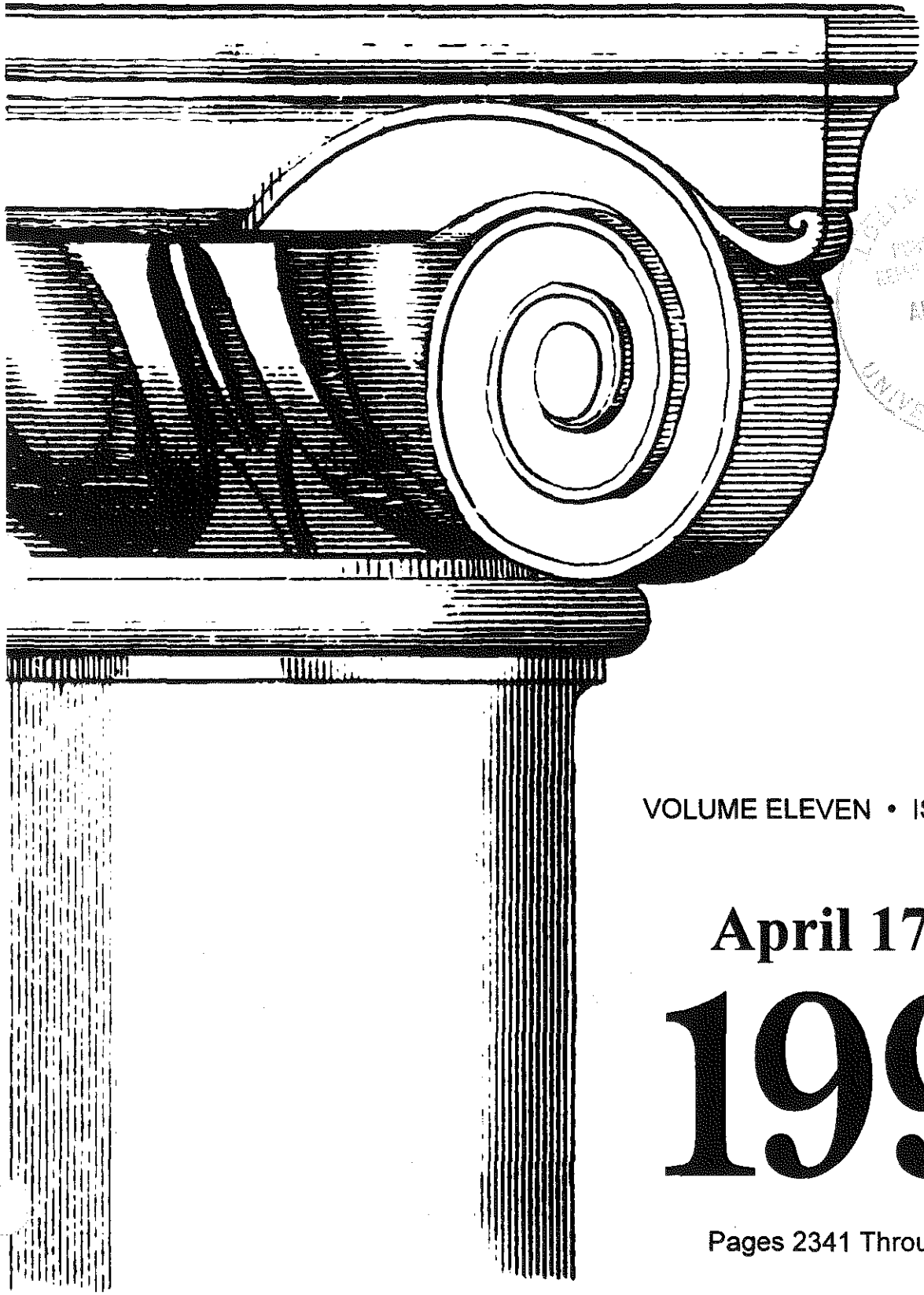
THE VIRGINIA REGISTER

OF REGULATIONS



VOLUME ELEVEN • ISSUE FIFTEEN

April 17, 1995

1995

Pages 2341 Through 2484

THE VIRGINIA REGISTER INFORMATION PAGE

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has suspended the regulatory process.

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE *VIRGINIA REGISTER*

The *Virginia Register* is cited by volume, issue, page number, and date. **1:3 VA.R. 75-77 November 12, 1984** refers to Volume 1, Issue 3, pages 75 through 77 of the *Virginia Register* issued on November 12, 1984.

"The Virginia Register of Regulations" (USPS-001831) is published bi-weekly, except four times in January, April, July and October, for $100 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Second-Class Postage Rates Paid at Richmond, Virginia. **POSTMASTER:** Send address changes to *The Virginia Register of Regulations*, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

The Virginia Register of Regulations is published pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Individual copies are available for $4 each from the Registrar of Regulations.

PUBLICATION DEADLINES AND SCHEDULES

January 1995 through March 1996

Material Submitted By Noon Wednesday	Will Be Published On
Volume 11	
March 29, 1995	April 17, 1995
April 12, 1995	May 1, 1995
April 26, 1995	May 15, 1995
May 10, 1995	May 29, 1995
May 24, 1995	June 12, 1995
June 7, 1995	June 26, 1995
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June 21, 1995	July 10, 1995
July 5, 1995	July 24, 1995
July 19, 1995	August 7, 1995
August 2, 1995	August 21, 1995
August 16, 1995	September 4, 1995
August 30, 1995	September 18, 1995
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September 13, 1995	October 2, 1995
September 27, 1995	October 16, 1995
October 11, 1995	October 30, 1995
October 25, 1995	November 13, 1995
November 8, 1995	November 27, 1995
November 21, 1995 **(Tuesday)**	December 11, 1995
December 6, 1995	December 25, 1995
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Safety and Health Codes Board

STATE CORPORATION COMMISSION

PROPOSED REGULATION

Symbol Key †
† Indicates entries since last publication of the *Virginia Register*

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-50-01. Regulation for General Administration.** The purpose of the proposed action is to develop a regulation to govern general (not program-specific) administration for the entire regulatory programs of the State Air Pollution Control Board.

Public meeting: A public meeting will be held at the State Capitol, House Room 1, Richmond, Virginia, at 9 a.m. on Thursday, May 4, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Accessibility to persons with disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Deborah Pegram at the Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 762-4041 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Ms. Pegram no later than April 20, 1995.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group using a standard advisory committee, or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. Any comments relative to this issue must be submitted in accordance with the procedures described under the "Request for Comments" section above.

Public hearing plans: The department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: Currently, general administration is addressed within the board's two major categories of regulations, with some of the administrative provisions in the stationary source regulations reiterated in the mobile source regulations. The regulatory language is thus unnecessarily repetitive. Furthermore, the repeated provisions are not consistent with each other, thus creating the potential for problems in legal and procedural interpretation. The anticipated promulgation of several more mobile source regulations in the near future will exacerbate the problem. To solve the problem, the board wishes to develop a regulation on general administration to serve its entire regulatory program. Matters addressed by this regulation will include but not be limited to:

1. Applicability, establishment, and enforcement of regulations (including variances thereto) and orders;
2. Administration of associated hearings and proceedings;
3. Approval of local ordinances;
4. Appeal of board decisions;
5. Right of entry upon public and private property;
6. Approval of items with conditions;[1]
7. Availability of procedural information and guidance;
8. Approval of certain items requiring specific considerations;[2] and
9. Availability of information to the public.

Alternatives:

1. Devote one regulation specifically to general administration. This course of action would ensure legal and procedural consistency between the stationary source regulations and the mobile source regulations. It would furthermore eliminate the need to repeat language.

2. Take no action. The continuation of the current system will perpetuate the need to repeat language in both the stationary source and mobile source regulations. Because the repeated provisions are not consistent with each other, potential legal and procedural problems will continue to exist and will be exacerbated as new regulations are promulgated.

Costs and benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

[1] Such items may include but are not limited to variances, control programs, and permits.

[2] Such items are the same as those listed in footnote 1. Specific considerations may include but are not limited to (i) the character and degree of injury to or interference with safety, health or the reasonable use of property which is caused or threatened to be caused; (ii) the social and economic value of the activity involved; (iii) the suitability of the activity to the area in which it is located; and (iv) the scientific and economic practicality of reducing or eliminating the discharge resulting from such activity.

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

Public comments may be submitted until 4:30 p.m., Thursday, May 4, 1995, to the Manager, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Dr. Kathleen Sands, Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4413.

VA.R. Doc. No. R95-359; Filed March 15, 1995, 11:05 a.m.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **VR 155-01-2:1. Regulations of the Board of Audiology and Speech-Language Pathology.** The purpose of the proposed action is to reduce fees in compliance with the law and the required functions of a board within the Department of Health Professions. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until May 3, 1995.

Contact: Lisa Russell Hahn, Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9111.

VA.R. Doc. No. R95-323; Filed March 6, 1995, 10 a.m.

BOARD OF DENTISTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Dentistry intends to consider amending regulations entitled: **VR 255-01-1. Board of Dentistry Regulations.** The purpose of the proposed action is to consider a modest increase in fees in order to comply with § 54.1-113 of the Code of Virginia, which requires the agency to adjust fees after any biennium in which there is more than a 10% differential between revenue and expenses. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 21, 1995.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R95-317; Filed March 1, 1995, 10:56 a.m.

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Regulations of the Board of Pharmacy.** The purpose of the proposed action is to address the following issues:

1. Relaxing criteria for approved CE to allow courses approved by some other approval method, but which relate to pharmacy, pharmacology, or other drug or pharmacy related topic (e.g. Category I CME's which relate to drug therapy),

2. Amending fax regulation to include schedule II-V consistent with new federal regulations -- have received petition for rulemaking (current regulation is particularly burdensome to pharmacies serving nursing homes and home infusion pharmacies),

3. Reducing the 30-day notice to the board for pharmacies which wish to close to a 15-day notice to be consistent with the 1994 statute change reducing the time for notice to the public,

4. Better regulation of the use of automated dispensing machines which are being used in current practice, but probably not in compliance with current regulations and law,

5. Considering amendments to address on-line transmission of prescriptions by practitioners to pharmacy and from one pharmacy to another pharmacy for copies,

6. Better regulation of satellite pharmacies in hospitals by possibly requiring a separate pharmacist in charge,

7. Changing definitions of storage temperatures consistent with new USP definitions,

8. Adding a specific requirement for the biennial inventory to be signed, dated, and designation made as to opening or closing of business,

9. Considering regulations setting standards for compounding sterile products,

10. Minor "housekeeping" amendments to correct errors from previous revisions, remove or amend provisions which are obsolete or inconsistent with some other prevailing law, regulation, contract, or procedure, as follows:

a. Replace the term "nursing homes," still in some paragraphs, with "LTCF" and review whether the "LTCF" should have replaced "nursing homes" in § 11.2(9)

b. The number of destruction forms required for DEA is not consistent with federal requirements

c. DEA no longer accepts drugs for destruction

d. Change "employee" in § 12.1 D to "person" to cover college infirmaries and other situations other than industrial first aid rooms

e. Remove the "examination" portion of the current combination fee for "application and examination" since candidates for examination will directly pay the examination contractor the amount specified in contract

f. Make other nonsubstantive corrections or changes noted during process.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-3307, 54.1-3314.1, 54.1-3410 and 54.1-3434.

Public comments may be submitted until May 26, 1995.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

VA.R. Doc. No. R95-322; Filed March 1, 1995, 10:57 a.m.

BOARD OF VETERINARY MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Veterinary Medicine intends to consider amending regulations entitled: **VR 645-01-1. Regulations Governing the Practice of Veterinary Medicine.** The purpose of the proposed action is to reduce fees in accordance with § 54.1-113 of the Code of Virginia. A public hearing will be scheduled if, during the 30-day comment period, the board receives requests for a hearing from at least 25 persons.

Statutory Authority: §§ 54.1-113 and 54.1-2505 of the Code of Virginia.

Public comments may be submitted until April 20, 1995.

Contact: Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915.

VA.R. Doc. No. R95-311; Filed February 27, 1995, 4:35 p.m.

PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). House Bill 1473 passed during the 1994 Session of the General Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

BOARD FOR ACCOUNTANCY

April 25, 1995 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.

June 16, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-2. Board for Accountancy Regulations.** The purpose of the proposed amendments is to reduce current educational requirements and eliminate the provision for specific coursework requirements.

Statutory Authority: §§ 54.1-201 and 54.1-2002 of the Code of Virginia.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF MINES, MINERALS AND ENERGY

June 6, 1995 - 10 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, Buchanan-Smith Building, U.S. Route 23, Room 219, Big Stone Gap, Virginia.

June 16, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.** The proposed amendment makes permanent the October 19, 1994, emergency regulation amendment allowing continued use of scalp rock in highwall backfills on surface coal mines.

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Public comments may be submitted through June 16, 1995, to Danny Brown, Director, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219.

Contact: Les Vincent, Reclamation Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8100.

DEPARTMENT OF STATE POLICE

June 16, 1995 -- Public 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 State Police intends to adopt regulations entitled: **VR 545-01-18. Regulations Governing the Operation and Maintenance of the Sex Offender Registry.** These regulations establish the procedures and forms to be used in the registration of persons required by law to register with the Sex Offender Registry and the lawful dissemination of the Sex Offender Registry.

Statutory Authority: § 19.2-390.1 of the Code of Virginia.

Contact: Lieutenant John G. Weakley, Assistant Records Management Officer, Department of State Police, Records Management Division, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-2022.

BOARD FOR ACCOUNTANCY

Title of Regulations: **VR 105-01-2. Board for Accountancy Regulations.**

Statutory Authority: §§ 54.1-201, 54.1-2002 and 54.1-2003 of the Code of Virginia.

Public Hearing Date: April 25, 1995 - 10 a.m.
Written comments may be submitted through June 16, 1995.
(See Calendar of Events section for additional information)

Basis: Section 54.1-201 of the Code of Virginia provides the board with the authority to promulgate regulations for the licensure of accountants in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) to assure continued competence, to prevent deceptive or misleading practices by practitioners, and to effectively administer the regulatory system administered by the board. Section 54.1-2003 requires the board to establish character, education, and examination requirements.

Purpose: Pursuant to § 54.1-2003 of the Code of Virginia, the Board for Accountancy is proposing to amend its existing regulations governing the licensure of accountants to reduce the current educational requirements and, more specifically, to eliminate the provision for specific coursework requirements.

Substance: In layman's terms, the proposed changes eliminate the specific coursework requirements for exam candidates and will require only completion of a four-year degree with coursework in general accounting and business areas. The proposed regulation is substantially less restrictive and less burdensome than current regulations.

Issues: The elimination of specific courses will result in candidates avoiding expense of additional courses and eliminating a six-month delay in sitting for the examination. Applications will be easier for the board to process. The board foresees no disadvantages to the state. There does not appear to be any disadvantage or impact related to the public or the exam candidate.

Estimated Impact: These regulations apply to approximately 5,200 licensed accountants and approximately 2,000 exam candidates each year. The economic and regulatory impact of the proposed changes on the regulants is estimated to be minimal. No localities particularly affected by the proposed regulations have been identified. Costs for implementation of the amended regulations are estimated to be limited to the costs of printing and mailing of the proposed and final regulations to those currently licensed and those on the board's Public Participation Guidelines list, which is estimated to be $15,600. There will be no additional costs to the regulants to implement this program.

Summary:

The proposed amendments reduce current educational requirements and, more specifically, eliminate the provision for specific coursework requirements.

VR 105-01-2. Board for Accountancy Regulations.

PART I.
GENERAL.

§ 1.1. Definitions.

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

"Accredited institution" means any degree-granting college or university accredited at the time of the applicant's degree or attendance by any of the following: Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Schools; Northwest Association of Schools and Colleges; Southern Association of Colleges and Schools; and Western Association of Schools and Colleges.

"Anniversary date" means September 30 of each even-numbered year.

"Certification" means the issuance of a certificate to a person who has met all the requirements of Part II of these regulations.

"Certify," "examine," "review," or *"render or disclaim an opinion,"* when referenced to financial information or the practice of public accountancy, are terms which, when used in connection with the issuance of reports, state or imply assurance of conformity with generally accepted accounting principles, generally accepted auditing standards, and review standards. The terms include forms of language disclaiming an opinion concerning the reliability of the financial information referred to or relating to the expertise of the issuer.

"Client" means a person or entity that contracts with or retains a firm for performance of accounting services.

"Contact hour" means 50 minutes of participation in a group program or 50 minutes of average completion time in a self-study program.

