINES, MINERALS AND ENERGY

REGISTRAR'S NOTICE: Due to its length, the regulation filed by the Department of Mines, Minerals and Energy is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Mines, Minerals and Energy.

Title of Regulation: VR 480-03-19. Virginia Coal Surface Mining Reclamation Regulations.

Statutory Authority: §§ 45.1-1.3 4 and 45.1-230 of the Code of Virginia.

Effective Date: May 5, 1993.

Summary:

The Department of Mines, Minerals and Energy is amending its Coal Surface Mining Reclamation Regulations to be consistent with changes in corresponding federal rules, as required by law. The amendments (i) establish requirements for operations where coal mining is incidental to mining of other minerals; (ii) clarify the applicability of certain reclamation operations; (iii) clarify the notice and permitting requirements for exploration for coal and for the use or sale of coal extracted during exploration; (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 on the permit area; (vi) enhance public safety by changing requirements for the operation of impoundments, sedimentation ponds and spillways; (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; (x) require applicants for surface coal mining and reclamation permits to submit information regarding support facilities; (xi) clarify that obligations established under a surface mining permit continue after the permit has been terminated, revoked or suspended; and (xii) make changes for consistency in numbering.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

Title of Regulation: VR 627-02-01. Board for Professional

Soil Scientists Regulations.

Statutory Authority: §§ 54.1-113, 54.1-201 and Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia.

Effective Date: May 5, 1993.

Summary:

The final regulations apply directly to 71 certified soil scientists in Virginia. The substantive changes in the regulations are increases in all fees to assure the board's compliance with the requirements of § 54.1-113 of the Code of Virginia. Further, the final regulations contain additional language regarding waiver from examination through experience to reflect the legislative amendments of the 1991 General Assembly Session. The last addition clarifies the core course requirements needed to meet academic qualifications and creates a mechanism to demonstrate core course equivalency.

VR 627-02-01. Board for Professional Soil Scientists Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

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

"Board" means the Board for Professional Soil Scientists as established by Chapter 22, Title 54.1 of the Code of Virginia.

"Field study" means the investigation of a site to secure soils information by means of landscape analysis, soil borings, excavations or test pits which are located on a base map or other documents (e.g., aerial photographs, topographic maps, scaled site plans, subdivision plans, or narrative description of the location).

"Practice of soil evaluation" means the evaluation of soil by accepted principles and methods including, but not limited to, observation, investigation, and consultation on measured, observed and inferred soils and their properties; analysis of the effects of these properties on the use and management of various kinds of soil; and preparation of soil descriptions, maps, reports and interpretive drawings.

"Soil" means the groups of natural bodies occupying the unconsolidated portion of the earth's surface which are capable of supporting plant life and have properties caused by the combined effects, as modified by topography and time, of climate and living organisms upon parent materials.

"Soil evaluation" means plotting soil boundaries,

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describing and evaluating the kinds of soil and predicting their suitability for and response to various uses.

"Soil map" means a map showing distribution of soil types or other soil mapping units in relation to the prominent landforms and cultural features of the earth surface.

"Soil science" means the science dealing with the physical, chemical, mineralogical, and biological properties of soils as natural bodies.

"Soil scientist" means a person having special knowledge of soil science and the methods and principals of soil evaluation as acquired by education and experience in the formation, description and mapping of soils.

"Soil survey" means a systematic field investigation of the survey area that provides a soil evaluation and a system of uniform definitions of soil characteristics for all the different kinds of soil found within the study area, all of which are incorporated into a soil report which includes a soil map.

§ 1.2. Procedural requirements.

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

Assistant Director
Board for Professional Soil Scientists
Department of Commerce
3600 West Broad Street
Richmond, Virginia 23230
(804) 367-8514 367-8595
1-800-552-3016

B. Fully documented applications must be submitted with the appropriate fee(s) by applicants seeking consideration for certification no later than ~~120~~ 90 days prior to the scheduled examination. The date the completely documented application and fees are received in the board's office shall determine if the application meets the deadline set by the board. Incomplete applications will be returned to the applicant.

C. Applicants who have been found ineligible for any reason, may request further consideration by submitting in writing evidence of additional qualifications, training or experience. No additional fee will be required provided the requirements for certification are met within a period of three years from the date the original application is received by the Department of Commerce.

D. Members of the board may not serve as personal references, but they may be listed as persons who have supervised the work of the applicant.

E. The board may make further inquiries and investigations with respect to the qualifications of the

applicant and all references, etc. to confirm or amplify information supplied.

F. Failure of an applicant to comply with a written request from the board for additional evidence or information within 60 days of receiving such notice, except in such instances where the board has determined ineligibility for a clearly specified period of time, may be sufficient and just cause for disapproving the application.

G. For the purpose of determining eligibility or requirements for examination or qualification for practice, a board may require a personal interview with the applicant.

H. Notice of examination.

Each candidate will be sent a written notice of the time and place of any examination for which the candidate is eligible. Each candidate shall promptly notify the board as to whether the candidate intends to appear for the examination and pay the examination fee as instructed. Failure to so notify the board may result in loss of eligibility for that particular examination. Each examination fee shall be applied to the next scheduled examination and shall be forfeited for failure to notify the board or for failure to appear.

§ 1.3. Determining qualifications of applicants.

In determining the qualifications of an applicant for certification as a professional soil scientist, a majority vote of the board members who are soil scientists shall be required.

§ 1.4. Fees.

A. The following nonrefundable fees are required and shall not be prorated:

1. The application fee for certification shall be ~~\$125~~ \$150 .
2. The fee for renewal of certification shall be \$175.
3. The fee for taking the examination or reexamination for certification shall be ~~\$75~~ \$150 .
4. The penalty fee for late renewal or reinstatement shall be \$200.

B. Deadline for applications and examination fees.

Fully documented, completed applications must be submitted with the proper application fee and received in the board's office no later than ~~120~~ 90 days prior to the next scheduled exam. Examination and reexamination fees must be received in the board's office no later than ~~45~~ 30 days prior to the next scheduled examination.

§ 1.5. Applicability of certification program.

The Certification Program for Professional Soil Scientists set forth in Chapter 22 of Title 54.1 of the Code of Virginia and these regulations is voluntary and shall not be construed to prohibit:

1. The practice of soil evaluation by individuals who are not certified soil scientists as defined in this regulation;
2. The work of an employee or a subordinate of a certified soil scientist or of an individual who is practicing soil evaluation without being certified; or
3. The practice of any profession or occupation which is regulated by another regulatory board within the Department of Commerce.

PART II. ENTRY.

§ 2.1. Qualifications for certification.

Applicants for certification shall meet the education, eligibility, experience and examination requirements specified in Chapter 22 of Title 54.1 of the Code of Virginia.

§ 2.2. Qualifications for examination.

An applicant shall satisfy one of the following criteria in order to qualify for the examination:

1. Hold a bachelor's degree from an accredited institution of higher education in a soils curriculum which has been approved by the board and have at least four years of experience in soil evaluation, the quality of which demonstrates to the board that the applicant is competent to practice as a professional soil scientist; or
2. Hold a bachelor's degree in one of the natural sciences and have at least five years of experience in soil evaluation, the quality of which demonstrates to the board that the applicant is competent to practice as a professional soil scientist; or
3. Have a record of at least eight years of experience in soil evaluation, the quality of which demonstrates to the board that the applicant is competent to practice as a soil scientist; or
4. Have at least four years of experience in soil science research or as a teacher of soils curriculum in an accredited institution of higher education which offers an approved four-year program in soils and at least two years of soil evaluation experience, the quality of which demonstrates to the board that the applicant is competent to practice as a soil scientist.

§ 2.3. Waiver from examination through [reciprocity or] experience.

[A.] Any person certified, registered or licensed as a soil scientist in any jurisdiction of the United States may be granted a Virginia certificate without [written] examination, provided that:

[1. The applicant meets all the other requirements for certification in Virginia; and]

[2. 1.] The applicant holds an unexpired certificate or its equivalent issued to him on the basis of equivalent requirements for certification in Virginia [; including a comparable examination;] by a regulatory body of another state, territory or possession of the United States and is not the subject of any disciplinary proceeding before such regulatory body which could result in the suspension or revocation of his certificate, and such other regulatory body recognizes the certificates issued by this board [; or]

[B. 2.] Any person who can verify on the forms provided a record of at least 10 years of experience in soil evaluation, the quality of which demonstrates to the board the applicant is competent to practice as a professional soil scientist.

§ 2.3. § 2.4. Qualifying experience in soil evaluation.

A. An applicant must demonstrate at least one half of the required experience in one or all of the following areas:

1. Soil mapping. Compiling of soil maps as a part of a soil survey with a formal mapping legend under the direct guidance of an experienced party leader supervisor. Acceptable maps shall be maps in a published report, a report scheduled to be published or of a publishable quality; or

2. Soil evaluation. Conducting soil evaluation usually from existing soil data for a specific land use, such as septic tank drain fields, sanitary landfill sites, forestry production, or individual farm mapping for agriculture production. The experience shall be supervised by an individual with a minimum of a year's more experience than the applicant. The finished product shall have been submitted to a government agency (e.g., Health Department, Environmental Protection Agency, Environmental Impact Studies, Water Control Board, local planning commission); or

3. Field studies. Conducting detailed field studies which have been done under the supervision of an individual with a minimum of a year's more experience than the applicant. The field study shall have resulted in a soil evaluation report that was accepted by the client or agency.

B. The remaining required experience may be fulfilled in one or more of the following areas:

1. Consulting (public/private). Assembling or compiling

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soil information either with existing data or field studies, and evaluating data for a specific land use. The work may be either independently done or done under supervision. The written report shall have been submitted to the client or agency.

2. Soil mapping, soil evaluation, or field studies, as described above, which have been done independently or under supervision.

3. Education. Each year of full-time undergraduate study in a soils curriculum or related natural science may count as one-half year of experience up to a maximum of two years. Each year of full-time graduate study in a soils curriculum may count as one year of experience up to a maximum of two years. With a passing grade, 32 semester credit hours or 48 quarter credit hours is considered to be one year. No credit used as education credit may also be used as experience credit.

§ 2.4. Certification by reciprocity.

Any person certified, registered or licensed as a soil scientist in any jurisdiction of the United States may be granted a Virginia certificate without written examination, provided that:

1. The applicant meets all the other requirements for certification in Virginia; and

2. The applicant holds an unexpired certificate or its equivalent issued to him on the basis of equivalent requirements for certification in Virginia, including a comparable examination, by a regulatory body of another state, territory or possession of the United States and is not the subject of any disciplinary proceeding before such regulatory body which could result in the suspension or revocation of his certificate, and such other regulatory body recognizes the certificates issued by this board.

§ 2.5. Examination.

A. A board-approved examination shall be administered at least once a year, at a time designated by the board.

B. An applicant must meet all eligibility requirements as of the date the application is filed with the board.

C. A candidate who is unable to take the examination at the time scheduled must notify the board in writing prior to the date of the examination; such a candidate will be rescheduled for the next examination without additional fee. Failure to so notify the board will result in forfeiture of the examination or reexamination fee.

D. A candidate who has not appeared for an examination after the first written notice regardless of reasons, will not be sent another examination notice until the candidate submits a written request to be rescheduled.

E. A candidate who does not appear for an examination within two years of approval will be ineligible to sit for an examination. Individuals wishing to sit for an examination will be required to submit a new application with fee in accordance with these regulations.

F. Candidates will be notified of passing or failing the examination. No scores will be reported to candidates. Only the board and its staff shall have access to examination papers, scores and answer sheets.

G. Upon payment of the reexamination fee, a candidate who is unsuccessful in passing an examination will be allowed to retake any examination(s) given within two years of the date of notification of initial unsuccessful examination results. After the two-year period has elapsed, an applicant will be required to submit a new application with fee in accordance with these regulations in order to take an examination.

§ 2.6. Core course requirements.

[A.] At least 15 semester hours selected from the identified courses below or the equivalent are required for course work or a degree core to be considered a soil science degree or a soil science related degree.

Intro to Crop and Soil Environmental Sciences
Soil Evaluation
Soils
Soils Lab
Man and Environment
Soil Survey/Taxonomy
Soil Microbiology
Soil Resource Management
Soil Chemistry
Topics in Soil Genesis
Soil Seminar
Special Studies (Soils Based)
Field Studies (Soils Based)
Soils and Land Use
Soil Physical and Colloidal Chemistry
Soil - Plant Relations
Soil - Plant - Animal Interrelationships in Grasslands
Aluminum Chemistry in the Soil System
[Soil Conservation]
Soil Physics or Physical Properties
Soil Genesis/Classification
Soil Fertility/Management
Soil Fertility/Management Lab
Soil/Groundwater Pollution
Soils for Waste Disposal
Soil Microbiology Lab
Forest Soils/Hydrology
Clay Mineralogy
Soil Interpretations
Advanced Concepts in Soil Genesis
Independent Studies (Soil Based)
Soil Biochemistry
Soil Geomorphology

The applicant must demonstrate course equivalency.

[B. An applicant may petition the board in writing to review for academic credit the syllabus and other supporting documents of a course not listed in subsection A of this section. The course shall contain content to enhance the knowledge of the applicant in the study of soils.]

PART III. RENEWAL OF CERTIFICATE.

§ 3.1. Expiration.

Certificates issued by the board shall expire on June 30 of each odd-numbered year following the date of issuance. Certificate holders shall be notified by mail of the fee and the procedure for renewal at least 45 days before the date the certificate expires. Certificate holders must submit the renewal notice and appropriate fee before the certificate expires.

§ 3.2. Renewal.

A. If the renewal fee is not received by the board within 30 calendar days following the expiration date noted on the certificate, a penalty fee of \$200 shall be required in addition to the regular renewal fee. No certificate may be renewed more than six months following the date of expiration.

B. Failure to receive written notice from the Department of Commerce does not relieve the certificate holder from the requirement to renew the certificate. If the certificate holder fails to receive the renewal notice, the certificate holder may submit a copy of the certificate with the required fee in lieu of the renewal notice.

C. The date a fee is received by the Department of Commerce or its agent will be used to determine whether a penalty fee or the requirement for reinstatement or reapplication is applicable.

D. Suspended certificates are not renewable until reinstated by the board.

E. A revoked certificate cannot be renewed.

§ 3.3. Reinstatement.

A. If the certificate holder fails to renew the certificate within six months following his expiration date, the certificate holder will be required to apply for certificate reinstatement. The applicant will be required to show the board that he meets the eligibility standards for certification as a professional soil scientist. The board may also require reexamination. The application fee for reinstatement shall be an amount equal to the regular renewal fee plus the \$200 penalty fee.

B. After 36 months from the date of expiration, the

applicant must apply as a new applicant, meet all current education and experience requirements and pass the current examination.

§ 3.4. Reissuance of certificate.

An individual whose certificate has been revoked must file a new application and obtain approval of the board to regain certification. Reexamination shall be required.

PART IV. STANDARDS OF PRACTICE AND CONDUCT.

§ 4.1. Professional conduct.

A certified professional soil scientist:

1. Shall not submit any false statements, make any misrepresentations or fail to disclose any facts requested concerning any application for certification.

2. Shall not engage in any fraud or deceit or misrepresentation in advertising, in soliciting or in providing professional services.

3. Shall not knowingly sign, stamp, or seal any plans, drawings, blueprints, surveys, reports, specifications, maps or other documents not prepared or reviewed and approved by the certificate holder.

4. Shall not knowingly represent a client or employer on a project on which he represents or has represented another client or employer without making full disclosure thereof.

5. Shall express a professional opinion only when it is founded on adequate knowledge of established facts at issue and based on a background of technical competence in the subject matter.

6. Shall not knowingly misrepresent factual information in expressing a professional opinion.

7. Shall immediately notify the client or employer and the appropriate regulatory agency if his professional judgment is overruled and not adhered to in the use of all reasonable means necessary to advise appropriate parties of any circumstances of a substantial threat to the public health, safety, or welfare.

8. Shall exercise reasonable care when rendering professional services and shall apply the technical knowledge, skill and terminology ordinarily applied by practicing soil scientists.

§ 4.2. Grounds for suspensions, revocation, denial of application, renewal or other disciplinary action.

A. The board has the power to fine any certificate holder or to revoke or suspend any certificate at any time

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after a hearing conducted pursuant to the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia, when the person is found to have:

1. Committed fraud or deceit in obtaining or attempting to obtain certification.
2. Committed any violation, or cooperated with others in violating § 4.1. of the Standards of Practice and Conduct, or any other regulations of the board, or governing statutes of the board.
3. Performed any act in the practice of his profession likely to deceive, defraud or harm the public.
4. Committed any act of gross negligence, incompetence, or misconduct in the practice of soil science.
5. Been convicted of a felony under the terms specified in § 54.1-204 of the Code of Virginia.

B. The board may, in its discretion, refuse to grant, renew or reinstate a certificate of any person for any of the reasons specified in subsection A of this section.

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 POST OFFICE BOX 11066
 RICHMOND, VIRGINIA 23230-1066

REGISTRATION INFORMATION
 COMMONWEALTH OF VIRGINIA

For Official Use Only

Lic. Number _____
 Date _____
 Code _____

APPLICATION FOR CERTIFICATION AS A
 VIRGINIA CERTIFIED PROFESSIONAL SOIL SCIENTIST

A. GENERAL INFORMATION

NAME IN FULL: _____ SSN: _____

FIRM NAME: _____

BUSINESS ADDRESS: STREET: _____
 STATE: _____ ZIP: _____
 PHONE NUMBER: _____

RESIDENCE ADDRESS: STREET: _____
 CITY: _____ STATE: _____ ZIP: _____
 PHONE NUMBER: _____

ADDRESS FOR CORRESPONDENCE RESIDENCE BUSINESS

CITIZENSHIP: BIRTH NATURALIZED

BIRTHDATE: _____ PLACE: _____

B. EDUCATION: (List in chronological order the name and location of institution, beyond high school, time attended, year of graduation.)

NAME OF INSTITUTION	YEARS ATTENDED	DEGREE RECEIVED	GRADUATE WORK COMPLETED	MAJOR

NOTE: Applicant must use this form, a resume cannot be substituted.

Effective: 6-1-89

DC Form 88-1

C. TRAINING AND EXPERIENCE: Record your professional practice in sequence, starting with your most recent position. Attach an additional sheet if needed.

(1) NAME AND ADDRESS OF EMPLOYER. POSITION TITLE & BRIEF JOB DESCRIPTION	(2) DATE MONTH/YEAR		(3) TIME SPENT YEARS AND MONTHS					(4) SIGNATURE OF THE PERSON OR SUPERVISOR. INCLUDE TYPEWRITTEN NAME, ADDRESS, PHONE NUMBER.
	FROM	TO	Detailed Soil Mapping	Soil Evaluation	Field Study	Consulting		

- Are you currently registered/certified/licensed as a soil scientist in any other jurisdiction? (yes or no) _____
If yes, what state? _____
- In which state(s) was your registration/certification/license granted on the basis of a written examination?
(Please have the state involved submit a verification of certification.) _____
- Has any state denied you registration/certification/license, revoked or declined same?
If yes, please explain on a separate sheet. _____
- Have you ever been convicted of a felony or misdemeanor? (other than traffic infractions) (yes or no) _____ If yes, please explain on a separate sheet. _____
- How do you wish to qualify for certification?
Reciprocity _____ Waiver _____ Examination _____
- REFERENCES. At least one reference must be from an eligible soil scientist or certified soil scientist. A total of three references are required.

NAME, ADDRESS AND PHONE NUMBER	CURRENTLY CERTIFIED	
	YES	NO
A. _____	_____	_____
B. _____	_____	_____
C. _____	_____	_____

PLEASE SEND THE PROVIDED REFERENCE FORMS TO THE INDIVIDUALS LISTED ABOVE.

D. AFFIDAVIT
 State of _____ County or City of _____

The undersigned being duly sworn says that he is the person who executed this application, that the statements herein contained are true, that he has not withheld or suppressed any information that might affect this application, and that he has read and understands this affidavit.

Signature of Applicant: _____

Subscribed and sworn to before me this _____ day of _____, 19____

Signature of Notary Public: _____

My commission expires: _____

E. BOARD MEMBER REVIEW

REASONS FOR REJECTION OF CERTIFICATION BY RECIPROCIITY _____

Board Member Initials and Date	Reason(s) for Rejection
_____	_____
_____	_____
_____	_____

APPROVED FOR WAIVER FROM EXAMINATION _____ Board initials & dates _____

APPROVED FOR RECIPROCIITY WITH _____ Board initials & dates _____

REASONS FOR REJECTION FOR EXAMINATION:

Board Member Initials and Date	Reason(s) for Rejection
_____	_____
_____	_____
_____	_____
_____	_____

APPROVED FOR EXAMINATION Board initials and dates _____

WAIVED FROM EXAMINATION Board initials and dates _____

EXAMINATION RESULTS:

DATE	I.D. NUMBER	CUT OFF	PASSED	FAILED
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS
 DEPARTMENT OF COMMERCE
 3600 WEST BROAD STREET
 RICHMOND, VIRGINIA 23210

VERIFICATION OF REGISTRATION

(The applicant should complete this portion.)

TO: _____

Please provide verification on the following individual:

Applicant's Name _____ Soc. Sec. No. _____
 Applicant's Address _____

This portion should be completed by the State Board listed.