"Continuing Professional Education (CPE)" means an integral part of the lifelong learning required to provide competent service to the public; the formal set of activities that enables accounting professionals to maintain and increase their professional competence.

"Credit hour" means successful completion of a course of study measured in a contact hour.

"Firm" means a sole proprietorship, partnership, professional corporation, professional limited liability company or any permissible combination practicing public accountancy in Virginia.

"Group program" means an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants.

"Holding out" means any representation that a regulant is a certified public accountant, made in connection with an offer to practice public accounting. Any such representation is presumed to invite the public to rely upon the professional skills implied by the title "certified public accountant" in connection with the services offered to be performed by the regulant. For the purposes of this definition, a representation shall be deemed to include any oral or written communication conveying that the regulant is a certified public accountant, including without limitation the use of titles on letterheads, professional cards, office doors, advertisements and listings; but, it does not include the display of the original (but not a copy) of a currently valid certificate. A person who holds a valid certificate granted to him by the board may refer to himself as a certified public accountant or CPA but is not empowered to practice public accountancy until he obtains a valid license to do so.

"Individual firm name" means a name different from the name in which the individual's license is issued.

"Interactive self-study program" means a program designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware, or administrative systems that provide significant ongoing, interactive feedback to the learner regarding his learning process. Evidence of satisfactory completion of each program segment by the learner is often built into such programs. These programs clearly define lesson objectives and manage the student through the learning process by requiring frequent student response to questions that test for understanding of the material presented, providing evaluative feedback to incorrectly answered questions, and providing reinforcement feedback to correctly answered questions. Capabilities are used that, based on student response, provide appropriate ongoing feedback to the student regarding his learning progress through the program.

"Jurisdiction" means another state, territory, the District of Columbia, Puerto Rico, the U.S. Virgin Islands or Guam.

"License" means a license to practice public accounting issued under the provisions of Chapter 20 (§ 54.1-2000 et seq.) of Title 54.1 of the Code of Virginia.

"Manager" means a person who is a licensed certified public accountant designated by the members of a limited liability company to manage the professional limited liability company as provided in the articles of organization or an operating agreement.

"Member" means a person who is a licensed certified public accountant that owns an interest in a professional limited liability company.

"Noninteractive self-study program" means any self-study program that does not meet the criteria for interactive self-study programs.

"Performance of accounting services" means the performance of services by a regulant requiring the use of accounting and auditing skills, and includes the issuance of reports or financial statements, the preparation of tax returns, the furnishing of advice on accounting, auditing or tax matters, or the performance of operational or compliance audits.

"Principal" means a certified public accountant who is the sole proprietor of, or a partner, shareholder or a member in, a firm.

"Professional corporation" means a firm organized in accordance with Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia.

"Professional limited liability company" means a firm organized in accordance with Chapter 13 (§ 13.1-1070 et seq.) of Title 13.1 of the Code of Virginia.

"Professional services and engagements" means the association between a client and a firm wherein the firm performs, or offers to perform, accounting services for the client.

"Professional staff" means employees of a firm who make decisions and exercise judgment in their performance of accounting services, but excludes employees performing routine bookkeeping or clerical functions.

"Regulant" means any Virginia certificate holder, licensee, professional corporation, professional limited liability company or firm.

"Reporting cycle" means the current and two preceding reporting calendar years when meeting the requirements of § 5.1 of these regulations.

"Reporting year" means for the purposes of these regulations a calendar year.

"Self-study program" means an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs do not include informal learning.

"Virginia approved sponsor" means an individual or business approved by the board to offer continuing professional education in accordance with these regulations.

PART II.
ENTRY.

§ 2.1. Qualifications for certification.

A. Any person applying for certification as a certified public accountant shall meet the requirements of good character and education and shall have passed both a basic and an ethics examination, as approved by the board.

~~A. Character.~~ *B.* The board may deny application to sit for the basic examination or deny certification upon a finding supported by clear and convincing evidence of a lack of good character. An applicant's history of dishonest or felonious acts, lack of fiscal integrity or acts which would constitute violations of these regulations will be considered by the board in determining character. Evidence of the commission of a single act may be sufficient to show a lack of good character.

~~B.~~ *C.* Education.

1. Each applicant shall have ~~earned one of the following~~ *completed a baccalaureate or higher degree from an accredited institution as defined in § 1.1 including:*

a. At least 24 semester hours of accounting at the undergraduate or graduate level including courses covering the subjects of financial accounting, auditing, taxation, and management accounting, and

b. At least 18 semester hours in business courses (other than accounting courses) at the undergraduate or graduate level.

~~a. A baccalaureate or higher degree from a four-year accredited institution. The applicant shall have completed the following courses or their equivalent at an accredited institution:~~

~~Courses~~	~~Semester Hours~~
~~Principles of Accounting (or introductory level Financial Accounting and Managerial Accounting)~~	~~6~~
~~Financial Accounting/Accounting Theory (above the introductory level)~~	~~9~~
~~Cost/Managerial Accounting (above the introductory level)~~	~~3~~
~~Auditing~~	~~3~~
~~Taxation~~	~~3~~
~~Business (Commercial) Law (exclusive of Legal Environment of Business)~~	~~3~~
~~Computer Information Systems~~	~~3~~
~~Principles of Economics~~	~~3~~
~~Principles of Management~~	~~3~~
~~Principles of Marketing~~	~~3~~
~~Business Finance~~	~~3~~
~~Total~~	~~42~~

~~b. Provided the applicant initially applies and sits for the examination by November 30, 1993, the education requirement will be satisfied if the applicant has completed a baccalaureate or higher degree with either a major in accounting or a concentration in accounting from an accredited institution as defined in § 1.1; or~~

~~c. Provided the applicant initially applies and sits for the examination by November 30, 1993, the education requirement will be satisfied if the applicant has completed 120 semester hours of earned credit from an accredited institution of which at least 60 semester hours must be at the junior and senior level and must include the following business related courses, or their equivalent:~~

~~Courses~~	~~Semester Hours~~
~~Principles of Accounting~~	~~6~~
~~Principles of Economics~~	~~3~~
~~Principles of Marketing~~	~~3~~
~~Principles of Management~~	~~3~~
~~Finance~~	~~3~~
~~Information Systems~~	~~3~~
~~Statistics~~	~~3~~
~~Business Policy~~	~~3~~
~~Financial Accounting and Accounting Theory~~	~~6~~
~~Cost/Managerial Accounting~~	~~3~~
~~Auditing~~	~~3~~
~~Taxation~~	~~3~~
~~Commercial Law (not to exceed six semester hours)~~	~~3~~
~~Business Electives~~	~~15~~
~~Total~~	~~60~~

~~d.~~ *c.* Applicants whose degrees or diplomas were earned at colleges or universities outside the United States shall have their educational credentials evaluated by a foreign academic credentials service approved by the board to determine the extent to which such credentials are equivalent to the education requirements set forth above.

Such credentials may be accepted by the board as meeting its educational requirements fully, partially, or not at all.

2. Evidence of education. Each applicant shall submit evidence of having obtained the required education in the form of official transcripts transmitted directly from the accredited institution. In unusual circumstances other evidence of education may be accepted when deemed equivalent and conclusive.

3. Education prerequisite to examination. The education requirements shall be met prior to examination. An applicant may, however, be admitted to the May examination if he will have completed the education requirements by the succeeding June 30, and to the November examination if he will have completed the education requirements by the succeeding December 31, and has filed evidence of enrollment in the required courses as specified by the board. Effective June 30, 1994, the education requirements shall be met prior to applying for the examination.

~~C.~~ *D.* Examination.

1. Each applicant for an original CPA certificate in Virginia must pass a basic written national uniform examination in auditing, business law, theory of accounting, and accounting practice and other such related subject areas as deemed appropriate by the board from time to time. Applicants who have no unexpired examination credits must sit for all parts of the basic examination. Each part of the basic examination must be passed with a grade of 75. The board may use all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants to assist it in performing its duties.

The fee for examination shall be $117. The fee for reexamination shall be $117. The fee for proctoring out-of-state candidates shall be $75. Fees shall not be prorated and are nonrefundable except in accordance with ~~§ 2.1 C 8~~ *subdivision 8 of this subsection.*

2. Examination credits. Credits will be given for basic examination sections passed through five successive offerings subsequent to the first occasion when credit is earned, provided that:

a. No credit will be allowed until either the section principally testing accounting practice or two other sections are passed at a single sitting; and

b. The candidate sits for all sections for which credit has not previously been granted; and

c. The candidate receives a minimum grade of 50 in each section not passed, except if all sections but one are passed at a single examination, no minimum grade shall be required on the remaining section.

3. Effective with the May 1994 examination, credits will be awarded if, at a given sitting of the examination, a candidate passes two or more, but not all, sections. The candidate shall be given credit for those sections passed, and need not sit for reexamination in those sections, provided:

a. The candidate wrote all sections of the examination at that sitting;

b. The candidate attained a minimum grade of 50 on each section not passed at each sitting;

c. The candidate passes the remaining sections of the examination within five consecutive examinations given after the one at which the first sections were passed;

d. At each subsequent sitting at which the candidate seeks to pass any additional sections, the candidate writes all sections not yet passed;

e. In order to receive credit for passing additional sections in any such subsequent sitting, the candidate attains a minimum grade of 50 on sections written but not passed on such sitting; and

f. Any candidate who has been awarded conditional credit for a section passed prior to May 1994 shall be awarded conditional credit as specified below:

(1) A candidate who has been awarded conditional credit for the accounting practice section shall be awarded conditional credit for the accounting and reporting section, and shall retain such credit until he passes the remaining sections or until the conditional status of such credit expires, whichever occurs first.

(2) A candidate who has been awarded conditional credit for either the auditing or the business law (renamed business law and professional responsibilities) section, or both, shall retain such credit until he passes the remaining sections, or until the conditional status of such credit expires, whichever occurs first.

(3) A candidate who has been awarded conditional credit for the accounting theory section shall be awarded conditional credit for the financial accounting and reporting section and shall retain such credit until he passes the remaining sections or until the conditional status of such credit expires, whichever occurs first.

4. Examination credits, exceptions. The board may, at its discretion, waive any of the above requirements for carryover examination credits for candidates who suffer documented serious personal illness or injury, or death in their immediate family, or who are prevented from meeting these requirements due to the obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board. Documentation of these circumstances must be received by the board no later than 12 months after the date of the examination missed or within 6 months of the completion of military or Peace Corps service whichever is later.

5. Conduct in basic examination. Each applicant shall follow all rules and regulations established by the board with regard to conduct at the basic examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the examination site on the date of the examination.

6. Loss of credit or eligibility. Any applicant found to be in violation of the rules and regulations governing conduct in the basic examination may lose established eligibility to sit for the examination or credit for examination parts passed.

7. Application deadline. Application to sit for the basic examination shall be made on a form provided by the board and shall be filed in accordance with the instructions on the application along with all required documents by the first Friday in March for the May examination and by the first Friday in September for the November examination.

8. Failure to appear; excused examination. An applicant who fails to appear for the basic examination or reexamination shall forfeit the fees charged for that examination or reexamination unless excused.

The board may, at its discretion, excuse an applicant for an examination until the next examination for military service when documented by orders or a letter from the commanding officer; or for serious injury, illness or physical impairment, any of which must be documented by a statement from the treating physician; or death in their immediate family, or for other good cause of similar magnitude approved by the board. The fee for the excused examination will be refunded.

§ 2.2. Original CPA certificate.

A. A CPA certificate will be granted to an applicant who has met all of the qualifications for certification outlined in § 2.1.

B. The fee for an original CPA certificate shall be $25. All fees are nonrefundable and shall not be prorated.

§ 2.3. Certificate by endorsement.

A CPA certificate will be granted to an applicant who holds a like valid and unrevoked certificate issued under the law of any jurisdiction showing that applicant is in good standing in the jurisdiction; provided:

1. The applicant meets all current requirements in Virginia at the time application is made; or

2. At the time the applicant's certificate was issued in the other jurisdiction the applicant met all requirements then applicable in Virginia; or

3. The applicant has met all requirements applicable in Virginia except the education requirement, or has passed the examination under different credit or grade provisions, and either:

a. The applicant has five years of experience in the performance of accounting services within the 10 years prior to application, or

b. The applicant has five years of experience in the performance of accounting services, one year of which was immediately prior to application and, within the 10 years prior to application, had completed 15 semester hours of accounting, auditing and related subjects at an accredited institution.

~~4.~~ The fee for a certificate by endorsement shall be $90. All fees are nonrefundable and shall not be prorated.

§ 2.4. License/certificate maintenance.

Any person holding a Virginia CPA certificate shall either maintain a Virginia license to practice public accounting or file annually as a certificate holder not engaged in the practice of public accounting in Virginia and pay the required maintenance fee.

§ 2.5. Licensure.

Each certified public accountant who is engaged in or holding himself out to be engaged in the practice of public accountancy in Virginia must hold a valid license. This provision applies to professional staff who are eligible for licensure as set forth in § 2.7 as well as to sole proprietors, partners, members and shareholders.

1. To be eligible for licensure an individual shall meet the qualifications for certification outlined in § 2.1 and one of the experience requirements set forth in § 2.7.

2. The fee for an initial CPA license shall be $75. All fees are nonrefundable and shall not be prorated.

§ 2.6. Requirement for licensure; exception.

Only a certified public accountant, holding a valid Virginia license, may engage in the practice of public accounting in Virginia. However, this does not prohibit any person from affixing his signature to any statement or report for his employer's internal or management use designating the position, title, or office of the person.

§ 2.7. Experience and continuing professional education requirements for original license.

A. ~~Experience.~~ Each applicant for an original license shall have met the following experience requirements:

1. Two years of experience in public accounting with the giving of assurances and compilation services constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services, or

2. Two years of experience under the supervision of a certified public accountant in the performance of accounting services with at least 800 hours of that experience including the following:

a. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in the accounting records; and

b. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records; and

c. Experience in the planning of the program of audit work including the selection of the procedures to be followed; and

d. Experience in the preparation of written explanations and comments on the findings of the examinations and on the accounting records; and

e. Experience in the preparation and analysis of financial statements together with explanations and notes thereon; or

3. Three years of experience in the performing of accounting services which demonstrates intensive, diversified application of accounting principles, auditing standards or other technical standards pertaining to accounting and review services, tax services or management advisory services; or

4. Three years of teaching experience in upper level courses in accounting, auditing, and taxation at an accredited institution in conjunction with no less than five months experience with a public accounting firm with the giving of assurances and compilation services constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services.

B. ~~Education substituted for experience.~~ An applicant having a baccalaureate degree and courses as defined in § 2.1 ~~B~~ C 1 and a master's degree from an accredited institution with 15 semester hours in graduate level accounting courses exclusive of those courses defined in § 2.1 ~~B~~ C 1 will be credited with one year of required experience under this section.

C. ~~Continuing professional education.~~ Individuals applying for original licensure after January 1, 1992, shall have completed in addition to one of the experience requirements, a minimum of 20 credit hours of CPE in the subject areas listed in § 5.5 within the preceding 12 months prior to application for licensure. For purposes of license renewal, the calendar year following the year in which the initial license is issued shall be considered the first reporting year for CPE as outlined in § 5.1 of these regulations.

§ 2.8. Registration of professional corporations and professional limited liability companies.

A. All professional corporations and professional limited liability companies practicing public accountancy in Virginia shall be registered by the board.

B. The fee for registration shall be $50. All fees are nonrefundable and shall not be prorated.

C. All registered professional corporations and professional limited liability companies shall meet the standards set forth in § 54.1-2005 of the Code of Virginia and Part IV of these regulations.

PART III.
RENEWAL/REINSTATEMENT.

§ 3.1. Requirement for renewal.

A. Effective September 30, 1992, each license to practice public accounting or CPA certificate maintenance shall be renewed annually. A registration certificate of a professional corporation or professional limited liability company shall be renewed biennially.

~~A.~~ *B.* Effective September 30, 1992, each license to practice public accounting shall expire annually on September 30. Maintenance fees for CPA certificates shall also be due on September 30. A registration certificate of a professional corporation or professional limited liability company shall be renewed September 30 of each even-numbered year. The board will mail a renewal notice to the regulant at the last known address of record. Failure of the regulant to receive written notice of the expiration does not relieve him of the requirement to renew or pay the required fee.

~~B.~~ *C.* Renewal fees are as follows:

1. The fee for renewal of a CPA license to practice public accounting shall be $55.

2. The fee for renewal of the registration certificate of a professional corporation shall be $50.

3. The fee for renewal of the registration certificate of a professional limited liability company shall be $50.

4. The CPA certificate maintenance fee shall be $20.

5. All fees are nonrefundable and shall not be prorated.

~~C.~~ *D.* If the required fee is not received by October 30 an additional fee of $20 for certificate maintenance, $55 for license renewal, $50 for professional corporation, and $50 for professional limited liability company registration shall be required.

~~D.~~ *E.* Applicants for renewal of the CPA certificate maintenance or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 A *B.*

Applicants for renewal of the license to practice public accounting shall meet the requirements of Part V. Failure to comply with Part V will result in the denial of the license renewal.

~~E.~~ *F.* The board, in its discretion, and for just cause, may deny renewal of a license to practice public accounting, registration or certificate maintenance. Upon such denial, the applicant for renewal may request that a hearing be held in accordance with the provisions of the Administrative Process Act *(§ 9-6.14:1 et seq. of the Code of Virginia).*

§ 3.2. Requirement for reinstatement.

A. If the regulant fails to renew his license to practice public accounting or registration or pay his certificate maintenance fee within six months following the expiration, he will be required to present reasons for reinstatement and the board may, in its discretion, grant reinstatement or require a requalification or reexamination or both.

B. The fee for reinstatement of the license to practice public accounting shall be $150, the fee for reinstatement of the professional corporation registration shall be $100, the fee for reinstatement of a professional limited liability company registration shall be $100, and the fee for reinstatement of the certificate maintenance shall be $50. All fees are nonrefundable and shall not be prorated.

C. Applicants for reinstatement of the CPA certificate or license to practice public accounting shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 ~~A~~ *B.*

D. If the regulant has failed to renew his license to practice public accounting for a period of up to 12 months, he shall be required in accordance with Part V of these regulations to complete a minimum of 40 credit hours of Continuing Professional Education (CPE) with a minimum of eight CPE credit hours in accounting and auditing and eight CPE credit hours in taxation within the preceding 12 months prior to application. If the regulant has failed to renew his license in excess of 12 months, he shall be required to complete a continuing education program specified by the board which shall require him to complete 40 hours of CPE if he failed to renew the license for one year, 80 hours of CPE if he failed to renew the license for two years and 120 hours of CPE if he failed to renew the license for three years, minus the hours which he had taken during this time period.

E. If the regulant has failed to maintain his CPA certificate, renew his license, professional corporation or limited liability company registration for a period of 12 months or longer, a late fee, in addition to the reinstatement fees outlined in § 3.2 B, will be required.

The late fee shall be $75 for each renewal period in which the regulant failed to maintain his CPA certificate, or failed to renew his license, professional corporation or limited liability company registration.

F. The board, in its discretion, and for just cause, may deny reinstatement of a license to practice public accounting, registration or certificate maintenance. Upon such denial, the applicant for reinstatement may request that a hearing be held in accordance with the provisions of the Administrative Process Act *(§ 9-6.14:1 et seq. of the Code of Virginia).*

PART IV.
STANDARDS OF PRACTICE.

§ 4.1. Regulant accountable for service rendered.

Whenever a regulant offers or performs any services in Virginia related to the performance of accounting services, regardless of the necessity to hold a license to perform that

service, he shall be subject to the provisions of these regulations. A regulant shall be responsible for the acts or omissions of his staff in the performance of accounting services.

§ 4.2. Use of terms.

No firm with an office in Virginia shall use or assume the title or designation "certified public accountant," "public accountant," "CPA," or any other title, designation, phrase, acronym, abbreviation, sign, card, or device tending to indicate that it is engaged in or holding itself out to be engaged in Virginia in the practice of public accountancy unless all principals and professional staff of that firm who work in Virginia or who have substantial contact with work in Virginia and who meet the qualifications for licensure, currently hold a valid Virginia license.

§ 4.3. Notification of change of address or name.

Every regulant shall notify the board in writing within 30 days of any change of address or name.

§ 4.4. Sole proprietor name.

A sole proprietor shall use his own name as the firm name. However, a sole proprietor surviving the death or withdrawal of all other partners in a partnership may continue using the names of those partners for not more than two years after becoming a sole proprietor. A sole proprietor surviving the death or withdrawal of all other members in a professional limited liability company may continue using the names of those members for not more than two years after becoming a sole proprietor.

§ 4.5. Partnership name.

Licensees shall not practice in a partnership that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates" or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed partner. The name of one or more partners in a predecessor partnership, shareholders or licensed officers of a predecessor professional corporation, or members or managers of a predecessor professional limited liability company may be included in the partnership firm name of a successor partnership.

§ 4.6. Professional corporation name.

A licensee shall not practice in a professional corporation that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates," or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed shareholder or licensed officer. The names of one or more past shareholders or licensed officers in a predecessor professional corporation, partners in a predecessor partnership, or members or managers in a predecessor professional limited liability company may be included in the corporate firm name of a successor corporation. A shareholder surviving the death or retirement of all other shareholders may continue using the names of those shareholders, partners in a predecessor partnership, or those members in a predecessor professional limited liability company for not more than two years after becoming a sole shareholder.

§ 4.7. Professional limited liability company name.

Licensees shall not practice in a professional limited liability company that includes a fictitious name, a name that indicates fields of specialization, or a name that includes the terms "company," "associates," or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed member or licensed manager. The names of one or more past shareholders or licensed officers in a predecessor professional corporation, partners in a predecessor partnership, or members or managers in a predecessor limited liability company may be included in the firm name of a successor professional limited liability company.

§ 4.8. Notification of changes in firm.

A licensee shall notify the board in writing within 30 days after occurrence of any of the following:

1. The formation of a firm and its name, location and names of partners, shareholders, officers, members or managers;

2. The admission of any new partner, shareholder, or member;

3. The change in the name of any partnership, professional corporation or professional limited liability company;

4. The change in the supervisor of any branch office;

5. The change in the number or location of Virginia offices;

6. The opening of a new office in Virginia and the name of the supervisor; and

7. Any event which would cause the firm not to be in conformity with the provisions of these regulations.

§ 4.9. Sharing an office.

When sharing office facilities with any person who is not in the same firm, the licensee shall use practices and procedures which enable a reasonable person clearly to distinguish between the practice of the licensee and the operation of the other occupation or business.

§ 4.10. Resident manager in Virginia in charge of office.

Each branch office of a firm shall be managed by a certified public accountant licensed in Virginia. No licensed certified public accountant shall manage more than one office until such time as the licensee can provide, and the board approves, a management plan to provide supervision and quality control over the work product of all offices under the supervision of the licensee.

§ 4.11. Misleading name, letterhead, publication, etc.

Nothing shall be contained in a firm's name or in any firm letterhead, publication, form, card, etc., which states or implies an ability, relationship, or condition that does not exist.

§ 4.12. Independence.

A licensed individual or a firm of which he is a partner, shareholder or member shall not express an opinion or conclusion on financial statements of an entity in such a manner as to imply that he or his firm is acting in an independent capacity when either the licensee or his firm during the period of a professional engagement or at time of expressing an opinion has any of the following interests in that entity:

1. Has *acquired* or has committed to acquire any direct or material indirect financial interest in the entity; or

2. Held the position of trustee, executor, or administrator of any trust or estate, if such trust or estate has or has committed to acquire any direct or material indirect financial interest in the entity; or

3. Held ownership of any joint closely-held business investment with the entity or any officer, director, or principal stockholder thereof which was material in relation to the net worth of the licensee; or

4. Has a relationship with the entity as a promoter, underwriter, or voting trustee, director or officer, or in any capacity equivalent to that of a member of management or of an employee; or

5. Has any loan to or from the entity, or from any officer, director, or principal stockholder thereof except loans made by a financial institution under normal lending procedures, terms and requirements such as: loans obtained by the licensee or firm which are not material in relation to the net worth of the borrower; or home mortgages; or other secured loans, except those secured solely by a guarantee of the firm or its licensees.

§ 4.13. Integrity and objectivity.

A regulant shall not knowingly misrepresent facts or subordinate his judgment to others. In tax practice, a regulant may resolve doubt in favor of his client as long as there is reasonable support for his position.

§ 4.14. Commissions.

A regulant shall not pay a commission to obtain a client, nor shall he accept a commission for a referral to a client of products or services of others. Payments for the purchase of all, or part, of an accounting practice, retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of such persons are permitted.

§ 4.15. Contingent fees.

A regulant shall not engage or offer to engage in the performance of accounting services for a fee which is contingent upon his findings or results of his services. This regulation does not apply either to services involving taxes in which the sole findings are those of the tax authorities or to the performance of accounting services for which the fees are to be fixed by courts or other public authorities.

§ 4.16. Incompatible occupations.

A regulant shall not concurrently engage in any other business or occupation which impairs his independence or objectivity in the performance of accounting services.

§ 4.17. Competence.

A regulant shall not undertake performance of accounting services which he cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with these regulations.

§ 4.18. Auditing standards.

A regulant shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent certified public accountant unless he has complied with applicable generally accepted auditing standards in current use at the time his services were provided. Departures from compliance with generally accepted auditing standards must be justified.

§ 4.19. Accounting principles.

A regulant shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from generally accepted accounting principles in current use at the time the services were provided, which departure has a material effect on the statements taken as a whole. Any such dep arture is permissible only if the regulant can demonstrate that, due to unusual circumstances, the financial statements would otherwise be misleading. In such cases, his report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principles would result in a misleading statement.

§ 4.20. Other technical standards.

A regulant shall comply with other technical standards pertaining to accounting and review services, tax services and management advisory services in current use at the time services were provided. Departure from compliance with other technical standards must be justified.

§ 4.21. Forecasts or projections.

No regulant shall vouch for the achievability of any forecast or projection.

§ 4.22. Confidential client information.

A regulant shall not, without the consent of his client, disclose any confidential information pertaining to his client obtained in the course of the performance of accounting services, except in response to a subpoena or summons enforceable by order of a court, in response to any inquiry made by the board or its agents, by a government agency, or by a recognized organization of certified public accountants, or by the client himself or his heirs, successors or authorized representative, or in connection with a quality control review of the regulant's practice.

§ 4.23. Client's records.

A regulant shall furnish to his firm's client or former client, within a reasonable time upon request:

1. A copy of the client's tax return or a copy thereof; or

2. A copy of any report, or other document, issued by the regulant or his firm to or for the client and not formally withdrawn by the regulant or his firm prior to the request or

3. Any accounting or other record belonging to the client, or obtained from or on behalf of the client, which the regulant or another member of his firm removed from the client's premises or had received for the client's account; or

4. A copy of the regulant's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records not otherwise available to the client. Examples would include worksheets in lieu of books of original entry or general or subsidiary ledgers such as a list of accounts receivable or depreciation schedule. All journal entries and supporting details would also be considered client's records; or

5. With respect to subdivisions 1, 2 and 4 of this section, it shall not be considered a violation of this section if a regulant declines to deliver to a client any of the foregoing until the client has paid any amounts owed for those services to which subdivisions relate.

§ 4.24. Acting through others.

A regulant shall not permit others to carry out on his behalf, acts which, if carried out by the regulant would place him in violation of these regulations. A regulant shall not perform services for a client who is performing the same or similar services for another, if the regulant could not perform those services under these rules.

§ 4.25. Advertising.

A regulant shall not make any false, fraudulent, misleading, deceptive, or unfair statement or claim, including but not limited to:

1. A misrepresentation of fact; or

2. Failure to make full disclosure of any relevant fact; or

3. Representation of services of exceptional quality not supported by verifiable facts; or

4. A representation that might lead to unjustified expectation of higher level of performance or of favorable results.

§ 4.26. Solicitation.

A regulant shall not by any direct personal communication solicit an engagement for the performance of accounting services if the communication is overreaching or contains use of coercion, duress, compulsion, intimidation, threats, or harassment.

§ 4.27. Response to board communication.

A regulant shall respond by registered or certified mail within 30 days of the mailing of any communication from the board when requested.

§ 4.28. Revocation, suspension, and fines.

The board may suspend, deny renewal, or revoke any certificate, license, or registration, or may fine the holder thereof, upon a finding of any conduct reflecting adversely upon the regulant's fitness to engage in the performance of accounting services or for violation of any of the board's rules and regulations.

§ 4.29. Practice inspection and continuing professional education.

In lieu of or in addition to any remedy provided in § 4.28 the board may require an inspection of a regulant's practice, require completion of specified continuing education, restrict regulant's area of practice, or impose such other sanctions as it deems appropriate.

§ 4.30. Petition for reinstatement or modification of a penalty.

No petition shall be considered while the petitioner is under sentence for a criminal offense related to the practice of accountancy, including any period during which the petitioner is on court imposed probation or parole for such offense. Otherwise, a person whose certificate or license has been revoked or suspended, or who has been subjected to any penalty may petition the board for reinstatement or modification of any penalty, no sooner than one year from the effective date of that decision. The petition shall be accompanied by at least two verified recommendations from licensees who have had personal knowledge of the activities of the petitioner since the time the disciplinary penalty was imposed. The board may consider all activities of the petitioner dating from the time the disciplinary action was taken; the offense for which the petitioner was disciplined; the petitioner's rehabilitative efforts and restitution to damaged parties; and the petitioner's general reputation for truth and professional ability.

§ 4.31. Ownership of records.

All statements, records, schedules, working papers, and memoranda made by a regulant incident to rendering services to a client in the performance of accounting services other than records specified in § 4.23, shall become the property of the regulant's firm absent an express agreement between the firm and the client to the contrary. No such statement, record, schedule, working paper or memorandum covered by this section or in § 4.23 shall be sold, transferred, or bequeathed, to anyone other than a regulant without the consent of the client.

§ 4.32. Acts discreditable.

A regulant shall not commit an act discreditable to the profession of accountancy.

§ 4.33. Single act.

Evidence of the commission of a single act prohibited by these regulations shall be sufficient to justify a finding of violation, without evidence of a general course of conduct.

PART V.
CONTINUING PROFESSIONAL EDUCATION.

§ 5.1. CPE requirements for license renewal.

Effective January 1, 1992, all licensees shall be required to complete and maintain 120 credit hours of continuing professional education (CPE) during each reporting cycle. At a minimum, a licensee shall complete 20 CPE credit hours during each calendar year. Credits shall be reported to the

board by January 31 of the year following the year in which credits were earned.

For each three-year reporting cycle, the licensee shall have completed a minimum of 16 credit hours in accounting and auditing and a minimum of 16 credit hours in taxation as defined by § 5.5. The licensee shall not receive credit for more than 24 credit hours of personal development as defined by § 5.5 during each reporting cycle. In order to receive CPE credit for a license renewal, all credit hours shall be from an approved sponsor as set forth in § 5.4.

The board shall approve sponsors of CPE courses and not individual courses. A CPE course provided by an approved sponsor shall meet the CPE requirements set forth in the Rules and Regulations for Continuing Professional Education Sponsors and will be so designated. An investigation of an approved sponsor may be initiated based on a complaint or other information.

§ 5.2. Requirements for retaining records.

It is the responsibility of the licensee to retain evidence of satisfactory completion of CPE credit hours for a period of five years. Such documentation shall be in the form of the certificate of completion provided by the approved sponsor or verification from the accredited institution offering the course. If upon request, the licensee cannot provide such documentation, the licensee shall be subject to a fine which shall not exceed $1,000 in accordance with § 54.1-202 of the Code of Virginia.

§ 5.3. Requirements for reporting credit hours.

All CPE credit hours shall be reported to the board on a form provided by the board and subject to a possible audit. The date forms are received, not postmarked, by the board shall be the date used to determine compliance with the CPE reporting requirements.

Failure to complete or report CPE credit hours by January 31 of each succeeding year will result in the following late filing fees:

1. A $100 late filing fee shall be required for all reporting forms received after January 31 but before June 1.

2. A $250 late filing fee shall be required for all reporting forms received after May 31 but before August 1.

3. A $500 late filing fee shall be required for all reporting forms when received after July 31. A license renewal shall be issued to the regulant upon receipt by the board of the late filing fee and evidence of compliance with § 5.1.

4. CPE credit hours taken during the late filing period to meet the requirement of the previous year shall not be reported for any succeeding year.

5. Individuals failing to meet the CPE requirements may be subject to requalification including possible reexamination and submission of experience qualifications.

6. The board may, at its discretion, waive or defer CPE requirements and late fees for licensees who suffer documented serious illness or injury, or who are prevented from meeting those requirements due to the obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board.

§ 5.4. Acceptable continuing professional education credit.