I. The above named person was registered as:

	Certificate No.	Date License Issued	Expiration Date
Soil Scientist	_____	_____	_____

II. Minimum Requirements were:

- A. _____ Years of education, _____ years of experience.
- B. _____ Written Examination

Please specify:

- 1. Name of examination _____
- 2. Date of examination _____
- 3. Number of hours _____
- 4. Score _____
- 5. Cut-off score _____
 Cut-off score based on _____ Group Data
 _____ National Data or Other (specify) _____

- C. _____ Oral Examination. _____ Hours.
- D. _____ Reciprocity with _____
- E. _____ Other: Please give details below: _____
- F. Is the applicant in good standing? _____

III. By: _____
 Title: _____
 Date: _____

BOARD SEAL

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS

VERIFICATION OF DEGREE GRANTED

(Applicant shall complete the upper portion of this form.)

Name in full _____

Residence Address _____

Business Address _____

Birth Date _____ Social Security Number _____

College or University Attended _____

Applicant's Signature _____

(After completion of above, applicant shall send this form to the college or university from which he/she obtained a degree. Please request that the following certificate be completed and that a transcript and this form be returned directly to the applicant.)

CERTIFICATE

I hereby certify that the above named applicant has been graduated from this institution with a degree of:

_____ Major _____
 on _____

Signature _____

Official Position _____

(College Seal)

Institution _____

Date _____

Effective: 6-1-89

100 Form 20-4

VIRGINIA BOARD FOR PROFESSIONAL SOIL SCIENTISTS
DEPARTMENT OF COMMERCE
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-1066

(To be completed by applicant):

Name: Last _____ First _____ Middle Address: _____

To the Referencer:

As an eligible or certified soil scientist or other professional associate, you have been named as a reference on the application of the individual listed above. The Board for Professional Soil Scientists requests that you provide frank answers to the following questions with regard to the character of the applicant in order that the Board might better assess his/her qualifications.

Please return the completed form to the applicant in a sealed envelope with your signature on the outside in order that he/she may include it with the application to the Board, or you may return it directly to the Board at the above address.

1. Applicant's Name _____ Approx. Age _____
2. Your business/personal relationship to the applicant _____
3. Number of years you have known him/her _____
4. Are you aware of anything that the Board should be aware of which may make the applicant ineligible for certification? _____ if yes, explain on the back of this page.
5. How long has he/she been engaged in soil science work? _____
6. In your professional opinion, has this applicant demonstrated competence and knowledge in the soil science profession? _____ Please explain _____
7. Your comments and recommendations _____

Signature _____ Occupation _____
Name _____ Reg. No. _____
Address _____ State _____ Expire Date _____
Date _____ (SEAL)

**DEPARTMENT OF SOCIAL SERVICES (STATE BOARD
OF)**

**Title of Regulation: VR 615-01-50. Food Stamp Program -
Income Conversion Method.**

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

Effective Date: May 5, 1993.

Summary:

One factor of eligibility for the Food Stamp Program is determined by the calculation of household income. This regulation will require that conversion factors of 4.3 for weekly amounts and 2.15 for bi-weekly amounts be used to anticipate monthly income.

VR 615-01-50. Food Stamp Program - Income Conversion Method.

§ 1. Whenever income is anticipated for every pay period in a month and it is received on a weekly or bi-weekly basis, the eligibility worker must convert the income to a monthly amount by multiplying weekly amounts by 4.3 and bi-weekly amounts by 2.15.

VIRGINIA MILITARY INSTITUTE

Title of Regulation: 1993 Summer Session Catalogue.

Statutory Authority: § 23-9.213 of the Code of Virginia.

Effective Date: May 31, 1993.

Summary:

The 1993 Summer Session Catalogue at the Virginia Military Institute sets forth both academic and nonacademic regulations for students during the 1993 VMI Summer Session. It also contains: Summer Session dates, admission requirements, registration procedures, Summer Session fees, a description of the VMI honor code, motor vehicle regulations, and course offerings.

EMERGENCY REGULATIONS

DEPARTMENT OF EDUCATION

FEES.

Title of Regulation: VR 270-01-0056. Regulations Governing the Proprietary Career Schools Fees and Assessments.

Statutory Authority: Chapter 893, Item 131, 1992 Appropriation Act.

Effective Dates: March 17, 1993, through March 16, 1994.

Preamble:

The Code of Virginia, Chapter 893, Section 131, Appropriations Act 1992, directed the Department of Education, Proprietary Schools Unit to "establish a fee schedule, the proceeds of which shall be used to defray all, or any part of, the expenses incurred by the Department of Education in regulating proprietary schools during the 1992-93 fiscal year." The Department of Education was also directed to "conduct a study of the feasibility of establishing a fee schedule which will allow 100% of the expenses incurred by the Department in regulating proprietary schools to be generated by fees." These proposed regulations are a response to the budgetary needs now facing the Proprietary Schools Unit.

VR 270-01-0056. Regulations Governing Proprietary Career Schools Fees and Assessments.

PART I. DEFINITIONS.

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

§ 1. Definitions.

"Branch campus" means any institution or other non-main campus institution away from the main campus where courses and student services are offered on a regular continuing basis.

"Extension classroom" means a location away from the main campus where only courses are offered.

"Fees" means a cost or charge associated with an approval or other activity completed in response to upgrading or maintaining a certificate to operate.

"Gross tuition" means receipts for instructional programs/courses less nonrefundable registration and application fees and receipts for books, supplies, etc. considered the property of the students for a designated period of time.

"Special assessment" means a one time special fee levied against proprietary career schools.

PART II.

§ 2.1. Fees, Generally.

A. The following fees shall be charged and shall apply toward the cost of issuing and maintaining the certificate to operate:

1. Original Certificate to Operate - \$300
2. Renewal of Certificate to Operate - \$150 plus 0.001% of gross tuition receipts for the prior Certificate year.
3. Program additions - \$100
4. Program revisions/name change - \$50
5. Change of location - \$100
6. Branch campus addition - \$100
7. Extension classroom/additional space - \$50
8. Change of ownership - \$300
9. Out-of-state school approval - \$100
10. Requested catalog review - \$50

B. All fees shall be submitted at the time of application and are nonrefundable.

C. All fees shall be paid by school or company check or money order made payable to the "Treasurer of Virginia." Personal checks are not acceptable.

§ 2.2. Fees, Special Assessment.

A. No later than 15 February 1993, all career schools holding a valid certificate to operate shall be assessed a fee of \$150 plus 0.001% of gross tuition receipts, the proceeds of which shall be used to defray part of the expenses incurred by the Department of Education in regulating proprietary schools during the 1992-93 fiscal year.

BOARD OF PSYCHOLOGY

REGISTRAR'S NOTICE: The Governor approved the amendments to the following emergency regulation except for the change in the application processing fee for clinical psychologists (see § 1.3 A 2 (a) (3)).

Title of Regulation: VR 565-01-2. Regulations Governing the Practice of Psychology.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Emergency Regulations

Effective Dates: March 16, 1993, through March 15, 1994.

I recommend approval of this emergency regulation of the Board of Psychology. The regulation is necessary for the Board to continue to operate within fiscal requirements established in Code of Virginia. It increases renewal fees to be paid by psychologists and school psychologists and application fees to be paid by clinical psychologists.

The emergency regulation will expire one year from the effective date, or upon the promulgation of revised regulations under the Administrative Process Act, whichever is sooner. The Board is separately proposing these revised regulations under the APA and has submitted the proposal for pre-review by the Secretary of Health and Human Resources.

/s/ Bernard L. Henderson, Jr.
Director
Department of Health Professions
Date: February 10, 1993

I recommend approval of the above emergency regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: February 16, 1993

I approve the proposed regulation except as to section 1.3 A 2 (a) (3)

/s/ Lawrence Douglas Wilder
Governor
Date: February 16, 1993

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: March 16, 1993

Preamble:

Nature of Emergency: Pursuant to § 54.1-113 Code of Virginia the Board of Psychology proposes to increase its fees for (a) renewal of psychologist and school psychologist licenses and (b) application for licensure as a clinical psychologist.

With current fees the Board expects a net shortfall of \$66,087 as of June 30, 1994. Section 54.1-113, Code of Virginia requires the Board to adjust its fees in order that revenue is sufficient to support necessary Board operations.

Necessity for Action: The Board must issue license renewal notices on May 1, 1993, for licenses which expire on June 30. Promulgation of amended regulations through the APA process will not authorize the Board to issue these notices at the increased fee

necessary to operate Board programs during FY 1993-94.

The Board is proposing amendments to replace these emergency provisions immediately. It is anticipated that these amendments will be in effect prior to the expiration of these emergency provisions (one year following their receipt by the Registrar of Regulations).

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.

"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 a supervised and planned practical experience obtained in an integrated training program in a setting included as an integral and required part of the applicant's program of study.

Emergency Regulations

"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 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 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.

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 skills and competencies of the person supervised.

"Supervisor" means an individual who assumes full responsibility for the education and training activities of a person and provides the supervision required by such a person.

§ 1.2. Classification of licensees.

In compliance with Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia, the board classifies licensees as psychologists, school psychologists, or clinical psychologists.

A. Psychologist.

This license covers the practice of psychology, as

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defined in 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 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 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 Board of Medicine for licensure and subsequent regulation.

C. School psychologist.

This license pertains only to the practice of school psychology as defined in 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) \$150
 - (2) School psychologist \$150
 - (3) Clinical psychologist ~~\$250~~ ~~\$450~~ \$150
 - (b) Graduates of foreign institutions (in addition to application processing fee) \$150
3. Examinations:
 - (a) Nationally normed standardized examination \$160
Effective July 1, 1993 \$275
 - (b) State written examination \$150
4. Initial license pro-rated portion of
..... \$150 biennial \$90 annual
..... renewal fee
5. Biennial Annual renewal of license \$150 \$95
6. Late renewal \$10

7. Endorsement to another jurisdiction \$10
8. Additional or replacement wall certificate \$15
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 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 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. The application processing fee prescribed by the board; and
3. Have the institution that awarded the graduate degree(s) submit directly to the executive director of the board, at least 90 days prior to the date of the written examination, official transcripts documenting:
 - a. The graduate work completed; and
 - b. The degree(s) awarded.

§ 2.2. Education and experience requirements: Graduates of American institutions.

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A graduate of an American higher education institution who applies for examination for licensure shall meet the requirements of subsection A, B, or C of this section, whichever is applicable:

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 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)

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described below; or

(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.

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 subdivisions A 2 a and A 2 b respectively of this section.

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:

(1) Applicants shall apply for licensure and residency concurrently.

(2) Prior to the proposed residency training, the applicant shall:

(a) Register with the board;

(b) Pay the registration fee;

(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

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the supervision; and

(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).

c. Supervision shall be provided by a licensed school psychologist, licensed psychologist, or 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 School 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.

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 equivalent with the requirements 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

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.

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 two components.

1. A nationally normed standardized examination in the practice of psychology;
2. The Board of Psychology written examination(s).

B. An applicant enrolled in an approved residency training program required in § 2.2 who has met all requirements for licensure except completion of that program 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.

2. Endorsement. The board may waive only the national written 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. 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 weeks before the examination, the examination fee shall be forfeited.

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 determined by the board for all doctoral-level examinees.

B. The Board of Psychology written examination.

1. These examination(s) may consist of essay or multiple choice questions or both related to:

a. The practice of psychology; and

b. Virginia laws and board regulations governing the practice of psychology.

2. A passing score shall be determined by the board.

§ 3.4. § 3.3. 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 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 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 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.

§ 5.1. ~~Biennial~~ Annual 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:

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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.

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.

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 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 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

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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 organizations and 10 years with minors after termination of services to any consumer.

§ 7.2. Grounds for revocation, suspension, or denial of renewal of license.

A. In accordance with § 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 36 of Title 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.

DEPARTMENT OF REHABILITATIVE SERVICES

Title of Regulation: VR 595-01-1. Provision of Vocational Rehabilitation Services.

Statutory Authority: § 51.5-14 of the Code of Virginia.

Effective Dates: March 3, 1993, through March 2, 1994.

Request:

In accordance with VA Code § 9-6.14:4.1.c.5, the Commissioner of the Department of Rehabilitative Services, acting pursuant to VA Code § 51.5-4, finds that the amendments to § 12.14(b) and § 12.15 of the State Vocational Rehabilitation Regulations for Provision of Vocational Rehabilitation Services (VR 595-01-1) are necessitated by an emergency situation. The regulations are needed to comply with federal Rehabilitation Services Administration Policy Directive 88-3 that prohibits absolute dollar caps on purchases. The Commissioner of the Department of Rehabilitative Services is requesting the Governor's approval of these emergency regulations.

/s/ Susan L. Urofsky
Commissioner
Date: January 29, 1993

Concurrence:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: January 29, 1993

Authorization:

/s/ Lawrence Douglas Wilder
Governor
Date: February 3, 1993

Filed with Registrar of Regulations:

/s/ Joan W. Smith
Registrar of Regulations
Date: March 3, 1993

Preamble:

The Department of Rehabilitative Services (DRS) is requesting approval to promulgate emergency

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regulations amending § 12.14(b) and § 12.15 of the State Vocational Rehabilitation Regulations for Provision of Vocational Rehabilitation Services (VR 595-01-1). Under § 51.5-14 of the Code of Virginia, the Commissioner of the Department of Rehabilitative Services has the statutory authority to promulgate regulations on the provision of vocational rehabilitation services.

The proposed emergency regulations are needed so that the agency can comply with Rehabilitation Services Administration (RSA) Policy Directive 88.3, "Policy Statement on Annual Dollar Limits Per Client or Dollar Limits on Specific Service Categories." This Policy Directive places the following requirement on state vocational rehabilitation agencies:

"When establishing written policies covering the nature and scope of services to be provided and the conditions, criteria and procedures under which such services are to be provided, State VR agencies have the discretion under Section (101)(a)(6)(A) of the Rehabilitation Act and 34 CFR 361.42(b) to establish a reasonable fee schedule and a maximum dollar limit for a particular service, provided the limit (1) is designed to ensure the lowest reasonable cost to the program for such a service, (2) is not so low as to effectively deny any client a necessary service, and (3) is not absolute and permits exceptions so that individual client needs can be addressed."

The emergency regulations proposed by the Department of Rehabilitation Services would amend § 12.14(b), Tools and Equipment, and § 12.15, Other Goods and Services Necessary to the Vocational Rehabilitation Objectives of the Clients. The current vocational rehabilitation regulations, as contained in § 12.14(b) and § 12.15, set absolute expenditure caps on computer equipment, vehicle modifications, and home modifications. The establishment of an absolute cap is inconsistent with the third criterion contained in the RSA Policy Directive.

In order to effectively meet client needs and maintain compliance with the Rehabilitation Act of 1973, as amended, the proposed emergency amendments providing for flexible dollar caps are needed.

§ 12.14(b). Tools and equipment.

Tools and equipment shall be provided for a client when

- (1) They are required for a job or occupation that is best suited to the utilization of their abilities and skills;
- (2) The employer does not ordinarily furnish these articles; and
- (3) They are for the exclusive use of the client.

Such articles shall be for the client's own use in the performance of his work and must remain in his possession and under his control as long as he engages in the job or occupation for which they are provided.

If the client alleges that tools and equipment are stolen, the client shall file a stolen property report with the local police.

Computer equipment and software shall be provided either if required as indicated in subparagraph b(1) (2) and (3) above or if necessary for vocational training. The department's financial participation in the cost of such equipment and software shall not exceed \$3,500.

The department may participate in the purchase of computer equipment and software that is necessary for the client to achieve his vocational goal. The department shall annually establish a dollar cap which sets the maximum amount for the department's participation in the purchase of computer equipment and software for an agency client.

The agency's contribution for such purchase shall not exceed the established dollar cap and shall, in all cases, be reduced by any required client contribution. If the client wishes to purchase computer equipment and software which has a cost greater than the established dollar cap, the client shall be responsible for both the required client contribution as established by the department's economic need test and all costs beyond the established dollar cap. Annual changes to the dollar cap shall be based on increases in equipment costs or the availability of new technology and software which will increase a client's ability to achieve his vocational goal.

An exemption to the established dollar cap may be considered when (1) the client is an individual with very severe disabilities who cannot obtain the skills needed for employment or obtain or retain employment without such equipment, and (2) the client's need for the specific computer equipment and software requested has been reviewed and confirmed by agency vocational rehabilitation staff and computer specialists as being appropriate and necessary for the client to achieve his vocational goal. The Commissioner or the Commissioner's designee shall review the evidence of client need, determine whether an exemption to the dollar cap is warranted, and if warranted, establish the dollar amount of the department's participation in the purchase of equipment and software for the client.

§ 12.15. Other goods and services necessary to the vocational rehabilitation objective of the client.

These include but are not limited to such services as peer counseling, independent living skills training, attendant care and attendant training if they can reasonably be expected to benefit a client in terms of employability.

The department's financial participation in the cost of

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certain goods and services shall be limited as follows: home modification, \$7,500; and vehicle modifications, \$7,500. The department shall not purchase or participate in the purchase of automotive vehicles.

Vehicle Modifications: Vehicle modification is support service designed to enhance a client's rehabilitation program and assist a client to enter, maintain, or regain employment. The department may participate in the purchase of vehicle modifications that are necessary for the client to achieve his vocational goal. Vehicle modification shall only be authorized if neither public nor private accessible transportation is feasible and if it is determined that such modification is the most cost efficient approach for the client and the department. Vehicle modification shall not be funded if it is the sole service being rendered to an agency client. The department shall not purchase or participate in the purchase of automotive vehicles.

The department shall annually establish a dollar cap which sets the maximum amount for the department's participation in the purchase of vehicle modifications for an agency client. The agency's contribution for the purchase of this service shall not exceed the established dollar cap and shall, in all cases, be reduced by any required client contribution. If the client wishes to purchase vehicle modifications which have a cost greater than the established dollar cap, the client shall be responsible for both the required client contribution as established by the department's economic need test and all costs beyond the established dollar cap. Annual changes to the dollar cap shall be based on cost increases for this service or the availability of new technology which will increase a client's ability to achieve his vocational goal.

An exemption to the established dollar cap may be considered when (1) the client has significantly limited use of all four extremities or other identified specialized needs, and (2) the client's need for vehicle modification has been reviewed and confirmed by agency vocational rehabilitation staff and technology or driving specialists as appropriate and necessary for the client to achieve his vocational goal. The Commissioner or the Commissioner's designee shall review the evidence of client need, determine whether an exemption to the dollar cap is warranted, and if warranted, establish the dollar amount of the department's participation in the purchase of vehicle modification services for the client.

Home Modifications: Home modification is a department-sponsored service designed to directly support an individual's rehabilitation program by enhancing the client's ability to enter, maintain, or retain employment. Home modification shall not be funded if it is the sole service being rendered to an agency client.

The department may participate in the purchase of home modifications that are necessary for the client to achieve his vocational goal. The department shall annually establish a dollar cap which sets the maximum amount for

the department's participation in the purchase of home modifications for an agency client.

The agency's contribution for the purchase of this service shall not exceed the established dollar cap and shall, in all cases, be reduced by any required client contribution. If the client wishes to purchase home modifications which have a cost greater than the established dollar cap, the client shall be responsible for both the required client contribution as established by the department's economic need test and all costs beyond the established dollar cap. Annual changes to the dollar cap shall be based on cost increases for this service or the availability of new technology which will increase a client's ability to achieve his vocational goal.

An exemption to the established dollar cap may be considered when (1) the client has very severe disabilities, (2) there is documented evidence from agency vocational rehabilitation staff and technology specialists that the home modifications are essential for the client to achieve his vocational goal, and (3) there is evidence that neither comparable benefits nor charitable community resources are available to supplement DRS participation. The Commissioner or the Commissioner's designee shall review the evidence of client need, determine whether an exemption to the dollar cap is warranted, and if warranted, establish the dollar amount of the department's participation in the purchase of home modification services for the client.

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 11, 1993

COMMONWEALTH OF VIRGINIA

At the relation of the CASE No. PUE9200067

STATE CORPORATION COMMISSION

Ex Parte, in re: Investigation
into the promulgation of standards
and regulations for energy allocation
equipment

ORDER GRANTING EXTENSION

By Order dated January 7, 1993, the State Corporation Commission directed parties interested in the within docket to file comments on the rules proposed by its Staff no later than March 12, 1993.

On March 5, 1993, the Board of Supervisors of Fairfax County, by counsel, moved the Commission to extend the date for the filing of such comments to March 30, 1993, due to the sudden illness of its counsel.

Good cause having been shown, accordingly:

IT IS ORDERED:

(1) That interested parties may submit written comments, or request a hearing, on the proposed rules set forth in the Staff report of December 11, 1992, no later than March 30, 1993, by filing an original and fifteen (15) copies with William C. Bridge, Clerk of the State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23216, and shall refer to Case No. PUE920067; and

(2) That Staff may file a supplemental written report addressing any matters raised in the written comments of the parties on or before April 15, 1993.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each gas and electric utility company subject to the jurisdiction of the Commission; Edward L. Petrini, Esquire, Office of Attorney General, Division of Consumer Counsel, 101 North 8th Street, Richmond, Virginia 23219; Dennis R. Bates, Esquire, Office of the County Attorney, 12000 Government Center Parkway, Suite 549, Fairfax, Virginia 22035-0064; Robert Freischlag, President, National Utilities Allocation Association, 4520 South 36th Street, Omaha, Nebraska 68107-1329; Martha Hewitt, Center for Energy and Urban Development, 510 First Avenue, North, Suite 400, Minneapolis, Minnesota 55403; and to the Commission's Division of Energy Regulation.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER FOUR (93)

ON-LINE LICENSING PROGRAM FOR NORTHERN VIRGINIA

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby publish criteria for the On-Line Licensing Program for Northern Virginia, as provided by Section 2.3 B of the State Lottery Department On-Line Game Regulations, VR 447-02-2. These criteria amplify and conform to the duly adopted State Lottery Department regulations for the conduct of on-line game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Office of the Director, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220-8689.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect, unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: March 2, 1993

DIRECTOR'S ORDER NUMBER EIGHT (93)

"LUCKY DICE"; PROMOTIONAL GAME AND DRAWING RULES

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Lucky Dice" promotional game and drawing rules for the kickoff events for Instant Game 32. The promotional game will include a radio contest and regional drawings to be conducted from March 1 through March 5, 1993 and second chance drawings to be conducted on March 19, 1993. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until March 31, 1993, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson
Director

Date: February 26, 1993

DIRECTOR'S ORDER NUMBER NINE (93)

VIRGINIA'S THIRTEENTH INSTANT GAME LOTTERY; "CATCH OF THE DAY," END OF GAME.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's thirteenth instant game lottery, "Catch of the Day," will officially end at midnight on Thursday, April 8, 1993. The last day for lottery retailers to return for credit unsold tickets from "Catch of the Day" will be Thursday, April 29, 1993. The last day to redeem winning tickets for "Catch of the Day" will be Tuesday, October 5, 1993, 180 days from the declared official end of the game. Claims for winning tickets from "Catch of the Day" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a postmark of October 5, 1993, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson
Director
Date: February 25, 1993

MARINE RESOURCES COMMISSION

FINAL REGULATIONS

MARINE RESOURCES COMMISSION

NOTICE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating regulations. However, the Commission is required to publish the full text of final regulations.

Title of Regulation: VR 450-01-0082. Pertaining to the Taking of Gill Nets.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: March 1, 1993.

Preamble:

This regulation establishes an area along the southern shore of the Chesapeake Bay which is closed to gill nets.

VR 450-01-0082. Pertaining to the Taking of Gill Nets.

§ 1. Authority, prior regulation, effective date.

A. This regulation is promulgated pursuant to the authority contained in § 28.2-201 of the Code of Virginia.

B. This regulation replaces emergency regulation VR 450-01-0082, Pertaining to Gill Nets, promulgated on January 26, 1993.

C. The effective date of this regulation is March 1, 1993.

§ 2. Purpose.

The purpose of this regulation is to close a portion of the southern shoreline of the Chesapeake Bay to gill nets in order to preserve public safety and reduce conflicts between gill net fishermen and others in this area.

§ 3. Gill net closed season and area.

From the Friday before Memorial Day through Labor Day, it shall be unlawful for any person to place, set, or fish any gill net within 200 feet of the shoreline between the western jetty at Little Creek and the Hampton Roads Bridge-Tunnel Facility.

§ 4. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-0084. Opening of Deep Water Shoal Area to Relaying.

Statutory Authority: §§ 28.2-201, 28.2-507 and 28.2-816 of the Code of Virginia.

Effective Date: March 1, 1993.

Preamble:

This regulation opens the Deep Water Shoal Seed Area for the relaying of oysters.

VR 450-01-0084. Opening of Deep Water Shoal Area to Relaying.

§ 1. Authority and effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201, 28.2-507 and 28.2-816 of the Code of Virginia.

B. The effective date of this regulation is March 1, 1993.

§ 2. Purpose.

The purpose of this regulation is to open to the relaying of oysters that area known as the Deep Water Shoal Seed Area in the James River.

§ 3. Designated area opened to relaying.

The area described below and known as the Deep Water Shoal Seed Area within Condemnation Areas 23 and 69 in the James River is hereby opened to the relaying of oysters beginning March 1, 1993. The Seed Area is described as follows:

Deep Water Shoal Area: (574.66 acres) Beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1 as located by Virginia State Plane Coordinates, South Zone, NAD 1927, North 302,280.00, East 2,542,360.00; thence North Azimuth 30°49'59", 4,506.99 feet to Corner 2, North 306,150.00, East 2,544,670.00; thence North Azimuth 135°08'57", 5,430.60 feet to Corner 3, North 302,300.00, East 2,548,500.00; thence North Azimuth 212°13'54", 3,487.42 feet to Corner 4, North 299,350.00, East 2,546,640.00; thence North Azimuth 269°10'16", 2,765.29 feet to Corner 5, North 299,310.00, East 2,543,875.00; thence North Azimuth 332°58'26", 3,334.09 feet to Corner 1, being the point of beginning.

§ 4. Season closure.

A. At such time as the harvest of oysters from the Deep Water Shoal Seed Area totals 40,000 bushels, the relay season shall close and it shall be unlawful for any person to harvest oysters from the area.

B. In the event the 40,000 bushel quota is not harvested,

Marine Resources Commission

the Deep Water Shoal Seed Area shall be closed to harvest on May 31, 1993.

§ 5. Gear restrictions.

The harvest of oysters from the Deep Water Shoal Seed Area by any gear other than hand tongs is prohibited.

§ 6. Permits and reporting.

Any person participating in the Deep Water Shoal Seed Area relay shall be permitted and shall report as described in §§ 28.2-810, 28.2-811, 28.2-813 and 28.2-814 of the Code of Virginia. In addition, buyers or planters shall report the final disposition of all oysters relayed on forms provided by the commission to allow an evaluation of the harvest success of the program.

§ 7. Penalty.

As set forth in § 28.2-821 of the Code of Virginia, any person violating any provisions of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-0085. Establishment of Oyster Management Areas.

Statutory Authority: §§ 28.2-201 and 28.2-507 of the Code of Virginia.

Effective Date: March 1, 1993.

Preamble:

This regulation establishes as Oyster Management Areas that area in the James River from Wreck Shoals to the James River Bridge and that area in the Piankatank River known as Palace's Bar Oyster Reef. Further, it establishes as Oyster Management Areas those shell and seed oyster plantings location made during 1993 by the Oyster Replenishment Program.

VR 450-01-0085. Establishment of Oyster Management Areas.

§ 1. Authority and effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201 and 28.2-507 of the Code of Virginia.

B. The effective date of this regulation is March 1, 1993.

§ 2. Purpose.

The purpose of this regulation is to protect and promote

the oyster resources within the designated areas of the James and Piankatank Rivers and to protect oyster replenishment efforts on all public oyster grounds.

§ 3. Oyster replenishment management areas defined.

A. The Wreck Shoals - James River Bridge Oyster Management Area shall consist of all public oyster grounds located from Wreck Shoals downriver to the James River Bridge in the James River. The upriver boundary for the Oyster Management Area shall be from Jail Point southwest to the southernmost corner of the Jail Island clean cull area then westerly to Channel Buoy 16 then southeasterly to the Channel Buoy 12, then southerly to Mogarts Beach. The downriver boundary shall be the James River Bridge.

B. The Palace's Bar Oyster Reef - Piankatank River Oyster Management Area shall consist of all public oyster grounds in Public Ground No. 5, Mathews County bounded by the following corners:

- 1) Northwest corner - 37° 31' 42.33536" N
76° 22' 25.60567" W
- 2) Southeast corner - 37° 31' 39.43913" N
76° 22' 26.40939" W
- 3) Southwest corner - 37° 31' 42.74142" N
76° 22' 40.71772" W
- 4) Northwest corner - 37° 31' 45.63757" N
76° 22' 39.91328" W

C. All areas planted with oyster shell and seed by the commission's Oyster Replenishment Program in 1993 shall be considered Oyster Management Areas.

§ 4. Closure of management areas.

Until further notice, all Oyster Management Areas are closed to the harvest of oysters except on the Seaside of the Eastern Shore where Oyster Management Areas are closed to the harvest of all shellfish. Any person harvesting oysters or shellfish from the specified areas shall be guilty of a violation of this regulation.

§ 5. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

* * * * *

Title of Regulation: VR 450-01-0086. Closure of Public Oyster Grounds.

Marine Resources Commission

Statutory Authority: §§ 28.2-201, 28.2-506 and 28.2-507 of the Code of Virginia.

Effective Date: March 1, 1993.

Preamble:

This regulation establishes standing stock criteria by which oyster rocks may be closed and sets the time of closure for oyster harvest by hand or hand tong from the public oyster rocks, grounds, and shoals within all areas of the state.

VR 450-01-0086. Closure of Public Oyster Grounds.

§ 1. Authority and effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.2-201, 28.2-506 and 28.2-507 of the Code of Virginia.

B. The effective date of this regulation is March 1, 1993.

§ 2. Purpose.

The purpose of this regulation is to establish standing stock criteria for closure of individual oyster rocks to promote preservation of brood stock. It also establishes the time of closure for oyster harvest by hand or hand tong from public oyster grounds, rocks, and shoals in the state in order to conserve the resources and promote the growth of the oysters in these areas.

§ 3. Standing stock criteria.

Any public oyster ground, rock, or shoal shall be closed to harvest when it is determined by the Oyster Replenishment Officer that 50% of the standing stock of market oysters has been harvested. The initial estimate of standing stock for each area shall be the volume of market oysters as of October 1 of each year as determined by the Oyster Replenishment Officer.

§ 4. Annual season closures for harvest by hand or hand tong.

The following seasonal closures for harvest of oysters by hand or hand tong are hereby established.

1. All public grounds, rocks, and shoals in the "clean cull" areas of the state including the Jail Island clean cull area in the James River shall be closed annually from April 1 through September 30.
2. All public oyster grounds, rocks and shoals on the Seaside of Eastern Shore shall be closed annually to the taking of oysters from April 1 through September 30.
3. All public oyster grounds, rocks, and shoals in the James River shall be closed annually to the taking of

oysters from June 1 through September 30.

§ 5. Penalty.

As set forth in § 28.2-506 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

EMERGENCY REGULATION

Title of Regulation: VR 450-01-0083. Pertaining to the Reallocation of 1993 Summer Flounder Quota.

Statutory Authority: § 28.2-210 of the Code of Virginia.

Effective Dates: February 23, 1993, to March 26, 1993.

Preamble:

This emergency regulation reallocates 500,000 pounds of the 1993 summer flounder quota from the fourth quarter to the first quarter 1993.

VR 450-01-0083. Pertaining to the Reallocation of 1993 Summer Flounder.

§ 1. Authority, effective 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 February 23, 1993.

§ 2. Purpose.

The purpose of this regulation is to transfer 500,000 pounds of the 1993 summer flounder quota from the fourth quarter to the first quarter of 1993. All provisions of VR 450-01-0081, "Pertaining to Summer Flounder," other than those referring to the allowable offshore harvest between January 1 and March 31, 1993 shall remain in effect.

§ 3. Reallocation of 1993 summer flounder quota.

During the period of January 1, 1993, through March 31, 1993, landings of summer flounder harvested outside of Virginia shall be limited to 1,592,110 pounds.

§ 4. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor.

/s/ William A. Pruitt
Commissioner

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: March 15, 1993

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-01-50. Food Stamp Program - Income Conversion Method.**

Governor's Comment:

/s/ Lawrence Douglas Wilder
Governor
Date: March 15, 1993

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-14-12. Facility and Aboveground Storage Tank Registration Requirements.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes and comments made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: March 15, 1993

* * * * *

Title of Regulation: **VR 680-14-13. Aboveground Storage Tanks Pollution Prevention Requirements.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final package, including any changes made as a result of public hearings and comments, before promulgation.

/s/ Lawrence Douglas Wilder
Governor
Date: March 15, 1993

* * * * *

Title of Regulation: **VR 680-16-03. Upper James River Basin Water Quality Management Plan.**

Governor's Comment:

I do not object to the initial draft of these regulations. However, I reserve the right to comment on the final

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.

Notice to the Public

RT Associates has published a Virginia Register Deskbook, a cumulative index of Volumes 1 through 8 (Issue 13). For more information contact RT Associates, P.O. Box 36416, Baltimore, Maryland 21286.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division Administration Directive Number: 79-1

Methods Prescribed or Approved for Animal Euthanasia and Competency Certification Requirements

Effective: February 8, 1993

I. Purpose

This Directive sets forth methods that are currently prescribed and approved by the State Veterinarian for the euthanasia of animals by any person pursuant to the provisions of Title 3.1, Chapter 27.4, of the Code of Virginia (1950), as amended.

II. Authority

Title 3.1, Chapter 27.4, Article 4, § 3.1-796.96 of the Code of Virginia states, in part, "Any animal destroyed pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian."

Title 54.1, Chapter 34, § 54.1-3425 of the Code of Virginia states, in part, that the Board of Pharmacy "may issue, upon such terms and conditions as it finds proper, to any humane society making application, a limited permit only for the purpose of buying, possessing, and using any drug approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals."

III. Approved methods

All euthanasia must be performed humanely by a competency-certified individual using one of the following:

A. Routine Euthanasia

All situations; possible exceptions indicated under Emergency Euthanasia.

1. Sodium Pentobarbital, with or without lidocaine - humanely administered intravenously or intraperitoneally, with or without prior sedation by an approved pre-euthanasia method. Intracardiac administration may be used only when the animal is anesthetized or comatose. (See Appendix B for dosages and further details.)

2. Carbon Monoxide Gas - humanely administered, commercial-grade gas dispensed from a cylinder into an appropriately constructed and functioning chamber, with or without prior sedation of the animal with acepromazine (see under pre-euthanasia). NOT APPROVED FOR YOUNG ANIMALS, PUPPIES OR KITTENS UNDER 8 WEEKS OF AGE. (See Appendix C for chamber and operating requirements and further details.)

3. Drugs and/or methods considered and recommended as humane by the most recent Report of the American Veterinary Medical Association's Panel on Euthanasia, but only if administered humanely by or under the direct supervision (ie., in the immediate presence) of a licensed veterinarian.

B. Emergency Euthanasia

When euthanasia is required, no other method of routine euthanasia is possible, and all other conditions for use of the following methods are met.

1. Sodium Pentobarbital, with or without lidocaine (See Appendix B for routes, dosages and further details.)

Recommend the legal provision and use of sodium pentobarbital by animal wardens, animal control officers or other officers for the necessary euthanasia of critically ill or critically injured animals for humane purposes in field situations pursuant to § 3.1-796.96 or § 3.1-796.115 of the Code of Virginia. Consult the Virginia Board of Pharmacy for rules and regulations governing the legal procurement, storage and use of this drug in field situations.

2. Firearms

Approved for use only when all of the following conditions are met:

a. Euthanasia is performed pursuant to:

(1) § 3.1-796.98 when an animal is "showing active signs of rabies or suspected of having rabies" and for which "confinement is impossible or impracticable," or

(2) § 3.1-796.116 when dogs are "in the act of killing or injuring livestock or poultry."

b. Accepted or approved methods of humane capture have been reasonably attempted and exhausted, have failed, or are not possible (e.g., when time and physical constraints in emergency situations negate capture as a viable option, as when a dog is in the act of killing or injuring livestock or poultry, or is placing the public or officer in immediate, life-threatening danger as in the case of an animal showing active signs of rabies) and capture is impracticable;

c. Conditions permit the safe utilization and discharge of a rifle or pistol without jeopardy to the public or other non-targeted animals;

d. All local and state laws, rules and regulations or ordinances governing the use of firearms are followed;

e. Euthanasia is performed by a person that is trained and competency-certified in the:

(1) Use of the firearm to be used,

(2) Accurate placement of the projectile (i.e., the bullet) in the brain or heart* of the animal at the appropriate location for the species so as to cause instant unconsciousness or death.

*Note: Only for animals in field situations in which locating and hitting the brain of the animal by gunshot is not possible or is inappropriate (as in the case of a rabid animal for which the intact brain may be required).

f. Any animal that can reasonably be considered to be, or is capable of being, under the direct control or custody of the animal warden/control officer (including critically ill, critically injured or unweaned animals) are to be euthanized only by means of an approved method of routine euthanasia, i.e., sodium pentobarbital or carbon monoxide, not by the use of firearms.

C. Pre-Euthanasia

The following methods are approved for use ONLY as a means of preliminary sedation of an animal in preparation for and as an aid in the humane euthanasia of an animal, but NOT for use as the primary means of euthanasia.

1. Acepromazine Maleate

Administered intramuscularly, subcutaneously or orally. See Appendix D for dosages and further details.

Note: Do not use this drug in animals (especially cats) that have been given or been exposed to organophosphates such as insecticides, dips, etc. because this drug may potentiate such poisons.

2. Xylazine Hydrochloride (e.g., trade name: Rompun)

Administered intramuscularly (in dogs and cats) or subcutaneously (in dogs only). See Appendix D for dosages and further details.

3. Ketamine Hydrochloride-Promazine Hydrochloride-Aminopentamide Hydrogen Sulfate Combination (e.g., trade name: Ketaset-Plus)

For cats only - administered intramuscularly only. See Appendix D for dosages and further details.

4. Sodium Pentobarbital, with or without lidocaine

Administered intravenously or intraperitoneally. See Appendix D for dosages and further details.

IV. General considerations for euthanasia

A. According to the 1993 Report of the American Veterinary Medical Association's Panel on Euthanasia, "The need to minimize animal distress, including fear, anxiety, and apprehension, must be considered in determining the method of euthanasia. Distress vocalizations, fearful behavior, and release of certain odors or pheromones by a frightened animal may cause anxiety and apprehension in other animals. Therefore, whenever possible, other animals should not be present when euthanasia is performed, especially euthanasia of the same species."

B. According to § 9 B of VR 115-02-09, issued pursuant to § 3.1-796.96 of the Code of Virginia, after euthanasia of an animal, death must be positively confirmed before disposal of the carcass. Therefore, each animal is to be carefully examined for:

1. Lack of heartbeat*,
2. Lack of respiration*, and
3. Lack of corneal (i.e., eye) and/or toe-pinch reflexes

*The use of a stethoscope to check for lack of heartbeat and respiration is quick, inexpensive, easy to

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learn (suggest learning from a licensed veterinarian), more reliable than visual observation or palpation of the thorax, and should be used.

C. The approval of any drug, drug combination, euthanizing agent, method of euthanasia or pre-euthanasia medication does not sanction the procurement or use of such drugs, agents or methods by any person in violation of state or federal laws.

V. Competency certification requirements

Detailed information on the competency certification requirements can be found in the following:

- A. General Provisions - Appendix A
- B. Sodium Pentobarbital - Appendix B
- C. Carbon Monoxide - Appendix C
- D. Pre-Euthanasia Methods - Appendix D

VI. Approval of additional methods and procedures

Advances in animal euthanasia research will be continually monitored by the Office of the State Veterinarian, and those methods which are proved to be acceptable will be added to the approved list.

Local authorities or individuals seeking approval of specific alternative methods of animal euthanasia may submit a written request for consideration of the proposal to the:

State Veterinarian/Director
VDACS, Division of Animal Health
P. O. Box 1163
Richmond, Virginia 23209
Phone: 804-786-2481

The request is to include a detailed explanation of the proposed alternate method, substantive justification for the request, substantive reasons why the currently prescribed or approved methods cannot be used and how the proposed alternative will resolve the reasons/problems, and sufficient objective and supportable evidence that the proposed alternative method is at least as humane as the currently prescribed or approved methods of euthanasia identified in this directive.

Appendix A

General Provisions

A. Any animal euthanized is to be euthanized only by a person or by persons that have been certified* in writing by a Virginia-licensed veterinarian or other qualified individual as being properly trained and competent in the humane restraint and euthanasia of animals by the specific approved method(s) and euthanasia agent(s) used.

*Note: Licensed veterinarians are exempted from this provision, having their competency certified by their Virginia license.

Such written certification of competency is to:

1. Indicate that, at a specified point in time (i.e., date), the individual (specified by their full name):

a. Was instructed by an appropriately qualified individual (identified by full name and credentials) in the proper humane restraint and euthanasia of animals, using the approved method(s) and euthanasia agent(s) specified;

b. Demonstrated to the instructor/certifying veterinarian:

(1) An understanding of the requirements of this directive;

(2) Competency in the humane restraint of animals for the approved method(s) and euthanasia agent(s) to be used;

(3) Competency in determining the concentration and the appropriate dosage and rate of administration of the approved pre-euthanasia and/or euthanasia agent used;

(4) Competency in humanely administering the specified approved pre-euthanasia and/or euthanasia agent(s) via approved routes of administration;

(5) Competency in properly and accurately determining the death of an animal by the lack of a detectable:

- Heartbeat (by the use of a stethoscope and by thoracic palpation),

- Respiration (by use of a stethoscope and by thoracic palpation), and

- Corneal reflex and toe-pinch reflex.