The board shall recognize the following as acceptable CPE credit:

1. Courses from sponsors approved by the board in accordance with the board's Rules and Regulations for Continuing Professional Education Sponsors; or

2. Courses from sponsors of continuing professional education programs listed in good standing with the National Registry of CPE Sponsors maintained by the National Association of State Boards of Accountancy (NASBA); or

3. Courses from accredited institutions as defined by § 1.1 of these regulations when offering college courses in the regular course curriculum. CPE credit for completing a college course in the college curriculum will be granted based on the number of credit hours the college grants for successful completion of the course. One semester hour of college credit is 15 CPE credit hours; on quarter hour of college credit is 10 CPE credit hours; or

4. Auditing of college courses from accredited institutions as defined by § 1.1 of these regulations. Licensees auditing a college course shall be granted one CPE credit hour for each contact hour of courses within the fields of study outlined in § 5.5 of these regulations. Attendance at two-thirds of scheduled sessions of audited courses shall be documented by the course instructor to receive CPE credit for the hours attended; or

5. Service as a lecturer or instructor in courses which increase the licensee's professional competence and qualifies for CPE credit for participants as defined in §§ 5.4 and 5.5. One credit hour shall be given for each 50-minute period of instruction. For the instructor's preparation time, there will be awarded two additional hours of CPE for each credit hour of instruction. The instructor shall retain evidence to support the request for credit. The instructor shall be given no credit for subsequent sessions involving substantially identical subject matter. The maximum credit given for preparation as an instructor may not exceed 50% of the CPE credit hours reported each year with a maximum of 20 credit hours in any one reporting year; or

6. Successful completion of a self-study course offered by an approved sponsor. CPE credit hours will be established by the sponsor according to the type of CPE self-study program and pre-tests to determine average completion time. Interactive self-study programs shall receive CPE credit equal to the average completion time. Noninteractive self-study programs shall receive CPE credit equal to one-half of the average completion time. An interactive self-study program that takes an average of two contact hours to complete shall be recommended for two CPE credit hours. A noninteractive self-study program that takes an average of two contact hours to complete shall be recommended for one CPE credit hour.

§ 5.5. Acceptable CPE subject areas.

~~A.~~ All acceptable CPE shall be in subject areas within the following six fields of study:

1. Accounting and auditing which includes accounting and financial reporting subjects, the body of knowledge dealing with recent pronouncements of authoritative accounting principles issued by the standard-setting bodies, and any other related subject generally classified within the accounting discipline. It also includes auditing subjects related to the examination of financial statements, operations systems, and programs; the review of internal and management controls; and on the reporting on the results of audit findings, compilations, and review.

A minimum of 16 credit hours in accounting and auditing shall be completed in each three-year reporting cycle.

2. Advisory services which includes all advisory services provided by professional accountants -- management, business, personal, and other. It includes Management Advisory Services and Personal Financial Planning Services. This section also covers an organization's various systems, the services provided by consultant practitioners, and the engagement management techniques that are typically used. The systems include those dealing with planning, organizing, and controlling any phase of individual financial activity and business activity. Services provided encompass those for management, such as designing, implementing, and evaluating operating systems for organization, as well as business advisory services and personal financial planning.

3. Management which includes the management needs of individuals in public practice, industry, and government. Some subjects concentrate on the practice management area of the public practitioner such as organizational structures, marketing services, human resource management, and administrative practices. For individuals in industry, there are subjects dealing with the financial management of the organization, including information systems, budgeting, and asset management, as well as items covering management planning, buying and selling businesses, contracting for goods and services, and foreign operations. For licensees in government, this curriculum embraces budgeting, cost analysis, human resource management, and financial management in federal, state and local governmental entities. In general, the emphasis in this field is on the specific management needs of licensees and not on general management skills.

4. Personal development which includes such skills as communications, managing the group process, and dealing effectively with others in interviewing, counseling, and career planning. Public relations and professional ethics are also included.

A maximum of 24 credit hours may be awarded in personal development in each reporting cycle.

5. Specialized knowledge and application which includes subjects related to specialized industries, such as not-for-profit organizations, health care, oil and gas. An industry is defined as specialized if it is unusual in its form of organization, economic structure, source(s) of financing, legislation or regulatory requirements, marketing or distribution, terminology, technology; and either employs unique accounting principles and practices, encounters unique tax problems, requires unique advisory services, or faces unique audit issues.

6. Taxation which includes subjects dealing with tax compliance and tax planning. Compliance covers tax return preparation and review and IRS examinations, ruling requests, and protests. Tax planning focuses on applying tax rules to prospective transactions and understanding the tax implications of unusual or complex transactions. Recognizing alternative tax treatments and advising the client on tax saving opportunities are also part of tax planning.

A minimum of 16 credit hours in taxation shall be completed in each three-year reporting cycle.

§ 5.6. NASBA approved sponsors.

A. The board shall annually review the NASBA Registry's Standards for Approval.

B. A NASBA approved sponsor removed from the Registry for failure to comply with NASBA standards will no longer qualify as a Virginia approved sponsor. In such cases, the sponsor may apply to the board for approval as a Virginia approved sponsor.

VA.R. Doc. No. R95-391; Filed March 28, 1995, 3:27 p.m.

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

REGISTRAR'S NOTICE: The Department of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia when promulgating regulations regarding the management of wildlife. However, it is required to publish proposed and final regulations pursuant to § 9-6.14:22 of the Code of Virginia.

Title of Regulations: **VR 325-02-1. Game: In General (§§ 6-1, 7 and 27).**
VR 325-02-5. Game: Crow (§ 1).
VR 325-02-6. Game: Deer (§§ 2-1, 4, 5, 7, 7.1, 7.2, 10, 11, 13, 14, 14.2, 15 and 17).
VR 325-02-22. Game: Turkey (§§ 1, 2, 2-1 and 4).

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Notice to the Public: The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed new or amended wildlife regulations.

At the conclusion of a series of meetings being held around the state for the purpose of providing the public with an opportunity to review and comment on all wildlife regulations, a public hearing will be held on the advisability of adopting, or

amending and adopting wildlife regulations, or any part thereof. Because all of the wildlife regulations are open for consideration by the board, the board may amend any wildlife regulation including those changes involving species that were not recommended for change by staff. These changes may be more liberal than, or more stringent than currently listed or recommended by staff. This meeting will be held at Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia, beginning at 10 a.m. on May 4 and at 9 a.m. on May 5, 1995, at which time any interested citizen present shall be heard.

Summary:

The amendments to VR 325-02-1 (i) add the Quantico Marine Corps Reservation to the list of military bases allowing the training of dogs during daylight hours on rabbits and nonmigratory game birds; (ii) rescind the regulation prohibiting the training of dogs on the Quantico Marine Reservation if VR 325-02-1, § 6.1 is approved; and (iii) establish that the general regulations of the board apply to department-owned and controlled lands except as altered by posted rules at entrances to the lands and allow for the department to modify open seasons, bag limit, hours of hunting and methods of taking on such lands. A penalty for failure to comply with posted rules is set out.

The amendment to VR 325-02-5 provides for the hunting of crows on Wednesdays instead of Thursdays during the established season framework (i.e., from the third Saturday in August through the third Saturday in March, both dates inclusive).

The amendments to VR 325-02-6:

1. Create a uniform general firearms deer season by incorporating the City of Suffolk (east of the Dismal Swamp line) and that portion of the Dismal Swamp National Wildlife Refuge located in the City of Chesapeake into the western Suffolk (west of Dismal Swamp line) general firearms deer season (third Monday in November through the first Saturday in January).

2. Remove the City of Suffolk (east of the Dismal Swamp line) and that portion of the Dismal Swamp National Wildlife Refuge located in the City of Chesapeake from the Chesapeake/Virginia Beach late archery season, if the general firearms season amendment (see VR 325-02-6, § 2-1) is adopted.

3. (i) Add the City of Suffolk (east of the Dismal Swamp line) and that portion of the Dismal Swamp National Wildlife Refuge located in the City of Chesapeake to the early special muzzleloading season if the general firearms season amendment (see VR 325-02-6, § 2-1) is adopted; (ii) eliminate the first Saturday either-sex deer hunting day during the early special muzzleloading season on private lands in Smyth County, Clinch Mountain Wildlife Management Area, and on the national forest lands in Frederick and Warren counties; (iii) eliminate all either-sex deer hunting days during the late muzzleloading season in Dickenson and Wise counties; (iv) reduce the number of either-sex deer hunting days during the late muzzleloading gun season on private lands in Smyth County from the last six days to the last day, only; and (v) eliminate any reference to the type of sights permitted on muzzleloading guns during the special muzzleloading seasons thus allowing for the use of scopes on muzzleloading guns during the special muzzleloading seasons.

4. (i) Add exemptions for public lands in Alleghany, Augusta, Bath, Bland, Carroll, Craig, Giles, Highland, Montgomery, Pulaski, Rockbridge, and Wythe counties if the amendment to reduce the number of either-sex hunting days on public lands in these counties to the first Saturday and last hunting day (see VR 325-02-6, § 10) is adopted; (ii) delete Grayson County, if the amendment to move Grayson County private lands to full season either-sex (see VR 325-02-6, § 10) is adopted and if the amendment to move Grayson County either-sex deer hunting on public land to the first Saturday of the general firearms season (see VR 325-02-6, § 11) is adopted; (iii) delete Roanoke County, if the amendment to move Roanoke County private lands to full season either-sex (see VR 325-02-6, § 10) is adopted and if the amendment to move Roanoke County either-sex deer hunting on public land to the first Saturday of the general firearms season (see VR 325-02-6, § 7.1) is adopted; and (iv) delete Smyth County private lands, if the amendment to reduce Smyth county either-sex deer hunting days to the first Saturday of the general firearms season on public and private lands (see VR 325-02-6, § 10) is adopted.

5. Establish a general firearms season either-sex regulation which will reduce the number of either-sex deer hunting days on public lands in Alleghany, Augusta, Bath Bland, Carroll, Craig, Giles, Highland, Montgomery, Pulaski, Roanoke, Rockbridge, and Wythe counties from the first Saturday and last two hunting days to the first Saturday and last hunting day of the general firearms deer season.

6. Establish a general firearms season either-sex regulation which will simplify regulations and increase the number of either-sex hunting days in the cities of Chesapeake and Virginia Beach from the first Saturday and last six days to the last 12 hunting days of the general firearms season.

7. (i) Increase the number of either-sex deer hunting days during the general firearms season in Greensville, Isle of Wight, Southampton, Surry, and Sussex counties from the first three Saturdays and last 24 days to full season; (ii) provide for full season either-sex hunting on the previously closed Chippokes State Park; and (iii) increase the number of either-sex deer hunting days during the general firearms season on private lands in Grayson and Roanoke counties from the first Saturday and last two hunting days to full season.

8. (i) Reduce either-sex deer hunting days on public land in Grayson county to the first Saturday during the general firearms season; (ii) delete public land in Lee and Scott counties, if public lands go to buck-only hunting (see VR 325-02-6, § 14.2); (iii) reduce the number of either-sex hunting days in Smyth county (private and public) to the first Saturday during the general firearms season; and (iv)

delete Wise County, if Wise County goes to buck-only hunting (see VR 325-02-6, § 14.2).

9. Delete either-sex hunting days during the first Saturday and last six days of the general firearms season in the cities of Chesapeake and Virginia Beach if the amendment to increase the number of either-sex deer hunting days to the last 12 hunting days (see VR 325-02-6, § 7.2) is adopted.

10. Delete either-sex deer hunting during the first three Saturdays and the last 24 hunting days of the general firearms season in Greensville, Isle of Wight, Southampton, Surry, and Sussex counties if the amendment to increase either-sex hunting to full season in these counties (see VR 325-02-6, § 10) is adopted.

11. (i) Add Wise County to the buck-only hunting; (ii) add national forest lands in Lee and Scott counties to buck-only hunting; and (iii) open all of Dickenson County to buck-only hunting (see VR 325-02-6, § 17) is adopted.

12. Clarify wording regarding tagging of deer with bonus deer permits and special permits (e.g., DCAP and DMAP permit tags).

13. Delete that portion of Dickenson County closed to hunting, opening all of Dickenson County for deer hunting.

The amendments to VR 325-02-22 (i) establish a five-week fall turkey season statewide, beginning the last Monday in October and continuing for 11 consecutive hunting days and beginning again on the Monday nearest December 9 and continuing for 17 consecutive hunting days; (ii) eliminate the two-week fall turkey season in 18 counties and Camp Peary, if the five-week fall turkey season (see VR 325-02-22, § 1) is adopted; (iii) eliminate the eight-week fall turkey season in 45 counties if the five week fall turkey season (see VR 325-02-22, § 1) is adopted; and (iv) delete Buchanan and Southampton counties from the continuous closed turkey season if the five-week fall turkey season (see VR 325-02-22, § 1) is adopted.

VR 325-02-1. Game: In General.

§ 1. Hunting in the snow.

Except as otherwise provided in VR 325-02-17, § 5, it shall be lawful to hunt game birds and game animals in the snow.

§ 2. Hunting with crossbows, arrows to which any drug, chemical or toxic substance has been added or explosive-head arrows prohibited.

A. Generally. Except as otherwise provided by law or regulation, it shall be unlawful to use a crossbow, arrows to which any drug, chemical or toxic substance has been added or arrows with explosive heads at any time for the purpose of hunting wild birds or wild animals. A crossbow is defined as any bow that can be mechanically held in the drawn or cocked position.

B. Crossbows permitted for persons with permanent physical disabilities. For the purposes of this section any person, possessing a medical doctor's written statement based on a physical examination declaring that such person has a permanent physical disability that prohibits the person from holding the mass weight of a conventional bow and arrow at arm's length perpendicular to the body, or drawing or pulling or releasing the bow string of a conventional bow, and thus prevents that person from hunting with conventional archery equipment, may hunt with a crossbow on his own property during established special archery seasons. The doctor's written statement must be carried by the person while hunting and a copy of the doctor's written statement must be provided to the department on a form provided by the department, prior to hunting with a crossbow and the department's verification form shall be presented upon demand to any officer whose duty it is to enforce the game and inland fish laws.

§ 3. Recorded wild animal or wild bird calls or sounds prohibited in taking game; coyotes and crows excepted.

It shall be unlawful to take or attempt to take wild animals and wild birds, with the exception of coyotes and crows, by the use or aid of recorded animal or bird calls or sounds or recorded or electrically amplified imitation of animal or bird calls or sounds; provided, that electronic calls may be used on private lands for hunting coyotes with the written permission of the landowner.

§ 4. Live birds or animals as decoys prohibited.

Game birds and game animals shall not be taken by the use or aid of live birds or animals as decoys.

§ 5. Poisoning of wild birds and wild animals prohibited; certain control programs excepted.

It shall be unlawful to put out poison at any time for the purpose of killing any wild birds and wild animals, provided that rats and mice may be poisoned on one's own property. The provisions of this section shall not apply to the Commissioner of Agriculture and Consumer Services, or his representatives or cooperators, and those being assisted in a control program following procedures developed under the "Virginia Nuisance Bird Law."

§ 6. Hunting with dogs or possession of weapons in certain locations during closed season.

A. National forests and department-owned lands. It shall be unlawful to have in possession a bow or a gun which is not unloaded and cased or dismantled, in the national forests and on department-owned lands and on lands managed by the department under cooperative agreement except during the period when it is lawful to take bear, deer, grouse, pheasant, quail, rabbit, raccoon, squirrel, turkey, waterfowl, in all counties west of the Blue Ridge Mountains and on national forest lands east of the Blue Ridge Mountains and migratory game birds in all counties east of the Blue Ridge Mountains. The provisions of this section shall not prohibit the conduct of any activities authorized by the board or the establishment and operation of archery and shooting ranges on the above-mentioned lands. The use of firearms and bows in such ranges during the closed season period will be restricted to the area within established range boundaries. Such weapons shall be required to be unloaded and cased or dismantled in all areas other than the range boundaries. The use of firearms or bows during the closed hunting period in such ranges shall be restricted to target shooting only and no birds or animals shall be molested.

B. Certain counties. Except as otherwise provided in VR 325-02-1, § 6-1, it shall be unlawful to have either a shotgun or a rifle in one's possession when accompanied by a dog in the daytime in the fields, forests or waters of the counties of Augusta, Clarke, Frederick, Page, Shenandoah and Warren, and in the counties east of the Blue Ridge Mountains, except Patrick, at any time except the periods prescribed by law to hunt game birds and animals.

C. Meaning of "possession" of bow or firearm. For the purpose of this section the word "possession" shall include, but not be limited to, having any bow or firearm in or on one's person, vehicle or conveyance.

D. It shall be unlawful to chase with a dog or train dogs on national forest lands or department-owned lands except during authorized hunting, chase, or training seasons that specifically permit these activities on these lands.

E. It shall be unlawful to possess or transport a loaded gun in or on any vehicle at any time on national forest lands or department-owned lands. For the purpose of this section a "loaded gun" shall be defined as a firearm in which ammunition is chambered or loaded in the magazine or clip, when such magazine or slip is found engaged or partially engaged in a firearm. The definition of a loaded muzzleloading gun will include a gun which is capped or has a charged pan.

§ 6-1. Open dog training season.

A. Private lands and certain military areas. It shall be lawful to train dogs during daylight hours on rabbits and nonmigratory game birds on private lands, Fort A.P. Hill ~~and~~ , Fort Pickett, *and Quantico Marine Reservation.* Participants in this dog training season shall not have any weapons other than starter pistols in their possession, must comply with all regulations and laws pertaining to hunting and no game shall be taken; provided, however, that weapons may be in possession when training dogs on captive waterfowl and pigeons so that they may be immediately shot or recovered, except on Sunday.

B. Designated portions of certain department-owned lands. It shall be lawful to train dogs on quail on designated portions of the Amelia Wildlife Management Area, Chester F. Phelps Wildlife Management Area, Chickahominy Wildlife Management Area and Dick Cross Wildlife Management Area from September 1 to the day prior to the opening date of the quail hunting season, both dates inclusive. Participants in this dog training season shall not have any weapons other than starter pistols in their possession, shall not release pen-raised birds, must comply with all regulations and laws pertaining to hunting and no game shall be taken.

§ 7. ~~Quantico Marine Reservation; Training or running dogs.~~ *(Repealed.)*

~~It shall be unlawful to train deer dogs at any time, or to train or run any dogs in the designated hunting areas between March 1 and September 1, both dates inclusive, within the confines of Quantico Marine Reservation.~~

§ 8. Quantico Marine Reservation; Hunting after sunset prohibited.

It shall be unlawful to hunt with any firearm or bow and arrow after sunset on any day within the confines of Quantico Marine Reservation.

§ 9. Hog Island Wildlife Management Area; Waterfowl refuge established.

Hog Island, in Surry County, and all of the waters of the James River within a radius of 1,000 yards contiguous thereto is hereby declared a waterfowl refuge for the purpose of developing a feeding and resting area for such birds.

§ 10. Hog Island Wildlife Management Area; Hunting, trapping, etc., prohibited; exception.

It shall be unlawful to hunt, shoot, kill, trap or molest or attempt to hunt, shoot, kill, trap or molest at any time any waterfowl including ducks, geese, brant, or coot, or to hunt, shoot, kill, trap, molest, or attempt to hunt, shoot, kill, trap, or molest any other birds or animals on or in the area described in § 9 of this regulation, except at designated times from waterfowl blinds established by the department, provided that the department may, when deemed necessary for the better development of said refuge, remove by trapping or otherwise any birds or animals as would not be beneficial to the purposes for which such refuge is established.

§ 11. Hog Island Wildlife Management Area; possession of loaded gun prohibited; exception.

It shall be unlawful to have in possession at any time a gun which is not unloaded and cased or dismantled on that portion of the Hog Island Wildlife Management Area bordering on the James River and lying north of the Surry Nuclear Power Plant except while hunting deer or waterfowl in conformity with a special permit issued by the department.

§ 12. Disturbing waterfowl adjacent to Lands End Waterfowl Management Area.

It shall be unlawful to take, attempt to take, pursue or disturb waterfowl within the public waters adjacent to the Lands End Waterfowl Management Area located in King George County for such distance offshore as may be established by the board and properly posted so as to give adequate notice to the public.

§ 13. Hunting, etc., prohibited on Buggs Island and certain waters of the Gaston Reservoir.

It shall be unlawful to hunt or have in one's possession a loaded gun on Buggs Island or to shoot over or have a loaded gun upon the water on Gaston Reservoir (Roanoke River) from a point beginning at High Rock and extending to the John H. Kerr Dam.

§ 14. Trapping prohibited except by permit on certain wildlife management areas.

It shall be unlawful to trap except by department permit on the Chickahominy, Barbour's Hill, Briery Creek, Hog Island, Lands End, Pocahontas-Trojan, Powhatan and Saxis Wildlife Management Areas.

§ 15. Molesting, damaging, removing or disturbing traps prohibited; release of game from lawful traps prohibited.

It shall be unlawful to willfully molest, damage or remove any trap, or any lawfully caught bird or animal therefrom, or in any way disturb traps or snares legally set by another person.

§ 16. Marking of traps by person setting.

Any person setting or in possession of a steel leghold or body gripping trap or snare shall have it marked by means of nonferrous metal tag bearing his name and address. This requirement shall not apply to landowners on their own land, nor to a bona fide tenant or lessee within the bounds of land rented or leased by him, nor to anyone transporting any such trap from its place of purchase.

§ 17. Trapping fur-bearing animals damaging property during closed season.

When fur-bearing animals are doing damage to crops or other property, the game warden of the county may issue a permit to the landowner or his lessee to trap such fur-bearing animals as are doing damage. Where such a permit is obtained by a landowner or a lessee, it shall be lawful during the closed season to trap such animals as are doing damage.

§ 18. Restricted use of body-gripping traps in excess of 7-1/2 inches.

The use of body-gripping traps with a jaw spread in excess of 7-1/2 inches is prohibited except when such traps are covered by water.

§ 19. Restricted use of above ground body-gripping traps in excess of five inches.

It shall be unlawful to set above the ground any body-gripping trap with a jaw spread in excess of five inches baited with any lure or scent likely to attract a dog.

§ 20. Restricted use of certain steel leg-hold traps.

It shall be unlawful to set above the ground any steel leg-hold trap with teeth set upon the jaws or with a jaw spread exceeding 6-1/2 inches.

§ 21. Use of deadfalls prohibited; restricted use of snares.

It shall be unlawful to trap, or attempt to trap, on land any wild bird or wild animal with any deadfall or snare; provided, that snares with loops no more than 12 inches in diameter and with the top of the snare loop set not to exceed 12 inches above ground level may be used with the written permission of the landowner.

§ 22. Dates for setting traps in water.

It shall be unlawful to set any trap in water prior to December 1.

§ 23. Animal population control.

Whenever biological evidence suggests that populations of game animals may exceed or threaten to exceed the carrying capacity of a specified range, or whenever the health or general condition of a species, or the threat of human public health and safety indicates the need for population reduction, the director is authorized to issue special permits to obtain the desired reduction during the open season by licensed hunters on areas prescribed by wildlife biologists. Designated game species may be taken in excess of the general bag limits on special permits issued under this section under such conditions as may be prescribed by the director.

§ 24. Wanton waste.

No person shall kill or cripple and knowingly allow any nonmigratory game bird or game animal to be wasted without making a reasonable effort to retrieve the animal and retain it in their possession. Nothing in this section shall permit a person to trespass or violate any state, federal, city or county law, ordinance or regulation.

§ 25. Sunday hunting on controlled shooting areas.

A. Except as otherwise provided in the sections appearing in this regulation, it shall be lawful to hunt pen-raised game birds seven days a week as provided by § 29.1-514. The length of the hunting season on such preserves and the size of the bag limit shall be in accordance with rules of the board. For the purpose of this regulation, controlled shooting areas shall be defined as licensed shooting preserves.

B. It shall be unlawful to hunt pen-raised game birds on Sunday on controlled shooting areas in those counties having a population of not less than 54,000, nor more than 55,000, or in any county or city which prohibits Sunday operation by ordinance.

§ 26. Sale of unclaimed taxidermy specimens by licensed taxidermists.

Unclaimed mounted native wildlife specimens or their processed hides, when taken in accordance with the provisions of law and regulations, may be sold by a Virginia licensed taxidermist with the exception of black bears, migratory waterfowl, migratory birds and state and federally listed threatened and endangered species.

A mount or processed hide shall be considered unclaimed if it has been left in a taxidermy place of business for more than 30 days beyond the period the mount was to remain on the premises pursuant to a contract. This contract must inform the owner of the possibility of such sale. After the 30-day period a notice by registered or certified mail with a return receipt requested must be mailed to the owner of record therein, instructing him to reclaim the mount within 15 days of the notice. This notice shall identify the species and the date it was received, set forth the location of the taxidermist facility where it is held, and inform the owner of his rights to reclaim the mount within 15 days of this notice after payment of the specified costs. This notice shall state that the failure of the owner to reclaim the mount or hide within this 15-day time frame may result in the sale of the unclaimed mount or hide.

If a mount or hide is not claimed after the return of a signed certified receipt and within the 15-day period, then the taxidermist may sell the mount for an amount not to exceed the remainder of the amount of the original invoice plus reasonable administrative and storage costs. Within seven days of the sale of any unclaimed mount the taxidermist shall notify the department in writing of the name and address of the purchaser, invoice price, species sold, taxidermist, and previous owners' name and address.

§ 27. Department-owned or controlled lands; general regulations.

The open seasons for hunting and trapping, as well as hours, methods of taking, and bag limits for department-owned and controlled lands shall conform to the general regulations of the board unless excepted by posted rules appearing on a notice displayed at each recognized entrance to the land where the posted rules are in effect. Failure to comply with the posted rules will be treated as trespass in accordance with applicable trespass laws.

VR 325-02-5. Game: Crow.

§ 1. Open season.

It shall be lawful to hunt crow on Monday, ~~Thursday,~~ *Wednesday*, Friday and Saturday of each week from the third Saturday in August through the third Saturday in March, both dates inclusive.

VR 325-02-6. Game: Deer.

§ 1. Open season; generally.

Except as otherwise provided by local legislation and with the specific exceptions provided in the sections appearing in this regulation, it shall be lawful to hunt deer from the third Monday in November through the first Saturday in January, both dates inclusive.

§ 2. Open season; cities and counties west of Blue Ridge Mountains and certain cities and counties or parts thereof east of Blue Ridge Mountains.

It shall be lawful to hunt deer on the third Monday in November and for 11 consecutive hunting days following in the cities and counties west of the Blue Ridge Mountains (except on the Radford Army Ammunition Plant in Pulaski County), and in the counties (including cities within) of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad except in the City of Lynchburg), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad), and on the Chester F. Phelps and G. Richard Thompson Wildlife Management areas.

§ 2-1. Open season; cities of Virginia Beach~~,~~ *and* Chesapeake ~~and Suffolk east of Dismal Swamp Line~~.

It shall be lawful to hunt deer from October 1 through November 30, both dates inclusive, in the cities of Virginia Beach~~,~~ *and* Chesapeake~~, and Suffolk east of the Dismal Swamp Line~~ *(except on the Dismal Swamp National Wildlife Refuge)*.

§ 2-2. (Repealed.)

§ 2-3. Open season; Back Bay National Wildlife Refuge and False Cape State Park.

It shall be lawful to hunt deer on the Back Bay National Wildlife Refuge and on False Cape State Park from October 1 through October 31.

§ 3. (Repealed.)

§ 4. Bow and arrow hunting.

A. Early special archery. It shall be lawful to hunt deer with bow and arrow from the first Saturday in October through the Saturday prior to the third Monday in November, both dates inclusive, except where there is a closed general hunting season on deer.

B. Late special archery season west of Blue Ridge Mountains and certain cities and counties east of Blue Ridge Mountains. In addition to the season provided in subsection A of this section, it shall be lawful to hunt deer with bow and arrow from the Monday following the close of the general firearms season on deer west of the Blue Ridge Mountains through the first Saturday in January, both dates inclusive, in all cities and counties west of the Blue Ridge Mountains and in the counties of (including cities within) Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry, Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad) and from December 1 through the first Saturday in January, both dates inclusive, in the cities of Chesapeake~~, Suffolk (east of the Dismal Swamp line)~~ *(except on the Dismal Swamp National Wildlife Refuge)* and Virginia Beach.

C. Either-sex deer hunting days. Deer of either sex may be taken full season during the special archery seasons as provided in subsections A and B of this section.

D. Carrying firearms prohibited. It shall be unlawful to carry firearms while hunting with bow and arrow during the special archery season.

E. Requirements for bow and arrow. Arrows used for hunting big game must have a minimum width head of 7/8 of an inch and the bow used for such hunting must be capable of casting a broadhead arrow a minimum of 125 yards.

F. Use of dogs prohibited during bow season. It shall be unlawful to use dogs when hunting with bow and arrow from the first Saturday in October through the Saturday prior to the third Monday in November, both dates inclusive.

G. Crossbows permitted for persons with permanent physical disabilities. As provided in § 2 B of VR 325-02-1, it shall be lawful for persons whose permanent physical disabilities prevent them from hunting with conventional archery equipment to hunt deer with a crossbow on their own property as provided in subsections A, B, C, D, and F of this section.

§ 5. Muzzleloading gun hunting.

A. Early special muzzleloading season. It shall be lawful to hunt deer with muzzleloading guns from the first Monday in November through the Saturday prior to the third Monday in November, both dates inclusive, in all cities and counties where hunting with a rifle or muzzleloading gun is permitted, except in the cities of Chesapeake~~, Suffolk (east of the Dismal Swamp Line)~~ *(except on the Dismal Swamp National Wildlife Refuge)* and Virginia Beach.

B. Late special muzzleloading season west of Blue Ridge Mountains and in certain cities and counties east of Blue Ridge Mountains. It shall be lawful to hunt deer with muzzleloading guns from the third Monday in December through the first Saturday in January, both dates inclusive, in all cities and counties west of the Blue Ridge Mountains, and east of the Blue Ridge Mountains in the counties of (including the cities within) Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad), Franklin, Henry,

Nelson (west of Route 151), Patrick and Pittsylvania (west of Norfolk Southern Railroad).

C. Either-sex deer hunting days. Deer of either sex may be taken during the entire early special muzzleloading season in all cities and counties east of the Blue Ridge Mountains (except on national forest lands, state forest lands, state park lands, department-owned lands and Philpott Reservoir) and on the first Saturday only in all cities and counties west of the Blue Ridge (except Buchanan, Dickenson, Lee, Russell ~~(except the Clinch Mountain Wildlife Management Area)~~, Scott, *Smyth,* Tazewell ~~(except the Clinch Mountain Wildlife Management Area)~~, Washington ~~(except the Clinch Mountain Wildlife Management Area)~~, Wise and on national forest lands in *Frederick,* Page, Rockingham, Shenandoah, and ~~Smyth~~ *Warren*) ~~and on the Clinch Mountain Wildlife Management Area~~ and east of the Blue Ridge Mountains on national forest lands, state forest lands, state park lands, department-owned lands and on Philpott Reservoir. It shall be lawful to hunt deer of either sex during the last six days of the late special muzzleloading season in all cities and counties west of the Blue Ridge Mountains (except Buchanan, Dickenson, Lee, Russell, Scott, *Smyth,* Tazewell, Washington, *and* Wise ~~and on national forest lands in Smyth and on the Clinch Mountain Wildlife Management Area~~) and in the counties (including cities within) or portions of counties east of the Blue Ridge Mountains listed in subsection B of this section. Provided further it shall be lawful to hunt deer of either sex during the last day only of the last special muzzleloading season in the cities and counties within ~~Dickenson (north of Pound River and west of Russell Fork River),~~ Lee, Russell, Scott, *Smyth,* Tazewell, *and* Washington~~, Wise and on national forest lands in Smyth and on the Clinch Mountain Wildlife Management Area~~.

D. Use of dogs prohibited. It shall be unlawful to hunt deer with dogs during any special season for hunting with muzzleloading guns.

E. Muzzleloading gun defined. A muzzleloading gun, for the purpose of this regulation, means a single shot flintlock or percussion weapon, excluding muzzleloading pistols, .45 caliber or larger, firing a single lead projectile or sabot (with a .38 caliber or larger nonjacketed lead projectile) of the same caliber loaded from the muzzle of the weapon and propelled by at least 50 grains of black powder (or black powder equivalent). ~~Open or peep sights only (iron sights) are permitted during special muzzleloading seasons.~~

F. Unlawful to have other firearms in possession. It shall be unlawful to have in immediate possession any firearm other than a muzzleloading gun while hunting with a muzzleloading gun in a special muzzleloading season.

§ 6. Bag limit; generally; bonus deer permits and tag usage.