2. Be signed and dated by the licensed veterinarian attesting to (i.e., "certifying") the individual's demonstrated competency at that point in time;

3. Be kept on file at the animal facility as a matter of public record;

4. Be copied to the Office of the State Veterinarian for file, reference and public information; and

5. Be renewed at least every 3 years.

Appendix B

Sodium Pentobarbital, with or without lidocaine, is the

euthanasia agent of choice and is recommended above all others at this time.

General information and requirements

A. Authorization to procure and use sodium pentobarbital (with or without lidocaine) requires registration with the:

1. Drug Enforcement Agency (DEA)
Washington Field Division, Room 2558
400 6th Street, S.W.
Washington, DC 20024
Phone: 202-254-8255 or 804-771-8163
2. Virginia Department of Health Professions
Board of Pharmacy
6606 West Broad Street
Richmond, Virginia 23230
Phone: 804-662-9939

B. Legal considerations regarding sodium pentobarbital.

1. According to the Board of Pharmacy, § 54.1-3415 of the Code of Virginia authorizes animal control officers/animal wardens and law-enforcement officers "...in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government..." to purchase, receive or possess any approved euthanasia drug for use in the lawful euthanasia of animals "...by reason of his official duties."

2. According to § 54.1-3425 of the Code of Virginia, the Board of Pharmacy "may issue, upon such terms and conditions as it finds proper, to any humane society making application, a limited permit only for the purpose of buying, possessing, and using any drug approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals."

C. Sodium pentobarbital, in a concentration of not less than 5 grains of sodium pentobarbital per cubic centimeter (i.e., per cc) of water, is to be administered by hypodermic syringe and needle directly into the bloodstream or peritoneal cavity of a properly restrained animal.

D. Restraint and injection is to be performed by two trained individuals; one to restrain the animal and the other competency-certified to administer the drug(s).

E. General certification requirements

Sodium Pentobarbital, with or without lidocaine

Certified competency and training for use of this drug is to include a demonstrated:

1. Knowledge of the requirements of this directive for its use; and

2. Ability to correctly determine the:

- a. Concentration of the euthanasia solution used; and
- b. Euthanasia dose of the euthanasia solution used.
- c. Correct gauge of hypodermic needle to be used (e.g., in a puppy, kitten or other young animal, in animals under 20 pounds, in 20 to 35 pound animals, in 35 to 50 pound animals, and in animals weighing more than 50 pounds);

F. Intravenous administration is the preferred route of administration.

1. Intravenous administration is to be performed only:

a. By an operator who is properly trained and competency-certified in intravenous administration of the drug into the jugular vein, cephalic vein, saphenous vein, femoral vein (cats only; not for dogs) or any other readily accessible and appropriate venous site for the species of animal being euthanized;

b. When the animal is tractable and properly restrained without undue stress; and

c. When a vein is readily accessible.

2. Generally, a one-inch, 20- or 22-gauge hypodermic needle is used for injection in dogs weighing 20 or more pounds. Intravenous injection of smaller dogs, cats, kittens, and puppies requires increased expertise and the use of a smaller gauge (e.g., a 24-gauge), one-inch hypodermic needle. However, the smaller gauge needles, such as 24-gauge, makes injection of the sodium pentobarbital through the needle difficult and may cause the needle hub to disconnect from the syringe during injection. Therefore, use of a 24-gauge needle which screws onto the syringe and slow, steady injection may be needed for small animals. In all cases, the gauge or size of the needle used must be the appropriate size (i.e., not too large or small) for the size of the vein being injected.

3. Recommend the use of eccentric-hubbed syringes for increased ease of inserting the needle into an animal's vein.

4. Pre-euthanasia medication may be administered (See Section III. C.)

a. Before intravenous administration of the euthanasia drug, sedation or anesthetization of the animal with an approved pre-euthanasia medication may be performed and may be needed, especially in fractious, vicious or intractable animals, or in animals with veins that are difficult to identify for injection.

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b. Such pre-euthanasia sedation or anesthetization is to be performed only by individuals who are properly trained and competency-certified in the use and administration of the approved pre-euthanasia medications.

5. General certification requirements

Intravenous Administration

Certified competency training for use of this method of administration is to include a demonstrated ability to:

a. Properly and humanely restrain an animal for injection into the jugular, cephalic, saphenous and (in the cat only) femoral vein; and

b. Correctly locate, and humanely inject into, the:

- (1) Jugular vein,
- (2) Cephalic vein,
- (3) Saphenous vein, and
- (4) Femoral vein (for the cat only).

G. Intraperitoneal injection may be a preferred route of injection in cats, kittens, small dogs (under 20 lbs), puppies, birds and other small animals, or for animals that have small, collapsed or difficult to inject veins.

1. Intraperitoneal injection is to be performed only:

a. By a person who is properly trained and competency-certified in the procedure, and

b. When the animal is properly restrained.

2. The usual injection site is approximately one-inch behind the umbilicus on the midline.

3. Generally, a one-inch, 22- to 24-gauge hypodermic needle (see § F. 2., caution regarding use of 24-gauge needles) may be used in animals weighing under 10 pounds; a one-inch, 22-gauge needle in animals weighing 10 to 25 pounds; and a one-inch, 20-gauge needle in animals weighing 25-45 pounds, and 18- to 20-gauge needle in animals over 45 pounds. In each case, the size and gauge of the needle must be appropriate for the size of the animal.

4. After intraperitoneal administration of the drug(s), the animal is to be placed in a safe cage or run (preferably in a quiet area) and monitored so that the animal does not inadvertently injure itself by stumbling or falling as unconsciousness develops. The time from injection to unconsciousness to death will differ from animal to animal.

5. The drug is gradually absorbed through the peritoneum. Therefore, after intraperitoneal injection, the animal gradually enters deeper planes of anesthesia as increasing amounts of the drug enters the bloodstream. Consequently, 30 minutes or more may be required before sufficient drug is absorbed to induce death. However, the mode of action to induce death is the same as for intravenous administration.

6. Because of the slow absorption from the peritoneal cavity, and the variability of metabolism in various animals, it is strongly recommended that, once the animal is "down," (i.e., sedated, anesthetized or unconscious), that the animal be given a "follow-up" lethal injection of sodium pentobarbital to ensure death.

7. General certification requirements

Intraperitoneal administration

Certified competency training for use of this method of administration is to include a demonstrated ability to:

a. Properly and humanely restrain an animal for injection into the peritoneal cavity;

b. Correctly locate, and humanely inject into, the peritoneal cavity approximately one-inch behind the umbilicus on the midline.

H. Intracardiac administration is not approved for use, unless the animal is fully anesthetized, comatose or unconscious.

1. The animal is to be properly and humanely restrained, and the heart must be penetrated with one thrust of the hypodermic needle.

2. Competency certification to use this method of administration is to include a demonstrated ability to:

a. Properly and humanely restrain an animal for intracardiac injection;

b. Correctly locate the heart for humane injection in cats, puppies, kittens and other young animals as well as in small (less than 20 pounds), medium (20 to 40 pounds) and large animals (greater than 40 pounds);

c. Correctly determine and select the appropriate gauge and length of hypodermic needle for use in young, small, medium and large animals;

d. Properly and humanely penetrate (i.e., inject) the heart of an animal with one thrust of a hypodermic needle.

Appendix C

Carbon Monoxide

Minimum requirements for use

A. Euthanasia of animals with carbon monoxide is to be performed only:

1. By a person who is properly trained and competency-certified in the use of this method of euthanasia.
2. Using a properly constructed and maintained chamber.
3. In accordance with all the provisions of this Directive.

B. The chamber must:

1. Be constructed of durable, easily cleanable material;
2. Have functioning, internal lighting and at least one clean and transparent viewport (i.e., window), both of which are to be used by the operator of the chamber to directly observe and monitor the animals during euthanasia to ensure that euthanasia is occurring properly and humanely;
3. Be properly sealed, with such seals properly maintained to enable at least a 6% concentration of the gas to be attained in the chamber within 20 seconds, and to maintain this chamber concentration of the gas until death has occurred.

C. Only commercial-grade carbon monoxide gas dispensed from a cylinder shall be used.

D. The commercial-grade gas shall be dispensed from a cylinder into an appropriately constructed, sealed and maintained carbon monoxide chamber at a pressure and rate that achieves a 6% concentration of the gas within the chamber within 20 seconds.

E. The carbon monoxide gas and chamber is only to be stored and used in a well-ventilated area where the toxic hazards of gas exposure to the operator, to pound/shelter personnel and to pound/shelter animals not intended to be immediately euthanized will be avoided.

F. Pre-euthanasia sedation with acepromazine maleate, given intramuscularly (see Appendix D.), may be performed in dogs and cats 20 minutes prior to subjecting the animal(s) to carbon monoxide euthanasia.

*According to Drs. A. Dallaire and A. Chalifoux in their report on the "Physiologic and Behavioral Evaluation of Carbon Monoxide Euthanasia of Adult Dogs - Premedication of Dogs with Acepromazine or Pentazocine Before Euthanasia with Carbon Monoxide" (Canadian Journal of Comparative Medicine; 1985; 49:171-178):

Acepromazine (at a dosage of 0.3 mg/lb. of body weight) ... reduced by 25% ... the number of (mongrel) dogs that showed vocalization and agitation. In acepromazine premedicated dogs, the duration of these signs was significantly diminished and sphincter relaxation did not occur in more than 50% of the cases. Furthermore, with the use of acepromazine, no significant peaks or drastic drops were noticed in the heart and respiratory rates and in the arterial blood pressure. These manifestations are usually related to stress. ... Acepromazine pre-treatment significantly reduced

(1) The number of dogs showing behavioral manifestations (33.3%) and

(2) The duration of the behavioral manifestations (39.8%).

... In light of these results, it is recommended to premedicate dogs with acepromazine before submitting them to euthanasia by carbon monoxide."

G. Only compatible animals of the same size and species shall be placed into the chamber together.

H. Animals shall not be crowded together into the chamber (i.e., each animal shall be allowed sufficient space to stand up, sit down and turn around freely using normal body movements and without having to touch another animal in the chamber to do so).

I. Animals to be euthanized shall not be placed into the chamber with other animals that have already been euthanized.

J. Each cat shall be placed into the chamber in a separate, lightweight, open-wire cage with a solid, metal bottom.

K. The animal(s) should become unconscious within 45 to 60 seconds, and death should occur within 2 to 4 minutes.

*Note: Some reflex movements and sounds (vocalizations) may occur from the unconscious animals; these vocalizations and movements, made while the animal is passing through what is often called Stage II of anesthesia, should be differentiated from, and should not be confused with, conscious struggling.

L. Animals should be left in the chamber at least 10 minutes after death has occurred before the chamber is opened.

M. The operator should open the chamber only in a well-ventilated area, and should leave the animals another 10 minutes after the chamber is opened.

N. Animals must be carefully examined to ensure that death has indeed occurred.

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0. General certification requirements

Carbon Monoxide

Certified competency training in the use of this method of euthanasia is to include a demonstrated:

1. Understanding of the provisions of Directive 79-1 pertaining to the use of this method of euthanasia;
2. Understanding of the hazards associated with the use of this method and appropriate precautions to be taken when this method of euthanasia is performed;
3. Ability to properly and correctly determine and monitor the rate of flow and concentration of carbon monoxide in the chamber;
4. Ability to correctly operate the chamber;
5. Ability to properly and humanely euthanize animals with carbon monoxide; and

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February 8, 1993

(Revised 2/2/93)

6. Ability to correctly evaluate and determine when the animal has been rendered unconscious and has died;

APPENDIX D

APPROVED PRE-EUTHANASIA METHODS

A. ***NOTE:** These methods are not approved as a primary means of euthanasia but only as a means of preliminary sedation to aid in the humane euthanasia of an animal:

APPROVED DRUG*	SPECIES APPROVED FOR USE IN*	ROUTE OF ADMINISTRATION*	DOSAGE
Acepromazine maleate	Dogs	Intramuscular or Subcutaneous	0.25 to 0.5 mg/lb.
		Orally	0.25 to 1 mg/lb.
	Cats	Intramuscular or Subcutaneous	0.5 to 1 mg/lb.
		Orally	0.5 to 1 mg/lb.
Xylazine hydrochloride	Dogs	*Less than 50 lbs. Intramuscular or Subcutaneous	1mg/lb.*
		More than 50 lbs. Intramuscular	0.5 mg/lb.
	Cats	Intramuscular	1 mg/lb.
Ketamine hydrochloride	Cats	Intramuscular	5 to 15 mg/lb.
	Non-human primates	Intramuscular	3 to 15 mg/lb.
Ketamine HCL, Promazine HCL, and Aminopentamide hydrogen sulfate combination (ie., Ketaset-Plus)	Cats	Intramuscular	15 to 20 mg/lb.
Sodium Pentobarbital** (with or without lidocaine)	Any animal	Intravenous	0.2 cc/10 lbs.**
	Young, small, fractious, ill or injured animals	Intraperitoneal	0.6cc/10lbs.**

*Species, routes and dosages approved by the FDA and listed in the manufacturers' recommendations.

**Assuming the use of a 5 grain/ml. concentration of sodium pentobarbital.

B. Pre-Euthanasia sedation is to be administered only:

1. By individuals that are properly trained and competency-certified to use and administer the approved pre-euthanasia drugs;
2. In the species in which the FDA has approved the drug(s) for use;
3. Via an approved route of administration for the species being given the approved drug; and
4. When the animal is being properly and humanely restrained by a person who is trained in the proper restraint of the animal for injection via the approved route of administration to be utilized.

C. General certification requirements

Pre-euthanasia methods

Certified competency training is to include a demonstrated:

1. Knowledge of the requirements of this Directive regarding the use of the approved pre-euthanasia drugs;
2. Ability to correctly determine the:
 - a. Concentration of the approved pre-euthanasia drug to be used;
 - b. Dose of the approved pre-euthanasia drug required; and
 - c. Ability to properly and humanely administer the drug via the approved route(s) of administration to be used.

Division Administration Directive Number 83-1

Approved Capture Drugs and Drug Administering Equipment

Effective: February 8, 1993

I. Purpose

This Directive sets forth capture drugs and drug administering equipment approved by the State Veterinarian for use in the capture of companion animals by animal wardens and other officers as defined in § 3.1-796.66 of the Comprehensive Animal Laws (i.e., Title 3.1, Chapter 27.4 of the Code of Virginia).

II. Authority

Title 3.1, Chapter 27.4, § 3.1-796.119 of the Code of Virginia states, in part, "All drugs and drug administering equipment used by animal wardens or other officers to

capture companion animals pursuant to this chapter shall have been approved by the State Veterinarian."

III. Approved Drugs

The following drugs are approved for use in the capture of companion animals only when: (i) the drug is administered by individuals appropriately trained and competency-certified to humanely administer the drug; (ii) the drug is used only in a species in which the U.S. Food and Drug Administration (FDA) has approved the drug for use; and (iii) the drug is administered via an approved route of administration and in accordance with the manufacturer's recommendations. (See Appendix A for further details.)

A. Acepromazine maleate

Administered orally (tablet form only), subcutaneously, intramuscularly, or intravenously. (See Appendix A for further details.)

*Do not use in animals (especially cats) potentially exposed to organophosphates such as insecticides, dips, or flea collars because this drug may potentiate such poisons.

Xylazine hydrochloride (trade name: Rompun)

Administered intramuscularly only. (See Appendix A for further details.)

Ketamine Hydrochloride

Administered intramuscularly only.

*Note: This drug is approved by the FDA for use only in cats and nonhuman primates. (See Appendix A for further details.)

D. Ketamine hydrochloride-promazine hydrochloride-aminopentamide-hydrogen sulfate combination (trade name: Ketaset-Plus)

Administered intramuscularly only.

*Note: this drug is approved by the U.S. FDA for use only in cats and nonhuman primates. (See Appendix A for further details.)

E. Drugs, methods, or both prescribed by a licensed veterinarian for use in the species involved, but only if performed by or under the direct and immediate supervision of the licensed veterinarian so prescribing the method.

Approved Drug Administering Equipment*

Equipment manufactured by the following named firms is approved for the humane capture of companion animals on condition that:

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A. The users of the equipment are appropriately trained in the proper and humane use of the approved capture equipment;

B. The users of the equipment follow the operating instructions prescribed by the manufacturer of the equipment;

C. The equipment is well maintained and kept in a high state of repair at all times; and

D. The animal is humanely captured.

Company Name and Address Drug Administering Equipment

Palmer Chemical & Equipment Co., Inc. CAP-CHUR Equipment
V8 P.O. Box 867, Palmer Village
Douglasville, Georgia 30133

Glasgow Veterinary Supply DIST-INJECT Equipment
Fort Peck Route
Glasgow, Montana 59230

Telonics PAXARMS Equipment
932 East Impalla Avenue
Mesa, Arizona 85204-6699

Zoolu Arms of Omaha SIMMONS Equipment
10315 Wright Street
Omaha, Nebraska 68124

Telinject, U.S.A., Inc. TELINJECT Equipment
16133 Ventura Boulevard
Suite 635
Encino, California 91436

*Note: The State Veterinarian does NOT recommend the equipment produced by one manufacturer over that produced by another.

V. Approval of Additional Drugs and Drug Administering Equipment

Advances in research relative to drugs and drug administering equipment for use in capturing companion animals will be monitored on a continuing basis by the Office of the State Veterinarian. Chemical restraint drugs (i.e., capture drugs) and drug administering equipment which are proved to be acceptable will be added to the approved list.

Firms or individuals seeking approval of specific drugs or drug administering equipment for use in capturing companion animals may submit a written request for the consideration of such proposals to the:

State Veterinarian/Director
Division of Animal Health
P. O. Box 1163

Richmond, Virginia 23209
Phone: 804-786-2481

Requests to deviate from or to use an alternative to the approved drugs or drug administering equipment must be sent in writing to the State Veterinarian at the above address. The request must include a detailed explanation of the proposed deviation or alternative, substantive justification for the request, substantive reasons why the currently approved drugs or drug administering equipment cannot be used and how the proposed deviation or alternative will resolve the reasons/problems, and sufficient objective and supportable evidence that the proposed deviation or alternative is at least as humane as the currently approved drugs or drug administering equipment identified in this directive.

APPENDIX A.

I.

APPROVED DRUG*	SPECIES APPROVED FOR USE IN*	ROUTE OF ADMINISTRATION*	DOSAGE
Acepromazine maleate	Dogs	Intramuscular or Subcutaneous	0.25 to 0.5 mg/lb.
		Orally	0.25 to 1 mg/lb.
	Cats	Intramuscular or Subcutaneous	0.5 to 1 mg/lb.
		Orally	0.5 to 1 mg/lb.
Xylazine hydrochloride	Dogs	Intramuscular or Subcutaneous	1 mg/lb.*
			*More than 50 lbs.
	Cats	Intramuscular	1 mg/lb.
Ketamine hydrochloride	Cats	Intramuscular	5 to 15 mg/lb.
			Non-human primates
Ketamine HCL, Promazine HCL, and Aminopentamide hydrogen sulfate combination (i.e., Ketaset-Plus)	Cats	Intramuscular	15 to 20 mg/lb.

*Species, routes and dosages approved by the FDA and listed in the manufacturers' recommendations.

**Also see section IV. of Appendix A.

II. Competency Certification Required

A. Any companion animal captured is only to be captured by a person or by persons that have been certified in writing by a Virginia-licensed veterinarian or other qualified individual, as being properly trained and competent in the humane capture of animals by use of the specified approved capture drug(s) and equipment being used.

B. See Appendices A-D of Division of Animal Health Directive 79-1 for competency certification requirements.

III. Capture drugs are to be administered only:

A. By individuals that are appropriately trained and competency-certified to humanely use and administer the approved capture drug(s);

B. In the species in which the FDA has approved the drug(s) for use;

C. When administered via an approved route of administration for the species being given the approved drug and in accordance with the manufacturer's recommendations.

IV. General Considerations

A. If xylazine is to be given alone, the dosage and dose of the xylazine must be determined by a supervising, licensed veterinarian. As a rule, dogs weighing under 25 pounds should NOT be captured by chemical means using remote injection (e.g., by use of a dart gun).

B. According to author Leon Nielson, in his book Chemical Immobilization in Urban Animal Control Work,

"The dosage suggested... for the ketamine/xylazine combination is 5.0 mg of ketamine/kg* of body weight and 1.0 mg of xylazine/kg of body weightfor intramuscular injection in dogs only."

Nielson further states that,

"This regimen has produced immobilization (recumbency) in dogs in 2.6 - 3.6 minutes, with a recovery time of 131 and 110 minutes, respectively. The most practical way of preparing the mixture is to add 2 ml (200 mg) of xylazine to a 10 ml (1,000 mg) vial of ketamine. Testing has shown that this pre-mixed solution will remain stable with undiminished potency for 6 months. The dosage to use of the 5:1 combination is 6.0 mg/kg..."

The above dosage of the drug combination is calculated to be 0.027 ml per pound of body weight, or 0.81 ml per 30 pounds of body weight, using a 10% concentration of xylazine.

*Remember: 1.0 kilogram (or "1 kg") = 2.2 pounds.

*Note: Currently, ketamine hydrochloride has NOT been approved by the FDA for use in dogs. Therefore, although the combination of xylazine and ketamine hydrochloride given at the dosages described above and using the appropriate drug administering equipment for the drug, animal and situation involved is considered effective for use in the chemical capture of dogs, the State Veterinarian can only acknowledge the effectiveness of this drug combination, but does not sanction the procurement or use of ketamine or any other drug in violation of state or federal law. Therefore, should this drug combination be used, it would be approved for use only if done under the lawful supervision of a licensed veterinarian.