The bag limit for deer statewide shall be two a day, three a license year, one of which must be antlerless. Antlerless deer may be taken only during designated either-sex deer hunting days during the special archery season, special muzzleloading seasons, and the general firearms season. Bonus deer permits shall be valid on private land in counties and cities where deer hunting is permitted and on Fort Belvior and other special deer problem and harvest management areas identified and so posted by the Department of Game and Inland Fisheries during the special archery, special muzzleloading gun and the general firearms seasons. Deer taken on bonus permits shall count against the daily bag limit but are in addition to the seasonal bag limit.

§ 7. General firearms season either-sex deer hunting days; Saturday following third Monday in November and last two hunting days.

During the general firearms season, deer of either sex may be taken on the Saturday immediately following the third Monday in November and the last two hunting days only, in the counties of (including cities within) Alleghany *(except on national forest lands)*, Augusta *(except on national forest and department-owned lands)*, Bath *(except on national forest and department-owned lands)*, Bland *(except on national forest lands)*, Carroll *(except on national forest and department-owned lands)*, Craig *(except on national forest lands)*, Giles *(except on national forest lands)*, ~~Grayson,~~ Highland *(except on national forest and department-owned lands)*, Montgomery *(except on national forest lands)*, Page (except on national forest lands), Pulaski (except on *national forest lands and* the Radford Army Ammunition Plant), ~~Roanoke,~~ Rockbridge *(except on national forest and department-owned lands)*, Rockingham (except *on* national forest lands), Shenandoah (except *on* national forest lands), ~~Smyth (except on national forest lands and Clinch Mountain Wildlife Management Area),~~ *and* Wythe *(except on national forest lands)* and on Fairystone Farms Wildlife Management Area, Fairystone State Park, Philpott Reservoir, and Turkeycock Mountain Wildlife Management Area.

§ 7.1. General firearms season either-sex deer hunting days; Saturday following third Monday in November and last hunting day.

During the general firearms season, deer of either sex may be taken on the Saturday immediately following the third Monday in November and the last hunting day on national forest and department-owned lands in Alleghany, Augusta, Bath, Bland, Carroll, Craig, Giles, Highland, Montgomery, Pulaski, Roanoke, Rockbridge, and Wythe.

§ 7.2. General firearms season either-sex deer hunting days; last 12 hunting days.

During the general firearms season, deer of either sex may be taken on the last 12 hunting days in the cities of Chesapeake (except on Dismal Swamp National Wildlife Refuge and Fentress Naval Auxiliary Landing Field on the Northwest Naval Security Group) and Virginia Beach (except on Back Bay National Wildlife Refuge, Dam Neck Amphibious Training Base, Naval Air Station Oceana, False Cape State Park, and Fentress Naval Auxiliary Landing Field).

§ 8. (Repealed.)

§ 9. (Repealed.)

§ 10. General firearms season either-sex deer hunting days; full season.

During the general firearms season, deer of either sex may be taken full season, in the counties of (including cities within) Amherst (west of U.S. Route 29, except on national forest lands), Bedford, Botetourt (except on national forest lands),

Campbell (west of Norfolk Southern Railroad and in the City of Lynchburg only on private lands for which a special permit has been issued by the chief of police), Clarke, Fairfax (restricted to certain parcels of land by special permit), Floyd, Franklin (except Philpott Reservoir and Turkeycock Mountain Wildlife Management Area), Frederick (except on national forest lands), *Greensville, Grayson (except on national forest lands and portions of Grayson Highland State Park open to hunting),* Henry (except on Fairystone Farms Wildlife Management Area, Fairystone State Park, Philpott Reservoir, and Turkeycock Mountain Wildlife Management Area), *Isle of Wight,* Loudoun, Nelson (west of Route 151, except on national forest lands), Patrick (except *on* Fairystone Farms Wildlife Management Area, Fairystone State Park and Philpott Reservoir), Pittsylvania (west of Norfolk Southern Railroad), *Roanoke (except on national forest and department-owned lands), Southampton, Surry (except on the Carlisle Tract of the Hog Island Wildlife Management Area), Sussex,* Warren (except on national forest lands) and on Back Bay National Wildlife Refuge, Fort A.P. Hill, Caledon Natural Area, Camp Peary, Cheatham Annex, Chincoteague National Wildlife Refuge, *Chippokes State Park,* Dahlgren Surface Warfare Center Base, Dam Neck Amphibious Training Base, Dismal Swamp National Wildlife Refuge, Eastern Shore of Virginia National Wildlife Refuge, False Cape State Park, Fentress Naval Auxiliary Landing Field, Fisherman's Island National Wildlife Refuge, Fort Belvoir, Fort Eustis, Fort Lee, Fort Pickett, Harry Diamond Laboratory, Langley Air Force Base, Naval Air Station Oceana, Northwest Naval Security Group, Presquile National Wildlife Refuge, Quantico Marine Corps Reservation, Radford Army Ammunition Plant, Sky Meadows State Park, York River State Park, Yorktown Naval Weapons Station ~~and Hog Island Wildlife Management Area (except on the Carlisle Tract)~~.

§ 11. General firearms season either-sex deer hunting days; ~~first~~ Saturday ~~immediately~~ following third Monday in November ~~and last six days~~.

During the general firearms season, deer of either sex may be taken the Saturday immediately following the third Monday in November in the counties (including cities within) of Lee *(except on national forest lands),* Russell, Scott *(except on national forest lands), Smyth,* Tazewell, Washington, ~~Wise,~~ and on the ~~Clinch Mountain Wildlife Management Area,~~ Buckingham-Appomattox State Forest, Cumberland State Forest and Pocahontas State Forest, Prince Edward State Forest and on national forest lands in Frederick, *Grayson,* Page, Shenandoah, ~~Smyth,~~ Rockingham and Warren counties *and on portions of Grayson Highlands State Park open to hunting.*

§ 12. (Repealed.)

§ 13. General firearms season either-sex deer hunting days; first Saturday immediately following third Monday in November and last six days.

During the general firearms season, deer of either sex may be taken on the first Saturday immediately following the third Monday in November and the last six hunting days, in the counties of (including cities within) Middlesex, Mathews, Warren and York (except on Camp Peary, Cheatham Annex and Naval Weapons Station) and on the Horsepen Lake Wildlife Management Area, James River Wildlife Management Area, Occoneechee State Park, Amelia Wildlife Management Area, Briery Creek Wildlife Management Area, Dick Cross Wildlife Management Area, White Oak Mountain Wildlife Management Area and Powhatan Wildlife Management Area and on national forest lands in Amherst, Botetourt and Nelson counties~~; and in the Cities of Chesapeake (except on Dismal Swamp National Wildlife Refuge, Fentress Naval Auxiliary Landing Field and on the Northwest Naval Security Group), and Virginia Beach (except on Back Bay National Wildlife Refuge, Dam Neck Amphibious Training Base, Naval Air Station Oceana and, False Cape State Park and Fentress Naval Auxiliary Landing Field)~~.

§ 14. General firearms season either-sex deer hunting days; first three Saturdays following third Monday in November and last 24 hunting days.

During the general firearms season, deer of either sex may be taken on the first three Saturdays immediately following the third Monday in November and on the last 24 hunting days, in the counties of (including cities within) Accomack (except Chincoteague National Wildlife Refuge), ~~Greensville, Isle of Wight,~~ Northampton (except *on* Eastern Shore of Virginia National Wildlife Refuge and Fisherman's Island National Wildlife Refuge), ~~Southampton, Surry (except Hog Island Wildlife Management Area), and Sussex,~~ and in the City of Suffolk (except on the Dismal Swamp National Wildlife Refuge).

§ 14.1. General firearms season either-sex deer hunting days; first two Saturdays immediately following third Monday in November and last 12 hunting days.

During the general firearms season, deer of either sex may be taken on the first two Saturdays immediately following the third Monday in November and on the last 12 hunting days, in the counties of (including the cities within) Albemarle, Amelia (except Amelia Wildlife Management Area), Amherst (east of U.S. Route 29), Appomattox (except Buckingham-Appomattox State Forest), Brunswick (except Fort Pickett), Buckingham (except on Buckingham-Appomattox State Forest and Horsepen Lake Wildlife Management Area, Campbell (east of Norfolk Southern Railroad except City of Lynchburg), Caroline (except Fort A.P. Hill), Charles City (except on Chickahominy Wildlife Management Area), Charlotte, Chesterfield (except Pocahontas State Forest and Presquile National Wildlife Refuge), Culpeper (except on Chester F. Phelps Wildlife Management Area), Cumberland (except on Cumberland State Forest), Dinwiddie (except on Fort Pickett), Essex, Fauquier (except on the G. Richard Thompson and Chester F. Phelps Wildlife Management Areas, Sky Meadows State Park and Quantico Marine Reservation), Fluvanna, Gloucester, Goochland, Greene, Halifax, Hampton (except on Langley Air Force Base), Hanover, Henrico (except Presquile National Wildlife Refuge), James City (except York River State Park), King and Queen, King George (except Caledon Natural Area and Dahlgren Surface Warfare Center), King William, Lancaster, Louisa, Lunenburg, Madison, Mecklenburg (except Dick Cross Wildlife Management Area, Occoneechee State Park), Nelson (east of Route 151 except James River Wildlife Management Area), New Kent, Newport News (except Fort Eustis), Northumberland, Nottoway (except on Fort Pickett), Orange, Pittsylvania (east of Norfolk Southern Railroad except White Oak Mountain Wildlife Management Area), Powhatan

(except Powhatan Wildlife Management Area), Prince Edward (except on Prince Edward State Forest and Briery Creek Wildlife Management Area), Prince George (except on Fort Lee), Prince William (except on Harry Diamond Laboratory and Quantico Marine Reservation), Rappahannock, Richmond, Spotsylvania, Stafford (except on Quantico Marine Reservation), Westmoreland, and York (except on Camp Peary, Cheatham Annex and Yorktown Naval Weapons Station).

§ 14.2. General firearms season; bucks only.

During the general firearms season, only deer with antlers visible above the hairline may be taken in ~~that portion of~~ *the counties of (including the cities within)* Dickenson ~~County lying north of the Pound River and west of the Russell Fork River~~ *and Wise and on national forest lands in Lee and Scott* and on the Chester F. Phelps Wildlife Management Area, G. Richard Thompson Wildlife Management Area, Chickahominy Wildlife Management Area and on the Carlisle Tract of Hog Island Wildlife Management Area.

§ 15. Tagging deer and obtaining official game tag; by licensee.

A. Detaching game tag from ~~license~~ *special license for hunting bear, deer, and turkey, bonus deer permit, or special permit.* It shall be unlawful for any person to detach the game tag from any ~~license~~ *special license for hunting bear, deer, and turkey, bonus deer permit, or special permit* to hunt deer prior to the killing of a deer and tagging same. Any detached tag shall be subject to confiscation by any representative of the department.

B. Immediate tagging of carcass. Any person killing a deer shall, before removing the carcass from the place of kill, detach from ~~his special license for hunting deer~~ *their special license for hunting bear, deer, and turkey, bonus deer permit, or special permit* the appropriate tag and shall attach such tag to the carcass of ~~his~~ *their* kill. Place of kill shall be defined as the location where the animal is first reduced to possession.

C. Presentation of tagging carcass for checking; obtaining official game check card. Upon killing a deer and tagging same, as provided above, the licensee *or permittee* shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, present the tagged carcass to an authorized checking station or to an appropriate representative of the department in the county or adjoining county in which the deer was killed. At such time, the tag attached to the carcass shall be exchanged for an official game check card, which shall be securely attached to the carcass and remain attached until the carcass is processed.

D. Destruction of deer prior to tagging; forfeiture of untagged deer. It shall be unlawful for any person to destroy the identity (sex) of any deer killed unless and until tagged and checked as required by this section. Any deer not tagged as required by this section found in the possession of any person shall be forfeited to the Commonwealth to be disposed of as provided by law.

§ 16. Tagging deer and obtaining official game tag; by person exempt from license requirement.

Upon killing a deer, any person exempt from license requirement as prescribed in § 29.1-301 of the Code of Virginia, or issued a complimentary license as prescribed in § 29.1-339, or the holder of a permanent license issued pursuant to § 29.1-301 E, shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, present the carcass to an authorized checking station or to any appropriate representative of the department in the county or adjoining county in which the deer was killed. At such time, the person shall be given an official game check card furnished by the department, which shall be securely attached to the carcass and remain attached until the carcass is processed.

§ 17. Hunting prohibited in certain counties.

It shall be unlawful to hunt deer at any time in the counties of Arlington~~,~~ *and* Buchanan ~~and in that portion of Dickenson County south of the Pound River and east of the Russell Fork River~~.

§ 18. Hunting with dogs prohibited in certain counties and areas.

A. Generally. It shall be unlawful to hunt deer with dogs in the counties of Amherst (west of U.S. Route 29), Bedford, Campbell (west of Norfolk Southern Railroad, and in the City of Lynchburg), Fairfax, Franklin, Henry, Loudoun, Nelson (west of Route 151), Northampton, Patrick and Pittsylvania (west of Norfolk Southern Railroad); and on the Amelia, Chester F. Phelps, G. Richard Thompson and Pettigrew Wildlife Management Areas.

B. Special provision for Greene and Madison counties. It shall be unlawful to hunt deer with dogs during the first 12 hunting days in the counties of Greene and Madison.

§ 19. Hunting with dogs or drives prohibited on Quantico Marine Reservation.

It shall be unlawful to use dogs or to organize drives for the purpose of hunting deer within the confines of Quantico Marine Reservation.

§ 20. Sale of hides.

It shall be lawful to sell hides from any legally taken deer.

VR 325-02-22. Game: Turkey.

§ 1. Open season; generally.

Except as otherwise specifically provided in the sections appearing in this regulation, it shall be lawful to hunt turkeys from the ~~first~~ *last* Monday in ~~November through the first Saturday in January, both dates inclusive~~ *October and for 11 consecutive hunting days following and on the Monday nearest December 9 for 17 consecutive hunting days following.*

§ 2. ~~Open season; certain counties and areas; first Monday in November and for 11 hunting days following.~~ *(Repealed.)*

~~It shall be lawful to hunt turkeys on the first Monday in November and for eleven consecutive hunting days following in the counties of Charles City, Chesterfield, Gloucester, Greensville, Henrico, Isle of Wight, James City, King George,~~

~~Lancaster, Middlesex, New Kent, Northumberland, Prince George, Richmond, Surry, Sussex, Westmoreland and York, and on Camp Peary.~~

§ 2-1. ~~Open season; same; first Monday in November through Saturday prior to third Monday in November and fourth Monday in November through first Saturday in January.~~ *(Repealed.)*

~~It shall be lawful to hunt turkeys on the first Monday in November through the Saturday prior to the third Monday in November and from the fourth Monday in November through the first Saturday in January, both dates inclusive, in the counties of Albemarle, Alleghany, Amelia, Amherst, Appomattox. Augusta, Bath, Brunswick, Buckingham, Caroline,, Charlotte, Clarke, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Frederick, Goochland, Greene, Hanover, Highland, King and Queen, King William, Loudoun, Louisa, Lunenburg, Madison, Mecklenburg, Nelson, Nottoway, Orange. Page, Powhatan, Prince Edward, Prince William, Rappahannock, Rockbridge, Rockingham, Shenandoah, Spotsylvania, Stafford and Warren.~~

§ 3. Open season; spring season for bearded turkeys.

It shall be lawful to hunt bearded turkeys only from the Saturday nearest the 15th of April and for 30 consecutive hunting days following, both dates inclusive, from 1/2 hour before sunrise to 12:00 noon prevailing time. Bearded turkeys may be hunted by calling. It shall be unlawful to use dogs or organized drives for the purpose of hunting. It shall be unlawful to use or have in possession any shot larger than number 2 fine shot when hunting turkeys with a shotgun.

§ 4. Continuous closed season in certain counties, cities and areas.

There shall be continuous closed turkey season, except where a special spring season for bearded turkeys is provided for in § 3 of this regulation, in the counties of Accomack, Arlington, ~~Buchanan,~~ Mathews, *and* Northampton ~~and Southampton~~; and in the cities of Chesapeake, Hampton, Newport News, Suffolk and Virginia Beach.

§ 5. Bow and arrow hunting.

A. Season. It shall be lawful to hunt turkey with bow and arrow in those counties and areas open to fall turkey hunting from the first Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

B. Bag limit. The daily and seasonal bag limit for hunting turkey with bow and arrow shall be the same as permitted during the general turkey season in those counties and areas open to fall turkey hunting, and any turkey taken shall apply toward the total season bag limit.