C. According to the Virginia Board of Pharmacy, § 54.1-3415 of the Code of Virginia authorizes animal wardens/animal control officers and law-enforcement officers "... in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government..." to purchase, receive or possess any approved capture drug for use in the lawful capture of animals pursuant to Title 3.1, Chapter 27.4 of the Code of Virginia "...by reason of his official duties."

AUDITOR OF PUBLIC ACCOUNTS

Uniform Financial Reporting Manual Summary of Revisions and Manual Contents

General

This document contains a summary of significant changes made to the Uniform Financial Reporting Manual with the November, 1992 revision. A draft copy of the manual is currently available from the Auditor of Public Accounts (APA) at no charge by writing to the following address:

Uniform Financial Reporting Manual
Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23210

Local government officials, auditors, and other interested parties are encouraged to provide written comments to the above address. The APA also will hold public hearings to provide interested parties the opportunity to provide comments. Details on these hearings are found in the Calendar of Events section of this issue of The Virginia Register and are available from the APA. The written comment period closes on May 5, 1993.

Chapter 1 Introduction

This chapter discusses the organization of the manual and the procedures used by the Auditor of Public Accounts in revising it. It also contains an order form for additional copies of the manual and other publications of the APA.

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Chapter 2 Accounting and Reporting Principles

This chapter discusses accounting and reporting principles applicable to Virginia local governments. Revisions to this chapter include:

A. Updates to reflect changes in accounting and reporting principles since the previous manual revisions;

B. Discussion of GASB 14 (Reporting Entity) as it relates to the inclusion of school boards in a locality's financial statements. The APA believes these should be discretely presented in a separate column. See Section 2.13 for further details.

C. Addition of Risk Management/Self Insurance funds to the list of activities which should be reported as internal services in the transmittal forms.

Chapter 3 Uniform System of Accounts

This chapter provides details on a Uniform account structure which local governments should use to facilitate the completion of the transmittal forms. Significant revisions to this chapter include:

A. Deleting various accounts which are no longer applicable to local governments.

B. Incorporating changes to the chart of accounts required of local school boards by the Department of Education.

Chapter 4 Comparative Report Transmittal Forms

This chapter contains copies of all the transmittal forms and related instructions. In addition, it contains information regarding the auditors responsibilities and reporting requirements, and requirements for submitting the forms. Significant revisions to this chapter include:

A. Incorporates changes made to the forms since the last manual revision.

B. Contains more detailed instructions for preparing each of the forms.

C. Reflects a new requirement for submitting the forms. This requires that the forms may only be submitted on the automated or manual forms mailed to the locality by the APA in August of each year. The APA will no longer accept forms designed by the locality or their auditors. See § 4.2 for further details.

D. Modifies the auditors reporting requirements for transmittal forms. The auditor will now be required to issue a report on agreed upon procedures related to the transmittal forms review. See Section 4.3 for further details.

E. Makes minor changes to Forms 110 and 310. Also,

expands Form 610 to include a separate column for each acceptable enterprise activity. See §§ 4.5, 4.9 and 4.13 respectively for further details.

F. Incorporates the AutoTrans users manual into an appendix.

Chapter 5 Comparative Report

This chapter contains an example of the layout and related footnotes for each exhibit in the comparative report. There were no significant changes made to this chapter.

Chapter 6 Prototype Financial Statements

This chapter contains prototype financial statements and auditors reports designed to comply with the requirements of Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS). It also contains prototype statements of treasurer's accountability and legal debt margin required by the Code of Virginia. The only significant changes to this chapter were to bring it up to date with changes in GAAP and GAGAS since the previous revision of the manual.

Chapter 7 Public Employee Retirement Systems

This is a new chapter issued pursuant to § 51.1-1003 of the Code of Virginia. It incorporates the Virginia Accounting and Reporting Release #1 issued August 5, 1991. The chapter requires that local retirement systems publish an annual report which contains statements prepared in conformance with Governmental Accounting Standards Board (GASB) standards for financial reporting by public retirement systems.

Chapter 8 Virginia Accounting and Reporting Releases

This chapter is included for the purpose of accommodating subsequent Virginia accounting and reporting releases which will be issued as necessary to supplement this manual.

COUNCIL ON THE ENVIRONMENT

Virginia Coastal Resources Management Program Public Notice of Approved Routine Program Implementations

On January 11, 1993, the Council on the Environment submitted two routine program changes to the Office of Ocean and Coastal Resources Management of NOAA for incorporation into the Virginia Coastal Resources Management Program (VCRMP). As required by the Coastal Zone Management Act, Tidewater localities and affected federal and state agencies were notified on the same date of the proposed incorporation of the revised Erosion and Sediment Control Law and Regulations and

the revised Barrier Island Policy of the Coastal Primary Sand Dunes Guidelines. A public notice describing the submission was simultaneously published in The Virginia Register and the Richmond Times-Dispatch. On February 17, 1993, Virginia received notice that NOAA has accepted these changes to Virginia's coastal program. Consequently, the Commonwealth will apply Federal Consistency provisions to the revised Erosion and Sediment Control Law and its regulations and the revised Barrier Island Policy of the Coastal Primary Sand Dunes Guidelines. Further information and the complete RPI package may be obtained by contacting Jeannie Lewis Smith of the Council on the Environment.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Significant Change in Statewide Methods and Standards for Setting Payment Rates (Title 42 Code of Federal Regulations 447.205) Selective Contracting of Inpatient Hospital Services

Description: In the Selective Contracting Program, hospitals will be awarded contracts to provide inpatient services to Medicaid recipients based on their competitive proposal prices and the evaluation criteria specified in a federally approved waiver. The pilot program is based on awarding contracts to cost-effective hospitals in the Tidewater area while ensuring Medicaid recipients access to quality inpatient care.

Why the agency is changing its methods and standards: The 1992 Appropriation Act directed the Department of Medical Assistance Services (DMAS) to seek the necessary waivers from the United States Department of Health and Human Services to authorize the Commonwealth to provide hospital care to Medicaid recipients in the Tidewater area in selected hospitals through a competitive process.

Estimate of expected changes in annual aggregate expenditures: Development costs will include Management Information System changes, a patient origin study, and a microcomputer model for ensuring the necessary bed capacity. Total development costs are projected to be \$25,223. The additional two-year administrative costs associated with selective contracting are estimated to be \$200,383. Program savings are demonstrated by calculating the difference between projected costs without the waiver and the costs with the waiver in effect. In the absence of the waiver, inpatient costs are projected to be \$43.3 million in the first twelve-month period and \$49.7 million for the second twelve-month period. Selective contracting is expected to reduce these costs to \$41.5 million in year one of the waiver and to \$47.4 million in year two. Taking into account the development and administrative costs, savings will be \$3.87 million.

Availability of proposed changes and address for comments: Copies of the emergency regulation, once signed by the Governor, adopted by the agency, and filed with the Registrar, will be available for public review.

Comments or questions should be directed to Kathryn Kotula, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, (804) 786-7933.

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

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulation: VR 380-03-04:1. Tuition Assistance Grant Program Regulations.

Publication: 9:12 VA.R. 1910-1914 March 8, 1993.

Correction to Final Regulation:

General Notices/Errata

Page 1913, § 4 B 2, line 4 should read "... students enrolling subsequent to the fall semester or..."

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

- † April 19, 1993 - 9 a.m. — Open Meeting
 - † April 20, 1993 - 8 a.m. — Open Meeting
- Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) conduct the review and disposition of enforcement cases; and (iv) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

May 19, 1993 - 2 p.m. — Public Hearing
1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled **VR 115-05-01. Regulations Governing Grade "A" Milk.** The proposed regulation will continue certain authority contained in the existing regulation governing the production, processing, and sale of Grade "A" pasteurized milk and Grade "A" pasteurized milk products and certain milk products. The purpose of the present regulatory action is to review the regulation for effectiveness and continued need. The proposed regulation has been drafted to include provisions of the existing regulation and to enhance its effectiveness. In addition, certain new provisions have been established which affect milk plants, receiving station, transfer stations, producers and industry laboratories specifying: drug screening requirements of Grade "A" raw milk for pasteurization prior to processing; minimum penalties for violation of the drug residue requirements; new standards for temperature, somatic cell counts and cryoscope test; requirements to receive and retain a permit; sanitation requirements for Grade "A" raw milk for pasteurization; and sanitation requirements for Grade "A" pasteurized milk.

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Contact: J. A. Beers, Program Manager, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-1453.

* * * * *

June 25, 1993 — Written comments may be submitted until this date.

June 30, 1993 - 1 p.m. — Public Hearing
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Board Room, Room 204, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-04-28. Regulations Governing the Oxygenation of Gasoline.** The purpose of the proposed regulation is to ensure that motor fuels dispensed in this Commonwealth comply with any oxygenation requirements specified by the federal Clean Air Act pertaining to motor fuels. The 1990 amendments to the federal Clean Air Act require states with carbon monoxide nonattainment areas with design values¹ of 9.5 parts per million (ppm) or more to implement an

Calendar of Events

oxygenated gasoline program in all such designated nonattainment areas. Title II of the 1990 amendments to the federal Clean Air Act requires that states institute an oxygenated gasoline program by establishing "control areas" in any Metropolitan Statistical Area (MSA) which contains one or more carbon monoxide nonattainment areas. Pursuant to such provisions, the Department of Air Pollution Control has designated as the control area the Virginia counties within the Washington, D.C. Metropolitan Statistical Area (MSA) consisting of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the Virginia cities within the Washington, D.C. MSA consisting of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

The oxygen content requirement applies during the portion of the year in which the control area is prone to high ambient concentrations of carbon monoxide. The Environmental Protection Agency has established this control period (which the Board of Agriculture and Consumer Services anticipates will recur annually) to be, in the case of Virginia, a specified four months out of twelve. In Virginia this control period will begin on November 1 of one year and continue through the last day of February of the following year.

The proposed regulation (i) specifies carbon monoxide nonattainment areas; (ii) specifies the control area; (iii) specifies the control period; (iv) specifies a minimum oxygenate content in gasoline during the control period; (v) requires all persons regulated to keep records of classes of oxygenates and oxygenate content; (vi) requires gasoline pump labelling; (vii) specifies methods of sampling, testing, and oxygen content calculations; and (viii) specifies means of compliance and methods of enforcement.

¹ Design value means the calculation which is used to derive the number of carbon monoxide parts per million in the air in order to determine whether an area shall be designated a carbon monoxide nonattainment area.

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

Contact: J. Alan Rogers, Program Manager, Office of Weights and Measures, Department of Agriculture and Consumer Services, 1100 Bank St., Room 402, Richmond, VA 23219, telephone (804) 786-2476.

Virginia Cattle Industry Board

April 14, 1993 - 2 p.m. - Open Meeting

April 15, 1993 - 8:30 a.m. - Open Meeting

Lynchburg Hilton, 2900 Candler's Mountain Road, Liberty Room Lynchburg, Virginia. ☒

A meeting to discuss the budget and other business

related to the industry. The board will entertain public comment at the conclusion of all other business on April 15, 1993, for a period not to exceed 30 minutes.

Contact: Reggie Reynolds, Program Director, Department of Agriculture and Consumer Services, P.O. Box 176, Daleville, VA 24083, telephone (703) 992-1992.

Virginia Dark-fired Tobacco Board

† April 9, 1993 - 10 a.m. - Open Meeting

Sheldon's Restaurant, Keysville, Virginia. ☒

The board will meet to consider funding proposals for research, promotion and education projects pertaining to Virginia dark-fired tobacco and other business that may come before the board. Any person who needs any accommodation in order to participate at the meeting should contact D. Stanley Duffer, Secretary, at least five days before the meeting on April 9, 1993, so that suitable arrangements can be made for any appropriate accommodation. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: D. Stanley Duffer, Secretary, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568.

Pesticide Control Board

April 15, 1993 - 8 a.m. - Open Meeting

Department of Agriculture and Consumer Services, 1100 Bank Street, Board Room 204, Richmond, Virginia. ☒

A tour of Plant Food Products, Coastal Chemical, and Franklin Airport. Committee meetings will follow beginning at 5 p.m. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia.

April 16, 1993 - 9 a.m. - Open Meeting

Department of Agriculture and Consumer Services, 1100 Bank Street, Board Room 204, Richmond, Virginia. ☒

The board will conduct 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 board's agenda at 9 a.m.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

Virginia Seed Potato Board

April 21, 1993 - 8 p.m. - Open Meeting

Eastern Shore Agriculture Experiment Station, Research Drive, Painter, Virginia. ☒

The board will meet to review the 1993 planting season. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: J. William Mapp, Program Director, Department of Agriculture and Consumer Services, Box 26, Onley, VA 23418, telephone (804) 787-5867.

Virginia Winegrowers Advisory Board

April 8, 1993 - 10 a.m. – Open Meeting
Oakencroft Winery, 2nd Floor, Meeting Room,
Charlottesville, Virginia.

The board will hear committee and project monitor reports and review old and new business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Wendy Rizzo, Secretary, Virginia Winegrowers Advisory Board, P.O. Box 1010, Richmond, VA 23219, telephone (804) 786-0481.

STATE AIR POLLUTION CONTROL BOARD

† **April 16, 1993 - 9 a.m. – Open Meeting**
Department of Transportation, 1221 East Broad Street,
Front Auditorium, Richmond, Virginia. ☐

The agenda for this meeting will be available two weeks before the meeting date.

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

ALCOHOLIC BEVERAGE CONTROL BOARD

April 12, 1993 - 9:30 a.m. – Open Meeting
April 26, 1993 - 9:30 a.m. – Open Meeting
May 10, 1993 - 9:30 a.m. – Open Meeting
May 24, 1993 - 9:30 a.m. – Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☐

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616.

ASAP POLICY BOARD - MOUNT ROGERS

April 14, 1993 - 1 p.m. – Open Meeting
Oby's Restaurant, North Main Street, Marion, Virginia. ☐

A meeting to conduct program business. The order of business at all regular meetings shall be as follows: (i) call to order; (ii) roll call; (iii) approval of minutes; (iv) unfinished business; (v) new business; and (vi) adjournment.

Contact: J. L. Reedy, Jr., Director, Mt. Rogers ASAP, 1102 A N. Main St., Marion, VA 24354, telephone (703) 783-7771.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

May 13, 1993 - 11 a.m. – Open Meeting
6606 West Broad Street, Richmond, Virginia. ☐

A board meeting and formal conferences.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

AUDITOR OF PUBLIC ACCOUNTS

April 19, 1993 - 10 a.m. – Public Hearing
National Guard Armory, Franklin Street, Christiansburg,
Virginia.

April 26, 1993 - 10 a.m. – Public Hearing
Sheraton Inn and Conference Center, Route 3 at I-95,
Fredericksburg, Virginia.

May 3, 1993 - 10 a.m. – Public Hearing
Sheraton Inn Coliseum, 1215 Mercury Boulevard, Hampton,
Virginia.

Public hearings to receive public testimony on the draft revision of the Uniform Financial Reporting Manual. Individuals planning to attend or make a presentation at one of these hearings are requested to complete a registration form available from the Auditor of Public Accounts. There is no charge to attend the public hearings.

Written comments may be submitted until May 5, 1993. All comments received will be considered in finalizing the revision of the manual.

Contact: UFRM, Auditor of Public Accounts, P.O. Box 1295, Richmond, VA 23210, telephone (804) 225-3350.

BOARD FOR BARBERS

April 5, 1993 - 9 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th
Floor, Richmond, Virginia. ☐

A meeting to (i) review applications; (ii) review correspondence; (iii) review and disposition of

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enforcement cases; and (iv) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

CHILD DAY-CARE COUNCIL

† **April 8, 1993 - 9:30 a.m.** – Open Meeting
Koger Executive Center, West End, 8007 Discovery Drive, Blair Building, Conference Rooms A and B, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The council will meet to discuss issues, concerns and programs that impact child care centers, camps, school-age programs, and preschool/nursery schools. The public comment period will be 10 a.m. Please call ahead of time for possible changes in meeting time.

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

COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† **April 27, 1993 - 1 p.m.** – Public Hearing
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

† **April 28, 1993 - 1 p.m.** – Public Hearing
City Hall, 810 Union Street, City Council Chambers, 11th Floor, Norfolk, Virginia.

† **April 30, 1993 - 1 p.m.** – Public Hearing
Municipal Building, 215 Church Avenue, S.W., City Council Chambers, 4th Floor, Roanoke, Virginia.

A public hearing to solicit comment on child care planning issues. Public comments will be received.

Contact: Margaret A. Smith, Interagency Planner, Virginia Council on Child Day Care and Early Childhood Programs, Washington Bldg., 1100 Bank St., Suite 1116, Richmond, VA 23219, telephone (804) 371-8603.

INTERDEPARTMENTAL REGULATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

April 16, 1993 - 8:30 a.m. – Open Meeting
Office of Coordinator, Interdepartmental Regulation, 8007 Discovery Drive, Blair Building, Conference Room C,

Richmond, Virginia. ☒

† **May 21, 1993 - 8:30 a.m.** – Open Meeting
Department of Mental Health, Mental Retardation and Substance Abuse Services, Madison Building, 109 Governor Street, 9th Floor Conference Room, Richmond, Virginia. ☒

† **June 18, 1993 - 8:30 a.m.** – Open Meeting
Ninth Street Office Building, 202 North 9th Street, Governor's Cabinet's Conference Room, Richmond, Virginia. ☒

A regularly scheduled meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Regulation, 730 East Broad St., Richmond, VA 23219-1849, telephone (804) 662-7124 (after May 2, 1993 (804) 692-1960).

BOARD OF COMMERCE

May 7, 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 Commerce intends to repeal regulations entitled: **VR 190-02-1. Agency Rules of Practice for Hearing Officers.** The Board of Commerce is proposing to repeal its current rules of practice for hearing officers used for governing all formal proceedings involved in enforcing the regulation of professions and occupations listed under § 54.1-300 of the Code of Virginia to eliminate any confusion, duplication or inconsistency with the statutes incorporated in the Administrative Process Act.

Written comments may be submitted through May 7, 1993, to Bonnie S. Salzman, Director, Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230.

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

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

COMPENSATION BOARD

† **April 8, 1993 - 9 a.m.** – Public Hearing
Salem City Council Chambers, Salem, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **April 12, 1993 - 9 a.m.** – Public Hearing
General Assembly Building, Senate Room A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

request)

FY 94 budget hearings with constitutional officers and governing body representatives.

† April 28, 1993 - 5 p.m. - Open Meeting

† May 26, 1993 - 5 p.m. - Open Meeting

Ninth Street Office Building, 202 North 9th Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A routine meeting to conduct business of the board.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 710, Richmond, VA 23206-0710, telephone (804) 786-3886 or (804) 786-3886/TDD ☎

VIRGINIA COUNCIL ON COORDINATING PREVENTION

† April 17, 1993 - 10 a.m. - Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

A meeting to (i) review current plans to implement the Department of Planning and Budget Prevention Study Recommendations; (ii) discuss legislation passed by the 1993 Session of the Virginia General Assembly; (iii) inform the council of new prevention funding initiatives; and (iv) discuss other business which may come before the council.

Contact: Ron Collier, Virginia Council on Coordinating Prevention, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530.

BOARD OF CORRECTIONS

† April 14, 1993 - 10 a.m. - Open Meeting

The Academy for Staff Development, Route 6, State Farm, Goochland, 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.

Liaison Committee

† May 13, 1993 - 9:30 a.m. - Open Meeting

6900 Atmore Drive, Board Room, 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.

BOARD FOR COSMETOLOGY

† May 10, 1993 - 9 a.m. - Open Meeting

Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500.

CRIMINAL JUSTICE SERVICES BOARD

† April 7, 1993 - 11 a.m. - Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to consider matters relating to the board's responsibilities for criminal justice training and improvement of the criminal justice system. Public comments will be heard before adjournment of the meeting.

Contact: Paula Scott Dehetre, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

Committee on Training

† April 7, 1993 - 9 a.m. - Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Paula Scott Dehetre, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730.

BOARD OF DENTISTRY

April 9, 1993 - 8:30 a.m. - Open Meeting

6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

Informal conferences.

April 16, 1993 - 8:30 a.m. - Open Meeting

April 17, 1993 - 8:30 a.m. - Open Meeting

April 18, 1993 - 8:30 a.m. - Open Meeting

6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

Friday: Formal hearings

Saturday: Formal hearing and board business, including committee reports.

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This is a public meeting and the public is invited to observe. No public testimony will be received by the board at this meeting.

† **April 16, 1993 - 8:30 a.m.** – Open Meeting
6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

A legislative committee meeting to review proposed regulations for presentation to the board. This is a working meeting on already proposed regulations.

Contact: Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906.

* * * * *

April 15, 1993 - 7 p.m. – Public Hearing
6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

May 10, 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 Dentistry intends to amend regulations entitled: **VR 255-01-1. Virginia Board of Dentistry Regulations.** The purpose of the proposed amendments is to establish the requirements for certification to apply Schedule VI topical medications.

Statutory Authority: §§ 54.1-2400, 54.1-2700 et seq., 54.1-3303, and 54.1-3408 of the Code of Virginia.

Contact: Marcia J. Miller, Executive Director, Virginia Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906.

DEPARTMENT OF ECONOMIC DEVELOPMENT

† **April 15, 1993 - 6 p.m.** – Open Meeting
† **April 16, 1993 - 7:45 a.m.** – Open Meeting
The Homestead, Hot Springs, Virginia.

The department has called a meeting of all related advisory boards of the agency. They include:

- Industrial Development Advisory Board
- Small Business Advisory Board
- Virginia Small Business Financing Authority Board
- Governor's Tourism and Travel Services Advisory Board
- Virginia World Trade Council

The purpose of this meeting will be to discuss the strategic direction for the agency. The boards will meet together and separately to address a number of pertinent and critical issues.

Contact: Mary Elsesser, Director, Policy and Public Affairs, 1021 E. Cary St., Richmond, VA 23219, telephone (804) 371-8259.

DEPARTMENT OF EDUCATION (BOARD OF)

April 21, 1993 - 7 p.m. – Public Hearing
Petersburg High School, Petersburg, Virginia.

April 22, 1993 - 7 p.m. – Public Hearing
Maury High School, Norfolk, Virginia.

April 27, 1993 - 7 p.m. – Public Hearing
Warrenton Junior High School, Warrenton, Virginia.

April 28, 1993 - 7 p.m. – Public Hearing
Abingdon High School, Abingdon, Virginia.

May 21, 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 Education intends to amend regulations entitled: **VR 270-01-0007. Regulations Governing Special Education Programs for Children with Disabilities in Virginia.** The revised regulations outline the requirements for the provision of special education programs. Areas of coverage include identification, eligibility, service delivery, funding, personnel qualifications, procedural safeguards, local school division responsibilities, and Department of Education responsibilities.

Statutory Authority: §§ 22.1-214 and 22.1-215 of the Code of Virginia.

Contact: Anne P. Michie, Specialist, Federal Program Monitoring, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2013 or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

May 6, 1993- 5:30 p.m. – Open Meeting
Chesterfield County Administration Building, 10001 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 - GLOUCESTER COUNTY

† April 28, 1993 - 6:30 p.m. - Open Meeting
County Administration Offices, Conference Room,
Gloucester, Virginia. ☒ (Interpreter for the deaf provided
upon request)

The spring quarterly meeting will address distribution
of the updated County Hazardous Materials Plan and
include discussion of the annual goals and training
exercise.

Contact: Georgette N. Hurley, Assistant County
Administrator, P.O. Box 329, Gloucester, VA 23061,
telephone (804) 693-4042.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

April 7, 1993 - 3 p.m. - Open Meeting
Shawnee Fire Company, 2333 Roosevelt Boulevard,
Winchester, Virginia.

A regular meeting.

Contact: L. A. Miller, Fire Chief, Winchester Fire and
Rescue Department, 126 N. Cameron St., Winchester, VA
22601, telephone (703) 662-2298.

VIRGINIA FIRE SERVICES BOARD

† April 14, 1993 - 7:30 a.m. - Public Hearing
Holiday Inn, 725 Woodlake Drive, Chesapeake, Virginia.

A public hearing to discuss fire training and policies.
The hearing is open to the public for their input and
comments.

† April 16, 1993 - 9 a.m. - Open Meeting
Holiday Inn, 725 Woodlake Drive, Chesapeake, Virginia.

A business meeting to discuss training and fire
policies. The meeting is open to the public for
comments and input.

† April 30, 1993 - 6 p.m. - Open Meeting
† May 1, 1993 - Time unknown - Open Meeting
† May 2, 1993 - Time unknown - Open Meeting
Mountain Lake, Virginia.

A work session. No business will be conducted, no
policy decisions will be made. This work session was
postponed from March 12.

Contact: Anne J. Bales, Executive Secretary Senior, 2807
Parham Rd., Suite 200, Richmond, VA 23294, telephone
(804) 527-4236.

Fire/EMS Education and Training Committee

† April 15, 1993 - 10 a.m. - Open Meeting
Holiday Inn, 725 Woodlake Drive, Chesapeake, Virginia.

A committee meeting to discuss fire training and
policies. The committee meeting is open to the public
for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807
Parham Rd., Suite 200, Richmond, VA 23294, telephone
(804) 527-4236.

Fire Prevention and Control Committee

† April 15, 1993 - 9 a.m. - Open Meeting
Holiday Inn, 725 Woodlake Drive, Chesapeake, Virginia.

A committee meeting to discuss fire training and
policies. The committee meeting is open to the public
for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807
Parham Rd., Suite 200, Richmond, VA 23294, telephone
(804) 527-4236.

Legislative/Liaison Committee

† April 15, 1993 - 1 p.m. - Open Meeting
Holiday Inn, 725 Woodlake Drive, Chesapeake, Virginia.

A committee meeting to discuss fire training and
policies. The committee meeting is open to the public
for their input and comments.

Contact: Anne J. Bales, Executive Secretary Senior, 2807
Parham Rd., Suite 200, Richmond, VA 23294, telephone
(804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

April 6, 1993 - 9 a.m. - Open Meeting
6606 West Broad Street, Richmond, Virginia. ☒

A board meeting.

April 7, 1993 - 9 a.m. - Open Meeting
6606 West Broad Street, 5th Floor, Room 2, Richmond,
Virginia. ☒

Informal hearings.

May 4, 1993 - 9 a.m. - Open Meetings
6606 West Broad Street, Rooms 1, 3 and 4, Richmond,
Virginia. ☒

Exams and a board meeting.

Contact: Meredyth P. Partridge, Executive Director,
Department of Health Professions, 6606 W. Broad St.,

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Richmond, VA, telephone (804) 662-9111.

Informal Conference Committee

May 5, 1993 - 9 a.m. - Open Meeting
6606 West Broad Street, 5th Floor, Room 2, Richmond,
Virginia. ☒

Informal conferences.

Contact: Meredyth P. Partridge, Executive Director,
Department of Health Professions, 6606 W. Broad St.,
Richmond, VA, telephone (804) 662-9111.

BOARD FOR GEOLOGY

April 23, 1993 - 10 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 HEALTH (STATE BOARD OF)

April 23, 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 amend regulations entitled: **VR 355-28-100.
Regulations for Disease Reporting and Control.** The
regulations are being amended to (i) comply with
current disease control policies, (ii) change the form
for reporting morbidity, and (iii) comply with statutory
requirements.

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of
Virginia.

Contact: C. Diane Woolard, M.P.H., Senior Epidemiologist,
Virginia Department of Health, P.O. Box 2448, Room 113,
Richmond, VA 23218, telephone (804) 786-6261.

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April 23, 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 amend regulations entitled: **VR 355-30-000.
Virginia Medical Care Facilities Certificate of Public
Need Rules and Regulations.** The purpose of the
proposed amendments is to implement the Certificate
of Public Need program consistent with the amended
law which became effective July 1, 1992.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code
of Virginia.

Written comments may be submitted through April 23,
1993, to Paul E. Parker, Director, Division of Resources
Development, Virginia Department of Health, 1500 East
Main Street, Suite 105, Richmond, Virginia 23219.

Contact: Wendy Brown, Project Review Manager, Division
of Resources Development, 1500 E. Main St., Suite 105,
Richmond, VA 23219, telephone (804) 786-7463.

* * * * *

April 23, 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: **1987 State
Medical Facilities Plan and adopt regulations entitled:
VR 355-30-100 through VR 355-30-113. Virginia State
Medical Facilities Plan.** The purpose of the proposed
action is to revise the State Medical Facilities Plan to
provide guidance for assessing the public need for
projects for review according to the 1992 amendments
to the Certificate of Public Need law.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code
of Virginia.

Contact: Paul E. Parker, Director, Division of Resources
Development, 1500 E. Main St., Suite 105, Richmond, VA
23219, telephone (804) 786-7463.

April 26, 1993 - 2 p.m. - Teleconference
Richmond Plaza Building, 101 South 7th Street, 4th Floor
East Auditorium, Richmond, Virginia. ☒ (Interpreter for
the deaf provided upon request)

A tele-meeting for the purpose of approving the final
version of the waterworks (surface water treatment
and total coliform) regulations.

Contact: Susan R. Rowland, MPA, Assistant to the
Commissioner, Department of Health, 1500 E. Main St.,
Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

† April 29, 1993 - 10 a.m. - Open Meeting
Holiday Inn, 1050 Millwood Pike, Winchester, Virginia. ☒
(Interpreter for the deaf provided upon request)

A work session. An informal dinner begins at 7 p.m.

† April 30, 1993 - 9 a.m. - Open Meeting
Holiday Inn, 1050 Millwood Pike, Winchester, Virginia. ☒
(Interpreter for the deaf provided upon request)

A general business meeting.

Contact: Susan R. Rowland, Assistant to the Commissioner,
Department of Health, 1500 E. Main St., Suite 214,
Richmond, VA 23219, telephone (804) 786-3564.

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† May 4, 1993 - 1 p.m. - Public Hearing
Main Street Station, 1500 East Main Street, Commissioner's
Conference Room, Room 214, Richmond, Virginia.

June 7, 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 amend regulations entitled: **VR 355-39-100. Regulations Governing Eligibility Standards and Charges for Health Care Services to Individuals.** The proposed amendments (i) change the basis for charges from costs to Medicaid's current payment schedules; (ii) change the eligibility requirements to more closely match those used to determine Medicaid eligibility; (iii) increase local decision making as to what services are provided; (iv) simplify and make more useful the waiver process; and (v) correct references to the Code of Virginia as necessary.

STATEMENT

Basis: § 32.1-11 of the Code of Virginia.

Purpose: These regulations are the board's procedures to implement § 32.1-11 of the Code of Virginia. Specifically, the regulations establish a basis for the Department of Health to establish charges for health services, determine what services are chargeable, establish a mechanism to determine patient eligibility, and provide procedures for waivers and patient grievances.

Substance and issues: The regulations are being revised at this time for the following reasons:

1. Change the basis for charges from costs to Medicaid's current payment schedules.

Basing charges on costs as required by the current regulations has not worked well. The department does not have a cost accounting system that will allow every service provided to be accurately costed out. In any circumstance, costing out the hundreds of medical, dental, home health, and other services provided would prove very time consuming and not likely generate additional revenue.

These revisions propose to use the Department of Medical Assistance Services payment schedule as the basis for charges. Through the Administrative Process Act, the Department of Medical Assistance Services promulgates a payment schedule of Medicaid services that it provides. Using this schedule of payments as the basis for charges has several advantages. Because the Department of Health will not have to duplicate the APA process for charge changes, it will allow a quick response to any increase in payments that Medicaid puts into effect and assure that Medicaid revenues are maximized.

Medicaid is the department's largest payment source for services provided to patients. Since Medicaid will only pay up to the upper limit of their payment schedule, having charges set at that level will also assure maximum revenues.

2. Change the eligibility requirements to more closely match those used to determine Medicaid eligibility.

Many of the patients seen by the Department of Health are eligible for Medicaid. However, for several reasons (lack of transportation, the Department of Social Services not being located nearby, service already free from the Health Department, the client's disinclination to apply), eligible patients do not apply for Medicaid. By changing the eligibility requirements to be most like those for Medicaid, it will be possible to develop a joint application for health department services and Medicaid eligibility determination.

This would save time for both the patients and the agencies. More importantly, because all persons seeking health department services must go through an eligibility determination, that process would provide the information necessary for a Medicaid application to be completed. Because patients would not have to go to multiple locations and complete multiple forms, it is anticipated that by providing the one form, eligible patients will be more likely to apply for Medicaid services. Medicaid enrollment can enable a patient to receive more complete health care services and allow the health department to be reimbursed by Medicaid for those services that are currently provided at no cost to the client.

3. Increase local decision making as to what services are provided.

Regional offices have been eliminated and references to them were taken out of the regulations. The intent of this departmental reorganization is to give more decision making authority to the district directors. Sections have been rewritten or added to clarify that district directors have the authority, with Board of Health or commissioner approval, to determine what services are provided in their district, beyond those services mandated within all districts.

Calendar of Events

4. Simplify and make useful the waiver process.

Currently, the waiver process postpones charges for clients who identify themselves as not being able to pay for their services because of some special circumstance. This delay of charges has not only been difficult for staff to keep track of and has not helped the patient, but has been costly to the department to maintain the necessary accounting system.

The revised waiver process would allow the patient with special circumstances to receive the services and be given a discount on the charges for those services. The discount period is limited to 90 days, and cannot be automatically renewed without another review of the patient's circumstances.

5. Correct Code of Virginia references as necessary.

Since the last revision of the regulations, several Code of Virginia changes have occurred. Some services, such as HIV testing, have been added as free services while some services that were free, such as the special nutrition program, are no longer free.

Estimated impacts: These regulations affect all patients who receive health services from the Department of Health. The anticipated impacts are as follows:

Patient benefits: Patients will benefit in several ways. With joint eligibility, it will be necessary to complete only one form for both the Department of Health and Medicaid. In some cases, especially for pregnant women and young children, the patient may no longer need to go to the Department of Social Services. With Medicaid's charge schedule being used as the basis for charges, the patient will receive services at charges that are likely to be below the statewide average for those services. By waiving charges, the waiver process will be better able to help those who cannot pay for services due to some special circumstance.

Approval of these regulations will not lead to an automatic increase in charges. The intent is to simplify eligibility and charge setting, not increase the cost to the patient. Any increase would be due to future changes in Medicaid's charge schedule. This would occur with the current regulations. Since Medicaid payment levels change infrequently, the charges are unlikely to increase but every 18 to 24 months.

The basis for determining a patient's payment level on the sliding fee scale is not being changed. If these regulations are approved, patients who are paying for their services will not have an increase in their charges.

Department benefits: The Department of Health will benefit because eligibility will be simplified. In those instances where the client first goes to the

Department of Social Services, the application completed there will serve as the application for Health Department services. Staff time will be saved when this occurs. Medicaid revenues would be expected to increase, both for additional clients being determined eligible and the additional revenue received from being able to more quickly charge maximum Medicaid charges. Giving district directors more flexibility in service provision will make the department more responsive to the identified needs of the community.

It is anticipated that the revised regulations will impose no additional costs to the agency. The agency currently requires an eligibility determination be completed on all clients. Since the revised eligibility guidelines are intended to make the application process simpler, no additional personnel time or forms will be needed. Other changes will have no effect on agency costs.

The department does not anticipate the savings in staff time to be significant enough in any one district to allow additional services to be provided or staff levels to be decreased. It will ease the burden on receptionists and allow districts to go longer before needing additional staff.

Private sector/small business impacts: The private sector will not be directly impacted by these regulations. In addition, these regulations will have no impact on small businesses and organizations.

Statutory Authority: §§ 32.1-11 and 32.1-12 of the Code of Virginia.

Contact: Dave Burkett, Director of Reimbursement, Virginia Department of Health, P.O. Box 2448, Room 239, Richmond, VA 23218, telephone (804) 371-4089.

Commissioner's Waterworks Advisory Committee

May 20, 1993 - 10 a.m. - Open Meeting
400 South Main Street, 2nd Street, Culpeper, Virginia.

A meeting to conduct general business of the committee.

Contact: Thomas B. Gray, P.E., Special Project Engineer, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1768.

BOARD OF HEALTH PROFESSIONS

April 20, 1993 - 11 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☐

A regular quarterly meeting of the board.

Contact: Richard D. Morrison, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

Administration and Budget Committee

April 7, 1993 - 1 p.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒

A meeting to review budget preparation for the department.

Contact: Richard D. Morrison, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

Compliance and Discipline Committee

April 19, 1993 - 10 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☒

The committee will plan its work for the balance of the calendar year and prepare its report to the full Board of Health Professions to meet on April 20.

Contact: Richard D. Morrison, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

Executive/Legislative Committee

April 20, 1993 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☒

A meeting to review 1993 General Assembly legislation and board agenda.

Contact: Richard D. Morrison, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

Committee on Professional Education and Public Affairs

April 20, 1993 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒

The committee will continue its discussions of complaint intake, department public information activity and complainant satisfaction.

Contact: Richard D. Morrison, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

Regulatory Research Committee

April 19, 1993 - 2 p.m. – Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☒

The committee will develop its workplan for studies requested by the 1993 General Assembly and prepare its report to the full Board of Health Professions to meet on April 20.

Contact: Richard D. Morrison, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† April 27, 1993 - 9:30 a.m. – Open Meeting
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☒

A monthly meeting.

May 25, 1993 - 9:30 a.m. – Open Meeting
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia.

A monthly meeting followed by a public hearing on the rules and regulations (VR 370-01-001 and VR 370-01-002). The public hearing will begin at noon.

Contact: Kim Bolden, Public Relations Coordinator, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

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May 25, 1993 - Noon – Public Hearing
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia.

May 25, 1993 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed amendments is to amend the agency's regulations to conform to the new methodology adopted by the Virginia Health Services Cost Review Council to measure efficiency and productivity of health care institutions.

Statutory Authority: §§ 9-161.1 and 9-164 of the Code of Virginia.

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

Calendar of Events

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May 25, 1993 - Noon – Public Hearing
Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia.

May 25, 1993 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to adopt regulations entitled: **VR 370-01-002. Regulations to Measure the Efficiency and Productivity of Health Care.** The purpose of the proposed regulation is to establish a new methodology to measure the efficiency and productivity of health care institutions.

Statutory Authority: §§ 9-161.1 and 9-164 of the Code of Virginia.

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

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

April 13, 1993 - 9:30 a.m. – Open Meeting
Danville Community College, Danville, Virginia.

† **May 11, 1993 - 9 a.m.** – Open Meeting
101 North 14th Street, 9th Floor, Council Conference Room, Richmond, Virginia. ☒

A general business meeting. For additional information contact the council.

Contact: Anne M. Pratt, Associate Director, Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632.

DEPARTMENT OF HISTORIC RESOURCES (BOARD OF)

† **April 21, 1993 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A general business meeting of the board.

Contact: Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

State Review Board

† **April 20, 1993 - 10 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Square, Senate

Room A, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to consider the following properties for nomination to the Virginia Landmarks Register and the National Register of Historic Places:

1. Dewberry, Hanover County
2. Emmaus Baptist Church, New Kent County
3. Kenmore Woods, Spotsylvania County
4. Lucky Hit, Clarke County
5. Meadea, Clarke County
6. Paspahugh Settlement Site, James City County
7. Red Fox Farm, Mecklenburg County
8. Sunnyfields, Albemarle County
9. Thomas Jefferson High School, Richmond (city)
10. Cartersville Historic District, Cumberland County
11. Mount Jackson Historic District, Shenandoah County
12. New Castle Historic District (boundary increase), Craig County

Contact: Margaret Peters, Information Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

April 6, 1993 - 9 a.m. – Open Meeting

May 4, 1993 - 9 a.m. – Open Meeting

June 1, 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 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)

April 19, 1993 - 10 a.m. – Open Meeting
Salem Civic Center, 1001 Boulevard, Parlor A, Salem, Virginia. ☒ (Interpreter for the deaf provided upon request)

April 20, 1993 - 10 a.m. – Open Meeting
City Council Chambers, 22 Lincoln Street, Hampton, Virginia. ☒ (Interpreter for the deaf provided upon request)

April 21, 1993 - 10 a.m. – Open Meeting
One County Complex Court, County Board Chambers, Prince William, Virginia. ☒ (Interpreter for the deaf

provided upon request)

April 22, 1993 - 10 a.m. - Open Meeting
501 North 2nd Street, First Floor Board Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Public Participation Regional Regulatory Review workshop, to explain the review and adoption process and to solicit proposals.

Contact: Norman R. Crumpton, Program Manager, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

Amusement Device Technical Advisory Committee

April 15, 1993 - 9 a.m. - Open Meeting
Jackson Center, 501 North 2nd Street, 2nd Floor Conference Center, Richmond, Virginia. ☒

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

Contact: Jack A. Proctor, CPCA, Deputy Director, Department of Housing and Community Development, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7150 or (804) 371-7089/TDD ☎

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† May 5, 1993 - 3 p.m. - Public Hearing
Department of Housing and Community Development, 501 North 2nd Street, First Floor Conference Room, Richmond, Virginia.

May 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 Board of Housing and Community Development intends to amend regulations entitled: VR 394-01-107. Procedures for Allocation of Low-Income Housing Tax Credits. The proposed procedures establish the administrative framework for the allocation of low income housing tax credits by the Department of Housing and Community Development.

STATEMENT

Basis: To be adopted in accordance with the Statutory Authority of Chapter 8 of Title 36 of the Code of Virginia.

Purpose: The proposed procedures establish the administrative framework for the allocation of low income housing tax credits by the Department of Housing and Community Development.

Substance: The proposed procedures include the following changes from the regulations that appeared in 8:18 VA.R 3088 June 1, 1992.

- 1. The scoring criteria for projects applying for low-income housing tax credits have been revised.
2. The language outlining the procedures to be used for long-term monitoring of project compliance with the provisions of § 42 of the Internal Revenue Code has been revised.

Impact: The regulation impacts potential applicants for low-income housing tax credits, which are a means for sponsors of rental housing for low-income persons to secure investments in their projects.

Statutory Authority: Chapter 8 of the Title 36 of the Code of Virginia, § 42 of the Internal Revenue Code, Governor's Executive Order Forty (91).