C. Carrying firearms prohibited. It shall be unlawful to carry firearms while hunting with bow and arrow during special archery season.

D. Requirements for bow and arrow. Arrows used for hunting turkey must have a minimum width head of 7/8 of an inch, and the bow used for such hunting must be capable of casting a broadhead arrow a minimum of 125 yards.

E. Use of dogs prohibited during bow season. It shall be unlawful to use dogs when hunting with bow and arrow from the first Saturday in October through the Saturday prior to the second Monday in November, both dates inclusive.

§ 6. Bag limit.

The bag limit for hunting turkeys shall be one a day, three a license year, no more than two of which may be taken in the fall and no more than two of which may be taken in the spring.

§ 7. Tagging turkey and obtaining official game check card; by licensee.

A. Detaching game tag from license. It shall be unlawful for any person to detach the game tag from any license to hunt turkey prior to the killing of a turkey and tagging same. Any detached tag shall be subject to confiscation by any representative of the department.

B. Immediate tagging of carcass. Any person killing a turkey shall, before removing the carcass from the place of kill, detach from his special license for hunting turkey the appropriate tag and shall attach such tag to the carcass of his kill. Place of kill shall be defined as the location where the animal is first reduced to possession.

C. Presentation of tagged carcass for checking; obtaining official game check card. Upon killing a turkey and tagging same, as provided above, the licensee shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, present the tagged carcass to an authorized checking station or to an appropriate representative of the department in the county or adjoining county in which the turkey was killed. At such time, the tag attached to the carcass shall be exchanged for an official game check card, which shall be securely attached to the carcass and remain attached until the carcass is processed.

D. Destruction of identity of turkey prior to tagging; forfeiture of untagged turkey. It shall be unlawful for any person to destroy the identity (sex) of any turkey killed unless and until tagged and checked as required by this section. Any turkey not tagged as required by this section found in the possession of any person shall be forfeited to the Commonwealth to be disposed of as provided by law.

§ 8. Tagging turkey and obtaining official game tag; by person exempt from license requirement.

Upon killing a turkey, any person exempt from the license requirement as described in § 29.1-301 of the Code of Virginia, or issued a complimentary license as prescribed in § 29.1-339, or the holder of a permanent license issued pursuant to § 29.1-301 E, shall, upon vehicle transport of the carcass or at the conclusion of legal hunting hours, whichever occurs first, and without unnecessary delay, present the carcass to an authorized checking station or to any appropriate representative of the department in the county or adjoining county in which the turkey was killed. At such time, the person shall be given an official game check card furnished by the department, which shall be securely attached to the carcass and remain so attached until the carcass is processed.

VA.R. Doc. No. R95-397; Filed March 29, 1995, 11:43 a.m.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) pursuant to § 9-6.14:4.1 A 4; however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: **VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Households of Low and Moderate Income.**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Summary:

The proposed amendments (i) conform the regulations to the Virginia Register Form, Style and Procedure Manual; (ii) change references to the Farmers Home Administration to the Rural Economic Community Development; (iii) eliminate regulatory provisions which are no longer necessary or required in administering the programs, such as sales price and income limits which have expired; (iv) simplify and reorganize various provisions; (v) outline general underwriting criteria which must be satisfied for all loans, including those underwritten using Federal Housing Administration, Veterans Administration and Rural Economic Community Development underwriting requirements; (vi) increase the maximum loan amount for authority conventional loans for single family detached residences and townhouses from 95% to 97% of the lesser of sales price or appraised value; (vii) provide that an applicant having a foreclosure instituted by the authority on his property financed by an authority mortgage loan will not be eligible for a mortgage loan under the referenced regulations; and (viii) make minor clarifications and corrections.

VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Households of Low and Moderate Income.

PART I.
GENERAL.

§ 1.1. General.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and households of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "household" (as defined in the authority's rules and regulations) must have a "gross income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation set forth in Part II hereof. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit set forth in Part II hereof. The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds as set forth in Part II hereof.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these rules and regulations where deemed appropriate by him for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the originating and administration of mortgage loans under the authority's single family housing program. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

§ 1.2. Origination and servicing of mortgage loans.

A. ~~Approval/definitions.~~ The originating of mortgage loans and the processing of applications for the making or financing thereof in accordance herewith shall, except as noted in subsection G of this § 1.2, be performed through commercial banks, savings and loan associations, private mortgage bankers, redevelopment and housing authorities, and agencies of local government approved as originating agents ("originating agents") of the authority. The servicing of mortgage loans shall, except as noted in subsection H of this § 1.2, be performed through commercial banks, savings and loan associations and private mortgage bankers approved as servicing agents ("servicing agents") of the authority.

To be initially approved as an originating agent or as a servicing agent, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;

2. Have a net worth equal to or in excess of $250,000 or such other amount as the executive director shall from time to time deem appropriate, except that this qualification requirement shall not apply to redevelopment and housing authorities and agencies of local government;

3. Have a staff with demonstrated ability and experience in mortgage loan origination and processing (in the case

of an originating agent applicant) or servicing (in the case of a servicing agent applicant); and

4. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each originating agent approved by the authority shall enter into an originating agreement ("originating agreement"), with the authority containing such terms and conditions as the executive director shall require with respect to the origination and processing of mortgage loans hereunder. Each servicing agent approved by the authority shall enter into a servicing agreement with the authority containing such terms and conditions as the executive director shall require with respect to the servicing of mortgage loans.

An applicant may be approved as both an originating agent and a servicing agent ("originating and servicing agent"). Each originating and servicing agent shall enter into an originating and servicing agreement ("originating and servicing agreement") with the authority containing such terms and conditions as the executive director shall require with respect to the originating and servicing of mortgage loans hereunder.

For the purposes of these rules and regulations, the term "originating agent" shall hereinafter be deemed to include the term "originating and servicing agent," unless otherwise noted or the context indicates otherwise. Similarly, the term "originating agreement" shall hereinafter be deemed to include the term "originating and servicing agreement," unless otherwise noted or the context indicates otherwise. The term "servicing agent" shall continue to mean an agent authorized only to service mortgage loans. The term "servicing agreement" shall continue to mean only the agreement between the authority and a servicing agent.

Originating agents and servicing agents shall maintain adequate books and records with respect to mortgage loans which they originate and process or service, as applicable, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the originating agents and servicing agents for originating and processing or for servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the originating agreements and servicing agreements applicable to such originating agents and servicing agents.

B. ~~Allocation of funds.~~ The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to originating agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;

2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;

3. The cost and difficulty of administration of the allocation of funds;

4. The capability, history and experience of any originating agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and

5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;

2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and

3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. ~~Originating guide and servicing guide.~~ These rules and regulations constitute a portion of the originating guide of the authority. The processing guide and all exhibits and other documents referenced herein are not included in, and shall not be deemed to be a part of, these rules and regulations. The executive director is authorized to prepare and from time to time revise a processing guide and a servicing guide which shall set forth the accounting and other procedures to be followed by all originating agents and servicing agents responsible for the origination, closing and servicing o mortgage loans under the applicable originating agreements

and servicing agreements. Copies of the processing guide and the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the originating guide (including the processing guide) and the servicing guide.

D. ~~Making and purchase of new mortgage loans.~~ The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its originating agents and (ii) agree to purchase individual mortgage loans from its originating agents or servicing agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the applicable originating agreement or servicing agreement, the originating guide, the servicing guide, the Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. ~~Purchase of existing mortgage loans.~~ The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's originating agents and servicing agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to originating agents and servicing agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the selected originating agents and servicing agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the applicable originating agreement or servicing agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the Act and the authority's rules and regulations.

F. ~~Delegated underwriting and closing.~~ The executive director may, in his discretion, delegate to one or more originating agents all or some of the responsibility for underwriting, issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which originating agents may qualify for such delegation. If such delegation has been made, the originating agents shall submit all required documentation to the authority at such time as the authority may require. If the executive director determines that a mortgage loan does not comply with any requirement under the originating guide, the applicable originating agreement, the Act or these rules and regulations for which the originating agent was delegated responsibility, he may require the originating agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

G. ~~Field originators.~~ The authority may utilize financial institutions, mortgage brokers and other private firms and individuals and governmental entities ("field originators") approved by the authority for the purpose of receiving applications for mortgage loans. To be approved as a field originator, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;

2. Have made any necessary filings or registrations and have received any and all necessary approvals or licenses in order to receive applications for mortgage loans in the Commonwealth of Virginia;

3. Have the demonstrated ability and experience in the receipt and processing of mortgage loan applications; and

4. Have such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

Each field originator approved by the authority shall enter into such agreement as the executive director shall require with respect to the receipt of applications for mortgage loans. Field originators shall perform such of the duties and responsibilities of originating agents under these rules and regulations as the authority may require in such agreement.

Field originators shall maintain adequate books and records with respect to mortgage loans for which they accept applications, shall permit the authority to examine such books and records, and shall submit to the authority such reports and information as the authority may require. The fees to the field originators for accepting applications shall be payable in such amount and at such time as the executive director shall determine.

In the case of mortgage loans for which applications are received by field originators, the authority may process and originate the mortgage loans; accordingly, unless otherwise expressly provided, the provisions of these rules and regulations requiring the performance of any action by originating agents shall not be applicable to the origination and processing by the authority of such mortgage loans, and any or all of such actions may be performed by the authority on its own behalf.

H. ~~Servicing by the authority.~~ The authority may service mortgage loans for which the applications were received by field originators or any mortgage loan which, in the determination of the authority, originating agents and servicing agents will not service on terms and conditions acceptable to the authority or for which the originating agent or servicing agent has agreed to terminate the servicing thereof.

PART II.
PROGRAM REQUIREMENTS.

§ 2.1. Eligible persons and households *and citizenship*.

A. ~~Person.~~ A one-person household is eligible.

B. ~~Household.~~ A single family loan can be made to more than one person only if all such persons to whom the loan is to be made are to live together in the dwelling as a single nonprofit housekeeping unit.

C. ~~Citizenship.~~ Each applicant for an authority mortgage loan must either be a United States citizen or be a lawful permanent (not conditional) resident alien as determined by the U.S. Department of Immigration and Naturalization Service.

§ 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the originating agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The originating agent will perform these procedures and evaluate a borrower's eligibility prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this originating guide.

§ 2.2.1. Eligible borrowers.

A. ~~General.~~ In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1 B ~~Three-year requirement~~);

2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as ~~defined~~ *described* in § ~~2.17~~ *2.15*) after the date of the closing of the mortgage loan. (See § 2.2.1 C ~~Principal residence requirement~~);

3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1 D ~~New mortgage requirement~~);

4. Must have contracted to purchase an eligible dwelling. (See § 2.2.2 Eligible dwellings);

5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;

6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 ~~Income requirements~~ *Maximum gross income*);

7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § ~~2.10~~ *2.9* Loan assumptions); and

8. Must be over the age of 18 years or have been declared emancipated by order or decree of a court having jurisdiction.

B. ~~Three-year requirement.~~ An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.2.3 Targeted areas); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in *subdivision* 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. ~~Definition of present ownership interest.~~ "Present ownership interest" includes:

a. A fee simple interest,

b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,

c. The interest of a tenant shareholder in a cooperative

d. A life estate,

e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and

f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a present ownership interest include:

a. A remainder interest,

b. An ordinary lease with or without an option to purchase,

c. A mere expectancy to inherit an interest in a principal residence,

d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and

e. An interest in other than a principal residence during the previous three years.

2. ~~Persons covered.~~ This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. ~~Prior tax returns.~~ To verify that the eligible borrower meets the three-year requirement, the originating agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The originating agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. ~~Review by originating agent.~~ The originating agent must, with due diligence, verify the representations in the affidavit of borrower (Exhibit E) regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and make a determination that on the basis of its review each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

C. ~~Principal residence requirement. 1. General.~~ An eligible borrower must intend at the time of closing to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower (to be updated by the verification and update of information form) and as part of the attachment to the deed of trust.

~~2. Definition of principal residence.~~ *1.* A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where more than 15% of the total living area is to be used primarily in a trade or business.

~~3. Land not to be used to produce income.~~ *2.* The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

~~4. Lot size.~~ *3.* Only such land as is reasonably necessary to maintain the basic liveability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres, even in rural areas. However, exceptions may be made to permit lots larger than two acres, but in no event in excess of five acres: (i) if the land is owned free and clear and is not being financed by the loan, the lot may be as large as five acres, (ii) if difficulty is encountered locating a well or septic field, the lot may include the additional acreage needed, (iii) local city and county ordinances which require more acreage will be taken into consideration, or (iv) if the lot size is determined by the authority, based upon objective information provided by the borrower, to be usual and customary in the area for comparably priced homes.

~~5. Review by originating agent.~~ *4.* The affidavit of borrower (Exhibit E) must be reviewed by the originating agent for consistency with the eligible borrower's federal income tax returns and the credit report, and the originating agent must, based on such review, make a

determination that the borrower has not used any previous residence or any portion thereof primarily in any trade or business.

~~6. Post-closing procedures.~~ *5.* The originating agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the originating agent may establish different procedures to verify compliance with this requirement.

D. ~~New mortgage requirement.~~ Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. ~~Definition of mortgage.~~ For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. ~~Temporary financing.~~ In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. ~~Review by originating agent.~~ Prior to closing the mortgage loan, the originating agent must examine the affidavit of borrower (Exhibit E), the affidavit of seller (Exhibit F), and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Based upon such review, the originating agent shall make a determination that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. ~~Multiple loans.~~ Any eligible borrower may not have more than one outstanding authority first mortgage loan.

§ 2.2.2. Eligible dwellings.

A. ~~In general.~~ In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;

2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and

3. Satisfy the acquisition cost requirements set forth below.

B. ~~Acquisition cost requirements. 1. General rule.~~ The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling.

~~2. Acquisition cost requirements for assumptions.~~ *1.* To determine if the acquisition cost is at or below the federal limits for assumptions, the originating agent or, if applicable, the servicing agent must in all cases contact the authority (see § 2.10 below).

~~3. Definition of acquisition cost.~~ *2.* Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost.

(3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

~~4. Acquisition cost.~~ *3.* The originating agent is required to obtain from each eligible borrower a completed affidavit of borrower which shall include a calculation of the acquisition cost of the eligible dwelling in accordance with this subsection B. The originating agent shall assist the eligible borrower in the correct calculation of such acquisition cost. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling.

~~5. Review by originating agent.~~ *4.* The originating agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the originating agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the originating agent or, if applicable, the servicing agent must contact the authority for this determination in all cases - see ~~§ 2.10 below~~ *§ 2.9*). Also, as part of its review, the originating agent must review the affidavit of borrower submitted by each mortgage loan applicant and must make a determination that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the originating agent must compare the information contained in the affidavit of borrower with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

~~6. Independent appraisal.~~ *5.* The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

§ 2.2.3. Targeted areas.

A. ~~In general.~~ In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising originating agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to an originating agent exclusively for targeted areas will be specified in a forward commitment agreement between the originating agent and the authority.

B. ~~Eligibility.~~ Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in this § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement described in § 2.2.1 B. Notwithstanding this exception, the applicant must still submit certain federal income tax records. However, they will be used to verify income and to verify that previously owned residences have not been primarily used in a trade or business (and not to verify nonhomeownership), and only those records for the most recent year preceding execution of the mortgage documents (rather than the three most recent years) are required. See that section for the specific type of records to be submitted.

~~1. Definition of targeted areas.~~ *The following definitions are applicable to targeted areas.*

~~a.~~ *1.* A targeted area is an area which is a qualified census tract, as described in ~~b~~ *subdivision 2* below, or an area of chronic economic distress, as described in ~~c~~ *subdivision 3* below.

~~b.~~ *2.* A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

~~c.~~ *3.* An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the tax code. PDS agents will be informed by the authority as to the location of areas so designated.

§ 2.3. Sales price limits.