Contact: Graham Driver, Program Administrator, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7122.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

April 6, 1993 - 1 p.m. - Open Meeting
State Capitol Building, House Room 2, Richmond, Virginia.

A regular meeting to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission's offices at (804) 786-6508 or (804) 786-1860/TDD by March 30, 1993.

Contact: Robert H. Kirby, Secretary, Eighth Street Office Bldg., Room 702, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

DEPARTMENT OF LABOR AND INDUSTRY

† April 8, 1993 - 8:30 a.m. - Open Meeting
† April 8, 1993 - 1:30 p.m. - Open Meeting
Department of Information Technology, Richmond Plaza Building, 110 South 7th Street, Richmond, Virginia. ☒

A public briefing. Topics will include (i) standards update: focus on confined space; (ii) child labor laws; (iii) VOSH training and consultation services; and (iv) legislative update.

Contact: Harry S. Carver, Director, Public Services and Information, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-8589 or (804) 786-2376/TDD ☎

Calendar of Events

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April 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 Apprenticeship Council intends to amend regulations entitled: **VR 425-01-26. Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.** This amendment provides new minimum numeric ratios for program sponsors performing Davis-Bacon work.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Contact: Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2381.

STATE COUNCIL ON LOCAL DEBT

April 21, 1993 - 11 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to meeting date to ascertain whether or not the meeting is to be held as scheduled.

Contact: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4928.

LONGWOOD COLLEGE

Academic Affairs Committee and Student Affairs Committee

April 5, 1993 - 4:30 p.m. – Open Meeting
Longwood College, East Ruffner Building, Board Room, Farmville, Virginia. ☒

A meeting to conduct routine business of the two committees prior to the full board meeting.

Contact: William F. Dorrill, President, 201 High St., Farmville, VA 23909-1899, telephone (804) 395-2001.

Board of Visitors

April 15, 1993 - 5 p.m. – Open Meeting
April 16, 1993 - 9:30 a.m. – Open Meeting
Longwood College, Ruffner Building, Farmville, Virginia. ☒

A meeting to conduct routine business of the board.

Contact: William F. Dorrill, President, 201 High St., Farmville, VA 23909-1899, telephone (804) 395-2001.

STATE LOTTERY BOARD

† **April 26, 1993 - 10 a.m.** – Open Meeting
2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting. 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, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433.

MARY WASHINGTON COLLEGE

Board of Visitors

April 17, 1993 - 9 a.m. – Open Meeting
Woodard Campus Center, Red Room, Fredericksburg, Virginia. ☒

A regularly scheduled meeting.

Contact: Vicki Campbell, Clerk, Board of Visitors, Mary Washington College, 1301 College Avenue, George Washington Hall 103, Fredericksburg, VA 22401-5358, telephone (703) 899-4621.

MATERNAL AND CHILD HEALTH COUNCIL

April 21, 1993 - 1 p.m. – Open Meeting
United Way of Virginia, 224 East Broad Street, Room 101, Richmond, Virginia. ☒ (Interpreter the deaf provided upon request)

A meeting to focus on improving the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health.

Contact: Nancy C. Ford, MCH Nurse Consultant, Department of Health, Division of Maternal and Child Health, 1500 E. Main St., Suite 137, Richmond, VA 23218-2448, telephone (804) 786-7367.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

April 23, 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 Medical

Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to EPSDT and Inpatient Psychiatric Services; VR 460-01-22, Services; VR 460-03-3.1100, Amount, Duration and Scope of Services; VR 460-02-3.1300, Standards Established and Methods Used to Assure High Quality of Care; and VR 460-02-4.1920, Methods and Standards for Establishing Payment Rates-Other Types of Care.** The purpose of this proposal is to promulgate permanent regulations to supersede the current emergency regulations which provide for the same policies. The sections of the State Plan for Medical Assistance (the Plan) affected by this proposed regulation are: preprinted page 22; the Amount, Duration, and Scope of Services narrative (Supplement 1 to Attachment 3.1 A and B); Standards Established and Methods Used to Assure High Quality of Care (Attachment 3.1 C); and Methods and Standards for Establishing Payment Rates - Other Types of Care (Attachment 4.19 B).

The Omnibus Budget Reconciliation Act of 1989 (OBRA 89) requires that state Medicaid programs provide to recipients any and all necessary services permitted to be covered under federal law, when the need for those services are identified as a result of screenings through the Early and Periodic Screening, Diagnosis, and Treatment Program. Such services must be provided even if they are not otherwise covered under the Plan, and are thus not available to recipients independent of EPSDT referral.

The EPSDT program provides for screening and diagnostic services to determine physical and mental defects in recipients up to age 21, and health care, treatment, and other services to correct or ameliorate any defects or chronic conditions discovered. EPSDT is a mandatory program which must be provided for all Medicaid-eligible recipients who are 18 years old or younger and, at the state's option, up to age 21. The Commonwealth provides EPSDT for recipients to age 21.

One service now required to be covered for recipients because of EPSDT is inpatient psychiatric services in psychiatric hospitals. These regulations reflect the definition of covered services and the fee-for-service reimbursement methodology.

During the development of the department's policy concerning EPSDT, the Health Care Financing Administration (HCFA) provided guidance to the states. DMAS incorporated this guidance into its emergency regulations which HCFA subsequently approved. DMAS has tightened its definition of covered psychiatric services to be those provided in psychiatric hospitals when the services are the result of EPSDT.

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

Written comments may be submitted until 5 p.m. on April 23, 1993, to Betty Cochran, Director, Division of Quality Care Assurance, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

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April 23, 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-02-4.1810, VR 460-02-4.1830, and VR 460-02-4.1920. Outpatient Rehab Services and Removing the Medicare Cap on Fees.** The purpose of this proposal is (i) to promulgate permanent regulations which will provide for equitable application of recipient cost sharing policies for outpatient rehabilitative services and the elimination of the Medicare cap on all services' fees; and (ii) to replace emergency regulations currently in effect.

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

Written comments may be submitted until 5 p.m. on April 23, 1993, to Jerome W. Patchen, Director, 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, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

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May 21, 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 Medical Assistance Services intends to amend regulations entitled: **State Plan for Medical Assistance Relating to Interim Settlement/Prospective Rate Time Frames, Audited Financial Statements, and Appeal Notice Requirements. VR 460-03-4.1940:1. Nursing Home Payment System (PIRS).** The purpose of this proposal is to promulgate permanent regulations to supersede emergency regulations which change from 90 to 180 days the time frame within which cost reports filed pursuant to the Nursing Home Payment System are interim settled and a prospective rate set. In addition, this proposed regulation will require

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nursing facilities to file audited financial statements and related information as part of their annual cost report, and will change the appeal time frames from calendar days to business days, and from receipt of a notice or decision to date of a notice or decision.

Interim settlement/prospective rate time frames: Before the adoption of emergency regulations effective August 3, 1992, DMAS regulations and policy required that providers' cost reports be interim settled and a prospective rate set within 90 days after an acceptable cost report is received. Providers, prompted in part by changes in the Internal Revenue Code, were increasingly changing their fiscal year periods to a calendar year cost reporting period. Despite increasing the Cost Settlement staff in recent years, DMAS was unable to meet regulatory and policy timelines in the face of the increasingly lopsided filing periods. After review, DMAS concluded that adding more staff to meet a seasonal workload would not be a cost effective use of resources. This extension of time was expected to permit DMAS to even out the workload by moving some of it from the peak workload periods during the second and fourth calendar quarters to the lower workload periods in the third and first calendar quarters. The amendment was also expected to increase provider confidence in the rate-setting process and enhance staff morale.

Audited financial statements: The cost reports filed annually by nursing facilities are currently required to be accompanied by financial statements. In addition, a home office report must be filed, if applicable.

Providers are now required to file audited financial statements with the Virginia Health Services Cost Review Council. Accordingly, it would impose no burden on providers to require that they supply the same information to DMAS, and would enhance DMAS' performance of its mission.

Appeal notice requirements: Since 1986, DMAS has used certified mail to nursing facilities to advise them of deadlines or actions DMAS will take if a response is not received by a specific date, for example, due dates for noting appeals, or rate reductions for failure to file cost reports on time. As a result of an employee suggestion and a review of the program's experience, certified mail will no longer be used for nursing facilities (except for final decisions signed by the DMAS director). To compensate for the earlier start of the timeclock, time will be measured by business days instead of calendar days.

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

Written comments may be submitted through May 21, 1993, to William R. Blakely, Jr., Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

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† June 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 Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-04-8.7. Client Appeals Regulations.** The purpose of this proposal is to amend regulations governing the management and conduct of client appeals for the Medicaid program.

The Code of Federal Regulations § 431 Subpart E contains the federal requirements for fair hearings for applicants and recipients. This subpart, in implementing the Social Security Act § 1902 (a)(3), requires that the State Plan for Medical Assistance provide an opportunity for a fair hearing to any person whose claim for assistance is denied or not acted upon promptly. Hearings are also available for individuals if Medicaid takes action to suspend, terminate, or reduce services. The State Plan conforms to this requirement on preprinted page 33.

The Virginia General Assembly amended the Administrative Process Act effective July 1, 1989, to allow judicial review of public assistance case decisions. While granting recipients the right to judicial review, the General Assembly limited the scope of that review to the application of the law to an individual case; the validity of the law itself is not subject to review. At that time, the DMAS revised its administrative procedures for recipient appeals, replacing its then current Medicaid Appeals Board with a panel of administrative law judges. The client appeals system now provides for two levels of review of Medicaid recipients' and applicants' appeals. The first level is a hearing officer's decision and the second is a decision by a panel of administrative law judges.

On July 8, 1992, a class action lawsuit was filed in Federal District Court (Shifflett, et al. v. Kozlowski, C.A. No. 92-0071H, Western District of Virginia, Harrisonburg Division) challenging the timeliness of administrative decisions. Federal law requires that a final agency decision be issued within 90 days. Panel review is not a process required by federal law. The 90-day federal limit cannot be met if panel review is included. This timeliness issue is being pressed in this litigation. These proposed regulatory amendments are designed to resolve the issue by requiring an appellant to acknowledge the nonapplicability of the 90-day requirement to panel review as a condition of appeal. They also give an appellant the right to seek judicial

review directly from the decision of the hearing officer. Panel review thus becomes optional with the appellant.

An issue has also been raised regarding DMAS receiving federal matching dollars (FFP) for benefits paid during appeals after the 90-day period. Accordingly, the regulations have been amended to permit benefits only through the hearing officer level of the appeal.

These proposed regulations are intended to address the issues raised in the earlier referenced lawsuit as well as other issues deemed by DMAS as requiring revision.

STATEMENT

Basis and authority: Section 32.1-324 of the Code of Virginia grants to the director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. The Code of Virginia also provides, in the Administrative Process Act (APA) § 9-6.14:7.1, for this agency's promulgation of proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. Subsequent to an emergency adoption action, the agency is publishing proposed regulations for public comment in accordance with Article 2 of the APA.

These appeal regulations are designed to comply with federal regulations at 42 CFR § 431.200-431.250.

Purpose: The purpose of this proposal is to amend regulations governing the management and conduct of client appeals for the Medicaid program.

Summary and analysis: The regulations affected by this action are the Regulations for Client Appeals (VR 460-04-8.7).

Prior to emergency regulations effective October 5, 1992, a decision of a hearing officer was considered a final agency decision. The regulations required further appeal to the Medical Assistance Appeals Panel (the panel) before an appeal to the circuit court could have been taken. Those regulations further provided for benefits to continue while appealing to the panel.

The proposed regulations further amend current regulations by eliminating the requirement that a hearing officer hold a hearing if an appellant objects to an administrative dismissal. Under the proposed regulations, the hearing officer shall issue a decision without an opportunity for a hearing. That decision is a final agency decision and may thereafter be appealed to the panel or the circuit court.

The proposed regulations also add a provision which would allow a hearing officer to reconsider his own decision

within 10 days if he determines that an error has been made. Current regulations give the hearing officer no authority to reconsider and require an appeal to the panel, even in cases where the hearing officer may subsequently determine that the decision should be in favor of the appellant. The addition of this hearing officer reconsideration policy would also allow the hearing officer to reconsider a decision that was initially in favor of the appellant.

One private attorney responded to DMAS' Notice of Intended Regulatory Action and commented upon the working draft regulations. Those comments have been incorporated here. There are also minor, technical changes of an editorial nature.

Impact: Federal regulations allow FFP for appeals that are filed prior to the effective date of the action being appealed if the action is intended to suspend or terminate services or Medicaid coverage. This FFP is available within the frame of the 90-day federally required processing time for appeals. There may be a minimal potential cost savings due to the fact that applicants appealing to the panel will no longer be eligible for continued Medicaid coverage. However, it is not possible to determine the exact savings at this time due to the nonavailability of the number of applicants who may request a panel hearing.

DMAS estimates that there will be an annual saving of less than \$.05 million due to the fact that applicants appealing to the panel will no longer be eligible for continued Medicaid coverage. This regulation has been in effect since October 1992. The estimated savings are reflected in the DMAS current budget.

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

Written comments may be submitted through June 4, 1993, to Thomas J. Czelusta, Sr., Administrative Law Judge, Department of Medical Assistance Services, Division of Client Appeals, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

BOARD OF MEDICINE

Advisory Committee on Certification of Optometrists

April 9, 1993 - 10 a.m. - Open Meeting
6606 West Broad Street, Board Room 1, 5th Floor,
Richmond, Virginia. ☐

A meeting to review all written and public comments received by the Board on Regulation VR 465-09-01, § 4.3, Therapeutic Pharmaceutical Agents, and make

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recommendations to full board.

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

Advisory Committee on Physician's Assistant

† **April 16, 1993 - 2 p.m.** – Open Meeting
6606 West Broad Street, Board Room 1, 5th Floor, Richmond, Virginia. ☒

A meeting to review the proposed amendments to VR 465-05-01, Physician's Assistant, for prescribing specific Schedule VI drugs and devices as prescribed in § 54.1-2952.1 of the Code of Virginia.

Contact: Hilary H. Connor, M.D., Executive Director, 6606 W. Broad St., 5th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Credentials Committee

April 17, 1993 - 8 a.m. – Open Meeting
6606 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia. ☒

The committee will meet in open and closed session to (i) conduct general business; (ii) interview and review medical credentials of applicants applying for licensure in Virginia; and (iii) 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., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923.

Executive Committee

April 16, 1993 - 9 a.m. – Open Meeting
6606 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ☒

The committee will meet in open and closed sessions to (i) review cases of files requiring administrative action; (ii) review proposed budget; (iii) review legislation enacted by the 1993 General Assembly; and (iv) consider any other items which may come before the committee. The committee may receive public comments on specific items at the pleasure of the chairman.

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

Informal Conference Committee

† **April 8, 1993 - 9 a.m.** – Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, 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, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD)

† **April 28, 1993 - 10 a.m.** – Open Meeting
Southwestern Virginia Training Center, Hillsville, Virginia. ☒

A regular monthly meeting. Agenda to be published on April 21. The agenda may be obtained by calling Jane Helfrich.

Tuesday	Informal session	8 p.m.
Wednesday	Committee meetings	9 a.m.
	Regular session	10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

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† **April 8, 1993 - 4 p.m.** – Public Hearing
Department of Social Services, 8007 Discovery Drive, Blair Building, 2nd Floor, Conference Room C, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **April 8, 1993 - 4 p.m.** – Public Hearing
Vinton Library, 800 East Washington Avenue, Vinton, Virginia. ☒ (Interpreter for the deaf provided upon request)

A public hearing to obtain public comments on Virginia's Fifth Year Grant Application for Part H of the Individuals with Disabilities Education Act (IDEA), which provides early intervention services for infants and toddlers with disabilities and their families, ages birth through 2. Written testimony will be accepted by the department until May 15, 1993.

Contact: Michael Fehl, Ed.D., Director, Children/Youth Services, Department of Mental Health, Mental Retardation

and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

Virginia Interagency Coordinating Council

April 21, 1993 - 9:30 a.m. - Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Conference Rooms 1 and 2, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services - the Part H early intervention program in their efforts to proceed with the implementation of Part H of the Individuals with Disabilities Education Act (IDEA), that provides early intervention services for infants and toddlers with disabilities and their families, ages birth through 2.

Contact: Dr. Michael Fehl, Ed.D., Director, Child/Youth Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

† May 6, 1993 - 7 p.m. - Open Meeting

502 South Main Street #4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the board will hold a business meeting to discuss DOC contract, budget, and other related business. Then the board will meet to review cases for eligibility to participate with the program. It will review the previous month's operation (budget and program-related business).

Contact: Lisa Ann Peacock, Program Director, 502 S. Main St. #4, Culpeper, VA 22701, telephone (703) 825-4562.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† May 20, 1993 - 1 p.m. - Open Meeting

Virginia Military Institute, Smith Hall, Lexington, Virginia.

☒

Finals meeting of the Board of Visitors. Also, a regular meeting to (i) discuss committee reports; (ii) approve awards, distinctions and diplomas; (iii) discuss personnel changes; and (iv) elect president pro tem.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

STATE MILK COMMISSION

† April 21, 1993 - 10:30 a.m. - Open Meeting

200-202 North 9th Street, Suite 1015, Richmond, Virginia. ☒

A regularly scheduled meeting to (i) consider such matters as routine statistical information; (ii) approve several distributors for Virginia license(s); and (iii) discuss any further matters that may need the commission's attention.

Contact: Rodney L. Phillips, Administrator, State Milk Commission, 200-202 N. 9th St., Suite 1015, Richmond, VA 23219-3402, telephone (804) 786-2013 or (804) 786-2013/TDD ☒

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

† April 14, 1993 - 1 p.m. - Open Meeting

2300 West Broad Street, Richmond, Virginia. ☒

A regular business meeting.

Contact: Karen Ruby, Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-0481.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

† April 24, 1993 - 9 a.m. - Open Meeting

VPI & SU, Burrus Hall, 400 D Board Room, Blacksburg, Virginia.

A meeting to include reports from the executive, finance, marketing, outreach, personnel, planning/facilities, and research and collections committees. Public comment will be received following approval of the minutes of the January meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (703) 666-8616 or (703) 666-8638/TDD ☒

BOARD OF NURSING

† April 13, 1993 - 10 a.m. - Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

† April 15, 1993 - 10 a.m. - Open Meeting

Albemarle Health Department, Thomas Jefferson District, 1138 Rosehill Drive, Charlottesville, Virginia. ☒ (Interpreter

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for the deaf provided upon request)

A meeting to conduct a formal hearing with licensee. Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Special Advisory Committee

† **April 20, 1993 - 7 p.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to conduct an informational hearing for the purpose of receiving comments on questions and concerns related to the delegation of nursing to unlicensed, assistive personnel and the role and responsibility of the nurse who delegates nursing acts to others.

† **April 21, 1993 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to review questions and concerns related to the delegation of nursing activities to unlicensed, assistive personnel.

Contact: Corinne F. Dorsey, R.N., Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Special Conference Committee

† **April 19, 1993 - 8:30 a.m.** – Open Meeting
† **April 21, 1993 - 8:30 a.m.** – Open Meeting
† **April 23, 1993 - 8:30 a.m.** – Open Meeting
† **April 26, 1993 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences with licensees to determine what, if any, action should be recommended to the Board of Nursing. Public comment will not be received.

Contact: M. Teresa Mullin, R.N., Assistant Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

April 8, 1993 - 9 a.m. – Open Meeting
6606 West Broad Street, Richmond, Virginia. ☒

National examinations Room 2 9 a.m.
State examinations Room 1 10 a.m.

April 28, 1993 - 10 a.m. – Open Meeting
6606 West Broad Street, Richmond, Virginia. ☒

A board meeting and formal conferences.

Contact: Meredyth P. Partridge, Executive Director, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

BOARD FOR OPTICIANS

† **April 13, 1993 - 9 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) conduct regulatory review; and (iii) consider other matters which may require board action.

Contact: Geralde W. Morgan, Board Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VIRGINIA OUTDOORS FOUNDATION

April 5, 1993 - 10 a.m. – Open Meeting
Little River Inn, Aldie, Virginia. ☒

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-5539.

BOARD OF PHARMACY

† **April 14, 1993 - 8:15 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

A board meeting and formal hearings.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 6606 W. Broad St., Suite 400, Richmond, VA 23230, telephone (804) 662-9911.

PREVENTION AND CHILDREN'S RESOURCES ADVISORY COUNCIL

April 22, 1993 - 10 a.m. – Open Meeting
James River Corporate Office, 100 Tredegar Street, Richmond, Virginia.

A regularly scheduled quarterly business meeting.

Contact: Harriet Russell, Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Prevention and Children's Resources, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530.

BOARD OF PROFESSIONAL COUNSELORS

April 16, 1993 - 9 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct general board business to include committee reports and responding to board correspondence. No public comment. Regulatory review will also be conducted.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9912.

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May 7, 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 Professional Counselors intends to amend regulations entitled: **VR 660-01-02. Regulations Governing the Practice of Professional Counseling.** The proposed regulations establish standards of practice for professional counseling, including education, supervised experience and examination for licensure, and amends fees. The proposed regulations result from a biennial review.

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

Contact: Evelyn B. Brown, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

BOARD OF PSYCHOLOGY

April 19, 1993 - 10 a.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room #2, Richmond, Virginia. ☒

A formal hearing. Public comment will not be heard.

Contact: Evelyn Brown, Executive Director, or Bernice Parker, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7328.

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July 20, 1993 - 9 a.m. - Public Hearing
6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

August 7, 1993 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Psychology intends to amend regulations entitled: **VR 565-01-2. Regulations Governing the Practice of Psychology.** The proposed amendments increase license renewal fees for psychologists and school psychologists and increase application fees for clinical psychologists.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Contact: Evelyn B. Brown, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† April 8, 1993 - 10 a.m. - Board Meeting
Radisson Hotel, 555 East Canal Street, Richmond, Virginia.

A quarterly board meeting. Agenda items will include (i) approval of contract and grant allocations for 93-94; (ii) plans for the Virginia Public Telecommunications forum on May 18, 1993; and (iii) update on the grassroots planning process and other items of interest.

Contact: Florence M. Strother, Acting Executive Secretary, Virginia Public Telecommunications Board, 110 S. 7th Street, 1st Floor, Richmond, VA 23219, telephone (804) 344-5552.

REAL ESTATE APPRAISER BOARD

† May 4, 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.

Complaints Committee

† April 21, 1993 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A meeting to review complaints.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804)

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SEWAGE HANDLING AND DISPOSAL ADVISORY COMMITTEE

May 20, 1993 - 10 a.m. – Open Meeting
1500 East Main Street, Suite 115, Main Street Station,
Richmond, Virginia. ☒

A regular meeting.

Contact: Constance G. Talbert, Secretary, 1500 E. Main St.,
P.O. Box 2448, Suite 117, Richmond, VA 23218, telephone
(804) 786-1750.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **April 21, 1993 - 10 a.m.** – Open Meeting
Municipal Center, 2449 Princess Anne Road, Agricultural
Conference Room, Virginia Beach, Virginia. ☒

A meeting to hear all administrative appeals of
denials of onsite disposal system permits pursuant to
§§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of
Virginia, and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board,
1500 E. Main St., P.O. Box 2448, Suite 117, Richmond, VA
23218, telephone (804) 786-1750.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

May 7, 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
615-01-47. Disability Advocacy Program.** The purpose
of the proposed regulation is to allow local
departments of social services to make referrals and
pay for legal services for recipients of general relief
or state and local foster care when the provision of
these services results in approval of previously denied
claims for Supplemental Security Income disability
benefits.

Statutory Authority: §§ 63.1-25 and 63.1-89.1 of the Code of
Virginia.

Written comments may be submitted through May 7, 1993,
to Diana Salvatore, Program Manager, Medical Assistance
Unit, Virginia Department of Social Services, 8007
Discovery Drive, Richmond, Virginia 23229.

Contact: Peggy Friedenberg, Legislative Analyst, Bureau of

Governmental Affairs, Division of Planning and Program
Review, Virginia Department of Social Services, 8007
Discovery Dr., Richmond, VA 23229, telephone (804)
662-9217.

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May 21, 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
615-80-01. Human Subject Research Regulations.** The
regulations are for assuring the protection of
participants in human subject research conducted or
authorized by the Virginia Department of Social
Services, local social service agencies, agencies
licensed by the department, and others receiving funds
for state or local agencies.

Statutory Authority: §§ 63.1-25 and 63.1-25.01 of the Code
of Virginia.

Written comments may be submitted through May 21,
1993, to Sue Murdock, Department of Social Services, 8007
Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Policy Analyst, Department of
Social Services, 8007 Discovery Dr., Richmond, VA
23229-8699, telephone (804) 662-9217.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

April 19, 1993 - 10 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 ☎

VIRGINIA STUDENT ASSISTANCE AUTHORITIES

April 29, 1993 - 10 a.m. – Open Meeting
411 East Franklin Street, 2nd Floor Board Room,
Richmond, Virginia. ☒

A general business meeting.

Contact: Catherine E. Fields, Administrative Assistant, One
Franklin Square, 411 E. Franklin St., Suite 300, Richmond,
Virginia 23219, telephone (804) 775-4648 or toll-free
1-800-792-LOAN.

DEPARTMENT OF TAXATION

April 23, 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 Taxation intends to amend regulations entitled: VR 630-3-414. Corporation Income Tax: Sales Factor. This regulation sets forth the proper method for including receipts from installment sales in the sales factor. The basis portion is included in the sales factor in the year of sale. The net gain portion and interest income are included in the sales factor in the year recognized for federal income tax purposes. The regulation also clarifies when such receipts should be included in the numerator of the sales factor.

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

Contact: Michael S. Melson, Tax Policy Analyst, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0033.

April 23, 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 Taxation intends to amend regulations entitled: VR 630-3-419. Corporation Income Tax: Construction Corporation; Apportionment. This regulation clarifies that the "completed contract method" mentioned in § 58.1-419 of the Code of Virginia does not include any of the "percentage of completion" methods available under federal law. In addition, the regulation clarifies which apportionment formula should be used when a construction corporation reports income under two or more accounting methods. Other nonsubstantive changes are made to conform to the style of The Virginia Register.

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

Contact: Michael S. Melson, Tax Policy Analyst, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0033.

April 23, 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 Taxation intends to amend regulations entitled: VR 630-10-73. Retail Sales and Use Tax: Newspapers, Magazines, Periodicals and Other Publications. The purpose of the proposed amendment is to clarify what

constitutes taxable/exempt publications for purposes of the retail sales and use tax.

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

Contact: Terry M. Barrett, Policy Analyst, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0010.

April 23, 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 Taxation intends to amend regulations entitled: VR 630-10-74. Retail Sales and Use Tax: Nonprofit Organizations. The purpose of the proposed amendment is to clarify the sales and use tax treatment of sales and purchase transactions made by nonprofit organizations.

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

Contact: Lonnie T. Lewis, Jr., Tax Policy Analyst, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0962.

April 23, 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 Taxation intends to amend regulations entitled: VR 630-10-80. Retail Sales and Use Tax: Penalties and Interest. The purpose of the proposed amendment is to reflect recent law changes in the area of civil and criminal penalties in light of Virginia's 1990 Tax Amnesty Program and clarify the application of penalty to audit assessments.

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

Contact: Valerie H. Marks, Tax Policy Analyst, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0964.

VIRGINIA COUNCIL ON TEEN PREGNANCY PREVENTION

May 6, 1993 - 10 a.m. - Open Meeting Koger Center, 1604 Santa Rosa Drive, Wythe Building, Conference Rooms A and B, Richmond, Virginia.

A regularly scheduled quarterly business meeting.

Contact: Jeanne McCann, Coordinator, Virginia Council on

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Teen Pregnancy Prevention, Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Prevention and Children's Resources, P.O. Box 1797, Richmond, VA 23219, telephone (804) 786-1530.

DEPARTMENT OF TRANSPORTATION

April 5, 1993 - 10 a.m. – Public Hearing
Lynchburg District Office, Route 501, Lynchburg, Virginia.
☒ (Interpreter for the deaf provided upon request)

Lynchburg district preallocation hearing to receive comments on highway allocations for the upcoming year, and on updating the six-year improvement program for the interstate, primary, and urban systems, as well as mass transit.

June 10, 1993 - 9 a.m. – Public Hearing
Salem District Office, Harrison Avenue, Salem, Virginia. ☒
(Interpreter for the deaf provided upon request)

Final allocation hearing for the western districts to receive comments on highway allocations for the upcoming year, and on updating the six-year improvement program for the interstate, primary, and urban systems, and mass transit for the Bristol, Salem, Lynchburg, and Staunton districts.

June 10, 1993 - 2 p.m. – Public Hearing
Virginia Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Final allocation hearing for the eastern districts to receive comments on highway allocations for the upcoming year, and on updating the six-year improvement program for the interstate, primary, and urban systems, and mass transit for the Richmond, Fredericksburg, Suffolk, Culpeper, and Northern Virginia districts.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-9950.

TREASURY BOARD

April 21, 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.

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.

BOARD OF VETERINARY MEDICINE

† **April 6, 1993 - 9 a.m. – Open Meeting**
6606 West Broad Street, 4th Floor, Conference Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

Informal conferences.

Contact: Terri H. Behr, Administrative Assistant, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915.

VIRGINIA VOLUNTARY FORMULARY BOARD

April 22, 1993 - 10:30 a.m. – Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

† **April 8, 1993 - 10 a.m. – Open Meeting**
General Assembly Building, 910 Capitol Square, Speakers Conference Room, 6th Floor, Richmond, Virginia.

The fourth scheduled meeting for 1992-93.

Contact: William T. McCollum, Executive Director, 1001 E. Broad St., Suite 245, Richmond, VA 23219, telephone (804) 786-5895.

VIRGINIA RESOURCES AUTHORITY

† **April 13, 1993 - 9:30 a.m. – Open Meeting**
† **May 11, 1993 - 9:30 a.m. – Open Meeting**
† **June 8, 1993 - 9:30 a.m. – Open Meeting**
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to (i) approve minutes of the prior month's meeting; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources

Authority, Mutual Building, 909 E. Main St., Suite 707, Richmond, VA 23219, telephone (804) 644-3100 or fax (804) 644-3109.

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR THE)

† **April 19, 1993 - 2 p.m.** – Public Hearing
† **April 19, 1993 - 6:30 p.m.** – Public Hearing
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia. ☒

† **April 21, 1993 - 2 p.m.** – Public Hearing
Commonwealth of Virginia Building, 210 Church Avenue, S.W., Roanoke, Virginia. ☒

† **April 21, 1993 - 6 p.m.** – Public Hearing
Lion's Sight Foundation, 501 Elm Avenue, S.W., Roanoke, Virginia. ☒

A public hearing to invite comments from the public regarding vocational rehabilitation and independent living programs for persons with visual disabilities. Comments will be considered in developing the state plans for these two programs.

Contact: Jane B. Ward, IL Program Specialist, or James G. Taylor, VR Program Specialist, 397 Azalea Ave., Richmond, VA, telephone (804) 371-1111 or 371-3112.

† **April 24, 1993 - 10:30 a.m.** – Open Meeting
397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting of the board to receive reports from the department staff and other information that may be presented to the board. A portion of this meeting will be held in conjunction with the department's Advisory Committee on Services.

Contact: Joseph A. Bowman, Assistant Commissioner, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD ☎ or toll-free 1-800-622-2155/TDD ☎ .

Advisory Committee on Services

April 24, 1993 - 10 a.m. – Open Meeting
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia. ☒

The committee meets quarterly to advise the Virginia Board for the Visually Handicapped on matters related to services for blind and visually impaired citizens of the Commonwealth. A portion of this meeting will be conducted jointly with the Board for the Visually Handicapped.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† **May 5, 1993 - 1 p.m.** – Open Meeting
Ramada Inn, Lexington, Virginia.

Committee meetings.

† **May 5, 1993 - 7 p.m.** – Open Meeting
Rockbridge High School, Rockbridge County, Virginia.

A public meeting.

† **May 6, 1993 - 8:30** – Open Meeting
Ramada Inn, Lexington, Virginia.

A council business session.

Contact: Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

VIRGINIA WAR MEMORIAL FOUNDATION

† **April 7, 1993 - 10 a.m.** – Open Meeting
Virginia War Memorial, 621 Belvidere Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular monthly meeting to act upon committee reports.

Contact: Peggy R. Robertson, Assistant Director for Administration, Division of Engineering and Buildings, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD ☎

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

April 8, 1993 - 2 p.m. – Public Hearing
Alleghany High School, 210 Mountaineer Drive, Covington, Virginia.

Pursuant to the requirements of the 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 Hercules Industrial Landfill No. 93 located in the City of Covington. The permit amendment was drafted by the Department of Waste Management for the Hercules Incorporated, 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 April 19, 1993. Copies of the proposed draft permit may be obtained from Sanjay V. Thirunagari of the Department of Waste Management. Copies concerning the draft permit must be in writing and directed to

Calendar of Events

Howard Freeland at the Department of Waste Management.

Contact: Sanjay V. Thirunagari, Environmental Engineer Senior, Virginia Department of Waste Management, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 371-2518.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

April 16, 1993 - 8:30 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, 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 ☎

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† **June 4, 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 for Waste Management Facility Operators intends to adopt regulations entitled: **VR 674-01-01. Public Participation Guidelines.** The purpose of the proposed regulation is to establish procedures to solicit comment from all interested parties, establish a mailing list and establish procedures for public hearings, notice of intended regulatory action and advisory committees.

STATEMENT

Basis: These regulations are promulgated pursuant to Chapters 1 and 2 and 22.1 of Title 54.1 of the Code of Virginia, and in accordance with § 9-6.14:7.1 of the Administrative Process Act.

Purpose: The Board for Waste Management Facility Operators proposes public participation guidelines for the purpose of soliciting information and comment from interested parties in the formation and development of regulations.

Substance: The guidelines establish methods for identification and notification of interested parties, informational meetings, public hearings, advisory committees and petitioning for rulemaking.

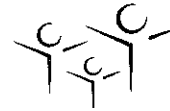
Impact: The guidelines apply to the Board for Waste Management Facility Operators and approximately 500 persons currently on the board's mailing list, developed under the emergency public participation guidelines promulgated in March of 1992. The guidelines also apply to the 386 individuals currently certified by the board

under the emergency interim regulations.

There is no significant budgetary impact by the regulation.

Statutory Authority: §§ 9-6.14:7.1 and 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.



VIRGINIA DEPARTMENT OF
YOUTH &
FAMILY SERVICES
Youth Begins With You.

DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

† **April 7, 1993 - 3 p.m. – Open Meeting**
700 Centre Building, 7th and Franklin Streets, 4th Floor, Richmond, Virginia. ☒

A meeting to consider revisions to existing policies and adoption of new policies governing the operation of the department, and to discuss plans for juvenile delinquency prevention.

April 8, 1993 - 8:30 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

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

April 6, 1993 - 9:30 a.m. – Open Meeting
General Assembly Building, 910 Capitol Square, House Appropriations Committee Room, 9th Floor, Richmond, Virginia.

A staff workplan for the remainder of 1993.

Contact: Phil Leone, General Assembly Bldg., 910 Capitol Square, Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

CHRONOLOGICAL LIST

OPEN MEETINGS

April 5

Barbers, Board for
Longwood College
- Academic Affairs Committee and Student Affairs
Committee of the Board of Visitors
Virginia Outdoors Foundation

April 6

Funeral Directors and Embalmers, Board of
Hopewell Industrial Safety Council
Intergovernmental Relations, Advisory Commission on
Joint Legislative Audit and Review Commission
† Veterinary Medicine, Board of

April 7

† Criminal Justice Services Board
- Committee on Training
Funeral Directors and Embalmers, Board of
Health Professions, Board of
- Administration and Budget Committee
Local Emergency Planning Committee - Winchester
† War Memorial Foundation, Virginia
† Youth and Family Services, Board of

April 8

Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
† Child Day-Care Council
† Labor and Industry, Department of
† Medicine, Board of
- Informal Conference Committee
Nursing Home Administrators, Board of
† Public Telecommunications, Virginia Board
† Virginia Alcohol Safety Action Program, Commission
on the
Youth and Family Services, Board of

April 9

† Agriculture and Consumer Services, Department of
- Virginia Dark-fired Tobacco Board
Dentistry, Board of
Medicine, Board of
- Advisory Committee on Certification for
Optometrists

April 12

Alcoholic Beverage Control Board

April 13

Higher Education for Virginia, State Council of
† Nursing, Board of
† Opticians, Board for
† Virginia Resources Authority

April 14

Agriculture and Consumer Services, Department of
- Virginia Cattle Industry Board
† Corrections, Board of
† Motor Vehicles, Department of
- Medical Advisory Board
Mount Rogers Alcohol Safety Action Program
† Pharmacy, Virginia Board of

April 15

Agriculture and Consumer Services, Department of
- Virginia Cattle Industry Board
- Pesticide Control Board
† Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee
Longwood College
- Board of Visitors
† Nursing, Board of

April 16

Agriculture and Consumer Services, Department of
- Pesticide Control Board
† Air Pollution Control Board, State
† Dentistry, Board of
† Fire Services Board, Virginia
Interdepartmental Regulation of Residential Facilities
for Children
- Coordinating Committee
Longwood College
- Board of Visitors
† Medicine, Board of
- Advisory Committee on Physician's Assistant
- Executive Committee
Professional Counselors, Board of
Waste Management Facility Operators, Board for

April 17

† Coordinating Prevention, Virginia Council on
Dentistry, Board of
Mary Washington College
- Board of Visitors
Medicine, Board of
- Credentials Committee

April 18

Dentistry, Board of

April 19

† Accountancy, Board for
Health Professions, Board of
- Compliance and Discipline Committee
- Regulatory Research Committee
Housing and Community Development, Department of
† Nursing, Board of
- Special Conference Committee
Psychology, Board of
Soil Scientists, Board for Professional

Calendar of Events

April 20

- † Accountancy, Board for
- Health Professions, Board of
 - Executive/Legislative Committee
 - Committee on Professional Education and Public Affairs
- † Historic Resources, Department of
 - State Review Board
- Housing and Community Development, Department of
- † Nursing, Board of
 - Special Advisory Committee

April 21

- Agriculture and Consumer Services, Department of
 - Virginia Seed Potato Board
- † Historic Resources, Board of
- Housing and Community Development, Department of
- Local Debt, State Council on
- Maternal and Child Health Council
- Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - Virginia Interagency Coordinating Council
- † Milk Commission, State
- † Nursing, Board of
 - Special Advisory Committee
 - Special Conference Committee
- † Real Estate Appraiser Board
 - Complaints Committee
- † Sewage Handling and Disposal Appeals Review Board
- Treasury Board

April 22

- Housing and Community Development, Department of
- Prevention and Children's Resources Advisory Council
- Voluntary Formulary Board, Virginia

April 23

- Geology, Board for
- † Nursing, Board of
 - Special Conference Committee

April 24

- † Natural History, Virginia Museum of
 - Board of Trustees
- † Visually Handicapped, Board for the Visually Handicapped, Department for the
 - Advisory Committee on Services

April 26

- Alcoholic Beverage Control Board
- Health, State Board of (Teleconference)
- † Lottery Department, State
- † Nursing, Board of
 - Special Conference Committee

April 27

- † Child Day Care and Early Childhood Programs, Virginia Council on
- † Virginia Health Services Cost Review Council

April 28

- † Child Day Care and Early Childhood Programs, Virginia Council on
- † Compensation Board
- † Local Emergency Planning Committee - Gloucester
- † Mental Health, Mental Retardation and Substance Abuse Services Board, State
- Nursing Home Administrators, Board of

April 29

- † Health, State Board of

April 30

- † Child Day Care and Early Childhood Programs, Virginia Council on
- † Fire Services Board, Virginia
- † Health, State Board of
- Virginia Student Assistance Authorities

May 1

- † Fire Services Board, Virginia

May 2

- † Fire Services Board, Virginia

May 4

- Funeral Directors and Embalmers, Board of
- Hopewell Industrial Safety Council
- † Real Estate Appraiser Board

May 5

- Funeral Directors and Embalmers, Board of
 - Informal Conference Committee
- † Vocational Educational, Virginia Council on

May 6

- Local Emergency Planning Committee - Chesterfield County
- † Middle Virginia and the Middle Virginia Community Corrections Resources Board
 - Board of Directors
- Teen Pregnancy Prevention, Virginia Council on
- † Vocational Education, Virginia Council on

May 10

- Alcoholic Beverage Control Board
- † Cosmetology, Board for

May 11

- † Higher Education for Virginia, State Council of
- † Virginia Resources Authority

May 13

- Audiology and Speech-Language Pathology, Board of
- † Corrections, Board of
 - Liaison Committee

May 20

- Health, Department of
 - Commissioner's Waterworks Advisory Committee
- Sewage Handling and Disposal Advisory Committee

† Virginia Military Institute
- Board of Visitors

May 21
† Interdepartmental Regulation of Children's
Residential Facilities
- Coordinating Committee

May 24
Alcoholic Beverage Control Board

May 25
Virginia Health Services Cost Review Council

May 26
† Compensation Board

June 1
Hopewell Industrial Safety Council

June 8
† Virginia Resources Authority

June 18
† Interdepartmental Regulation on Children's
Residential Facilities
- Coordinating Committee

PUBLIC HEARINGS

April 5
Transportation, Department of

April 6
Rehabilitative Services, Department of

April 8
† Compensation Board
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
Waste Management, Department of

April 12
† Compensation Board

April 14
† Fire Services Board, Virginia

April 15
Dentistry, Board of

April 19
† Public Accounts, Auditor of
† Visually Handicapped, Department for the

April 21
† Visually Handicapped, Department for the

April 21
Education, State Board of

April 22
Education, State Board of

April 26
Public Accounts, Auditor of

April 27
Education, State Board of

April 28
Education, State Board of

May 3
Public Accounts, Auditor of

May 4
† Health, Department of

May 5
† Housing and Community Development, Department
of

May 19
Agriculture and Consumer Services, Department of
Auditor of Public Accounts

May 25
Virginia Health Services Cost Review Council

June 10
Transportation, Department of

June 30
Agriculture and Consumer Services, Board of

July 20
Psychology, Board of

Calendar of Events