~~The authority's maximum allowable sales price for loans for which reservations are taken by the authority before March 16, 1994, shall be as follows:~~

Area	Existing and New Construction	Substantial Rehab.
1. Washington DC-MD-VA MSA[1] "inner areas"	$131,790	$131,790
2. "outer areas"	$124,875	$124,875
3. Norfolk-Va. Beach-Newport News MSA[2]	$ 81,500	$ 81,500
4. Richmond-Petersburg MSA[3]	$ 79,500	$ 79,500
5. Charlottesville MSA[4]	$ 95,450	$ 79,530
6. Clarke County	$ 90,250	$ 79,530
7. Culpeper County	$ 84,050	$ 79,530
8. Fauquier County	$101,670	$ 79,530
9. Frederick County and Winchester City	$ 92,150	$ 79,530
10. Isle of Wight County	$ 81,500	$ 79,530
11. King George County	$ 89,300	$ 79,530
12. Madison County	$ 76,000	$ 76,000
13. Orange County	$ 77,900	$ 77,900
14. Spotsylvania County and Fredericksburg City	$102,700	$ 79,530
15. Warren County	$ 83,600	$ 79,530
16. Balance of State[5]	$ 75,500	$ 75,500

[1]Washington DC-Maryland-Virginia MSA. Virginia Portion: "Inner Areas" - Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City; "Outer Areas" - Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

[2]Norfolk-Virginia Beach-Newport News MSA. Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

[3]Richmond-Petersburg MSA. Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

[4]Charlottesvillle MSA. Albemarle County, Charlottesville City, Fluvanna County, Greene County.

[5]Balance of State. All areas not listed above.

The executive director may from time to time waive the foregoing maximum allowable sales prices with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and policies, provided that, in the event of any such waiver, the sales price of the residences to be financed by any mortgage loans so *designated shall not exceed the applicable limits imposed by* the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.

The authority's maximum allowable sales price for loans for which reservations are taken by the authority on or after March 16, 1994, shall be 95% of the applicable maximum purchase prices (except that the maximum allowable sales price for targeted area residences shall be the same as are established for nontargeted residences) permitted or approved by the U.S. Department of the Treasury pursuant to the federal tax code. The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the dollar amounts of the foregoing maximum allowable sales prices for each area of the state. Any changes in the dollar amounts of such maximum allowable sales prices shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

§ 2.4. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding 50% of the sales price of the eligible dwelling. (The value of life insurance policies, retirement plans, furniture and household goods shall not be included in determining net worth.) In addition, the portion o the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining whether this net worth limitation has been violated.

§ 2.5. Income requirements. A. Maximum gross income.

A. As provided in § 2.2.1 A 6 the gross income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this subsection A *section* apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1 A 6 are automatically met if an applicant's gross income does not exceed the applicable limits set forth in this subsection *section*.

For the purposes hereof, the term "gross income" means the combined annualized gross income of all persons residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. "Gross monthly income" is, in turn, the sum of monthly gross pay plus any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income plus other income (such as alimony, child support, public assistance, sick pay, social security benefits,

unemployment compensation, income received from trusts, and income received from business activities or investments).

~~1. For reservations made before March 16, 1994. For reservations made before March 16, 1994, the maximum gross incomes for eligible borrowers shall be determined or set forth as follows:~~

~~The maximum gross incomes set forth in this paragraph shall be applicable only to loans for which reservations are taken by the authority before March 16, 1994, except loans to be guaranteed by the Farmers Home Administration ("FmHA").~~

~~The maximum gross income shall be a percentage (based on the number of persons to occupy the dwelling upon financing of the mortgage loan) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended) as follows:~~

~~Number of Persons to Occupy Dwelling~~	~~Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)~~
~~1 person~~	~~70%~~
~~2 persons~~	~~85%~~
~~3 or more persons~~	~~100%~~

~~The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the foregoing maximum gross income limits expressed in dollar amounts for each area of the state, as established by the executive director, and the number of persons to occupy the dwelling. Any changes in the dollar amounts of such income limits shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.~~

~~The executive director may from time to time waive the foregoing income limits with respect to such mortgage loans as he may designate if he determines that such waiver will enable the authority to assist the state in achieving its economic and housing goals and policies, provided that, in the event of any such waiver, the income of the borrowers to receive any mortgage loans so designated shall not exceed the applicable limits imposed by the U.S. Department of the Treasury pursuant to the federal tax code or such lesser limits as the executive director may establish. Any such waiver shall not apply upon the assumption of such mortgage loans.~~

~~2. For reservations made on or after March 16, 1994. For reservations made on or after March 16, 1994, the maximum gross incomes shall be determined or set forth as follows:~~

~~The maximum gross incomes set forth in this subdivision 2 shall be applicable only to loans for which reservations are taken by the authority on or after March 16, 1994, except loans to be guaranteed by the Farmers Home Administration ("FmHA").~~

B. For all loans, except loans to be guaranteed by the Rural Economic Community Development ("RECD"), the maximum gross income shall be a percentage (based on the number of persons expected to occupy the dwelling upon financing of the mortgage loan) of the applicable median family income (as defined in Section 143(f)(4) of the Internal Revenue Code of 1986, as amended) (the "median family income") as follows:

Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	85%
3 or more persons	100%

The executive director may from time to time establish maximum gross incomes equal to the following percentages of applicable median family income (as so defined) with respect to such mortgage loans as he may designate on which the interest rate has been reduced due to financial support by the authority:

Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	65%
3 or more persons	80%

The executive director may from time to time establish maximum gross incomes equal to the following percentages of applicable median family income (as so defined) with respect to such mortgage loans as he may designate if he determines that such maximum gross family incomes will enable the authority to assist the state in achieving its economic and housing goals and policies:

Number of Persons to Occupy Dwelling	Percentage of applicable median family income (regardless of whether residence is new construction, existing or substantially rehabilitated)
2 or fewer persons	95%
3 or more persons	110%

The authority shall from time to time inform its originating agents and servicing agents by written notification thereto of the foregoing maximum gross income limits under this ~~subdivision 2~~ *subsection B* expressed in dollar amounts for each area of the state, as established by the executive director, and the number of persons to occupy the dwelling. Any changes to the dollar amounts of such income limits shall be effective as of such date as the executive director shall determine, and authority is reserved to the executive director to implement any such

changes on such date or dates as he shall deem necessary or appropriate to best accomplish the purposes of the program.

~~3. For loans guaranteed by FmHA.~~ *C.* With respect to a loan to be guaranteed by ~~FmHA~~ *RECD*, the maximum income shall be the lesser of the maximum gross income determined in accordance with § 2.5 ~~A 1 or 2~~ *B* or ~~FmHA~~ *RECD* income limits in effect at the time of the application.

~~B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration, the Veterans Administration or FmHA (hereinafter referred to as "FHA, VA or FmHA loans")).~~

~~An applicant satisfies the authority's minimum income requirement for financing if the monthly principal and interest (at the rate determined by the authority), tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the PITI figure), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly debt payments with more than six months duration (and payments on debts lasting less than six months, if making such payments will adversely affect the applicant's ability to make mortgage loan payments during the months following loan closing) do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements. If either of the percentages set forth above are exceeded, compensating factors may be used by the authority, in its sole discretion, to approve the mortgage loan.~~

§ 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) - Maximum of ~~95%~~ *97%* (or, in the case of an FHA, VA or ~~FmHA~~ *RECD* loan, such other percentage as may be permitted by FHA, VA or ~~FmHA~~ *RECD*) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of an FHA, VA or ~~FmHA~~ *RECD* loan, such other percentage as may be permitted by FHA, VA or ~~FmHA~~ *RECD*) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value.

In the case of an FHA, VA or ~~FmHA~~ *RECD* loan, the FHA, VA or ~~FmHA~~ *RECD* insurance fees or guarantee fees charged in connection with such loan (and, if an FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA, VA or ~~FmHA~~ *RECD* requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

§ 2.7. Mortgage insurance requirements.

Unless the loan is an FHA, VA or ~~FmHA~~ *RECD* loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance*, unless an alternative payment plan is approved by the authority*. If the authority requires FHA, VA or ~~FmHA~~ *RECD* insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once the FHA Certificate of Insurance, VA Guaranty or ~~FmHA~~ *RECD* Guarantee has been obtained. In the event that the authority purchases an FHA or, VA or ~~FmHA~~ *RECD* loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA, VA or ~~FmHA~~ *RECD* loans), full private mortgage insurance as described above is required unless waived by the authority.

§ 2.8. Underwriting.

A. In general, to be eligible for authority financing, an applicant must satisfy the following underwriting criteria which demonstrate the willingness and ability to repay the mortgage debt and adequately maintain the financed property.

1. An applicant must document the receipt of a stable current income which indicates that the applicant will receive future income which is sufficient to enable the timely repayment of the mortgage loan as well as other existing obligations and living expenses.

2. An applicant must possess a credit history which reflects the ability to successfully meet financial obligations and a willingness to repay obligations in accordance with established credit repayment terms.

3. An applicant having a foreclosure instituted by the authority on his property financed by an authority mortgage loan will not be eligible for a mortgage loan hereunder. The authority will consider previous foreclosures (other than on authority financed loans) on an exception basis based upon circumstances surrounding the cause of the foreclosure, length of time since the foreclosure, the applicant's subsequent credit history and overall financial stability. Under no circumstances will an applicant be considered for an authority loan within three years from the date of the foreclosure. The authority has complete discretion to decline to finance a loan when a previous foreclosure is involved.

4. An applicant must document that sufficient funds will be available for required down payment and closing costs.

a. The terms and sources of any loan to be used as a source for down payment or closing costs must be

reviewed and approved in advance of loan approval by the authority.

b. Sweat equity, the imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence, generally is not an acceptable source of funds for down payment and closing costs. Any sweat equity allowance must be approved by the authority prior to loan approval.

5. Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed. If there is a substantial increase in such expenses, the applicant must demonstrate his ability to pay the additional expenses.

6. All applicants are encouraged to attend a home ownership educational program to be better prepared to deal with the home buying process and the responsibilities related to homeownership. The authority may require all applicants applying for certain authority loan programs to complete an authority approved homeownership education program prior to loan approval.

~~A. Conventional loans.~~ *B. In addition to the requirements set forth in subsection A of this section,* the following requirements must be met in order to satisfy the authority's underwriting requirements *for conventional loans.* However, additional or more stringent requirements may be imposed by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required.

1. ~~Employment and income.~~ *The following rules apply to the authority's employment and income requirement.*

a. ~~Length of employment.~~ The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. ~~Self-employed applicants.~~ Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1 C ~~Principal residence requirement~~.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. *The following rules apply to* income derived from sources other than primary employment.

(1) *When considering* alimony and child support~~.~~, a copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) *When considering* social security and other retirement benefits~~.~~, social security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) ~~Part-time employment.~~ Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) ~~Overtime, commission and bonus.~~ Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. ~~Credit.~~ *The following rules apply to an applicant's credit:*

a. ~~Credit experience.~~ The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references and history are considered to be important requirements in order to obtain an authority loan.

b. ~~Bankruptcies.~~ An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy. The authority has complete discretion to decline a loan when a bankruptcy is involved.

c. ~~Judgments and collections.~~ An applicant is required to submit a written explanation for all judgments and collections. In most cases, judgments and collections must be paid before an applicant will be considered for an authority loan.

3. ~~Appraisals.~~ The authority reserves the right to obtain an independent appraisal in order to establish the fair

market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

4. An applicant satisfies the authority's minimum income requirement for financing if the monthly principal and interest (at the rate determined by the authority), tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the PITI figure), townhouse assessments, etc., do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly debt payments with more than six months duration (and payments on debts lasting less than six months, if making such payments will adversely affect the applicant's ability to make mortgage loan payments during the months following loan closing) do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements. If either of the percentages set forth above are exceeded, compensating factors may be used by the authority, in its sole discretion, to approve the mortgage loan.

5. Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose unless approved in advance by the authority. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

6. A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available.

~~B.~~ *C. The following rules are applicable to* FHA loans only.

1. ~~In general.~~ The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, *the applicant must satisfy the underwriting criteria set forth in subsection A of this section and* most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. ~~Mortgage insurance premium.~~ Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. ~~Closing fees.~~ The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. ~~Appraisals.~~ FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

~~C.~~ *D. The following rules are applicable to* VA loans only.

1. ~~In general.~~ The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, *the applicant must satisfy the underwriting criteria set forth in subsection A of this section and* most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.

2. ~~VA funding fee.~~ The funding fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

3. ~~Appraisals.~~ VA certificates of reasonable value (CRV's) are acceptable *in lieu of an appraisal.*

~~D. FmHA~~ *E. The following rules are applicable to RECD* loans only.

1. ~~In general.~~ The authority will normally accept ~~FmHA~~ *RECD* underwriting requirements and property standards for ~~FmHA~~ *RECD* loans. However, *the applicant must satisfy the underwriting criteria set forth in subsection A of this section and* most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions c authority policy.

2. ~~Guarantee fee.~~ The ~~FmHA~~ *RECD* guarantee fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

~~E. FHA and VA buydown program.~~ *F.* With respect to FHA and VA loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see § ~~2.14~~ *2.13* for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain FHA requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on FHA guidelines then in effect (see also subsection ~~B or~~ C *or D* above, as applicable).

~~F. Interest rate buydown program.~~ *G.* Unlike the program described in subsection ~~E~~ *F* above which permits a direct buydown of the borrower's monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

~~§ 2.9. Funds necessary to close.~~

~~A. Cash (Not applicable to FHA, VA or FmHA loans).~~

~~Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose, except where (i) the loan amount is less than or equal to 80% of the lesser of the sales price or the appraised value, or (ii) the loan amount exceeds 80% of the lesser of the sales price or the appraised value and the applicant borrows a portion of the funds under a loan program approved by the authority or from their employer, with the approval of the private mortgage insurer, and the applicant pays in cash from their own funds an amount equal to at least 3.0% of the lesser of the sales price or the appraised value. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.~~

~~B. Gift letters.~~

~~A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.~~

~~C. Housing expenses.~~

~~Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.~~

§ ~~2.10.~~ *2.9.* Loan assumptions.

A. ~~Requirements for assumptions.~~ VHDA currently permits assumptions of all of its single family mortgage loans provided that certain requirements are met. For all loans closed prior to January 1, 1991, except FHA loans which were closed during calendar year 1990, the maximum gross income for the person or household assuming a loan shall be 100% of the applicable median family income. For such FHA loans closed during 1990, if assumed by a household of three or more persons, the maximum gross income shall be 115% of the applicable median family income (140% for a residence in a targeted area) and if assumed by a person or a household of less than three persons, the maximum gross income shall be 100% of the applicable median family income (120% for a residence in a targeted area). For all loans closed after January 1, 1991, the maximum gross income for the person or household assuming loans shall be the highest percentage, as then in effect under § 2.5 A ~~2~~, of applicable median family income for the number or persons to occupy the dwelling upon assumption of the mortgage loan, unless otherwise provided in the deed of trust. The requirements for each of the two different categories of mortgage loans listed below (and the subcategories within each) are as follows:

1. *The following rules apply to* assumptions of conventional loans.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

(1) Maximum gross income requirement in this § ~~2.10~~ *2.9* A

(2) § 2.2.1 C (Principal residence requirement)

(3) § 2.8 (Authority underwriting requirements)

(4) § 2.2.1 B (Three-year requirement)

(5) § 2.2.2 B (Acquisition cost requirements)

(6) § 2.7 (Mortgage insurance requirements).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

(1) Maximum gross income requirement in this § ~~2.10~~ *2.9* A

(2) § 2.2.1 C (Principal residence requirements)

(3) § 2.8 (Authority underwriting requirements)

(4) § 2.7 (Mortgage insurance requirements).

2. *The following rules apply to* assumptions of FHA, VA or ~~FmHA~~ *RECD* loans.

a. For assumptions of FHA, VA or ~~FmHA~~ *RECD* loans financed by the proceeds of bonds issued on or after December 17, 1981, the following conditions must be met:

(1) Maximum gross income requirement in this § ~~2.10~~ *2.9* A

(2) § 2.2.1 C (Principal residence requirement)

(3) § 2.2.1 B (Three-year requirement)

(4) § 2.2.2 B (Acquisition cost requirements).

In addition, all applicable FHA, VA or ~~FmHA~~ *RECD* underwriting requirements, if any, must be met.

b. For assumptions of FHA, VA or ~~FmHA~~ *RECD* loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA, VA or ~~FmHA~~ *RECD* underwriting requirements, if any, must be met.

B. ~~Review by the authority/additional requirements.~~ Upon receipt from an originating agent or servicing agent of an application package for an assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the originating agent or servicing agent of such determination in writing. The authority will further advise the originating agent or servicing agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty

including, if applicable, pool insurance, submission of an escrow transfer letter and execution of a Recapture Requirement Notice (VHDA Doc. R-1).

§ ~~2.11.~~ *2.10.* Leasing, loan term, and owner occupancy.

A. ~~Leasing.~~ The owner may not lease the property without first contacting the authority.

B. ~~Loan term.~~ Loan terms may not exceed 30 years.

C. ~~Owner occupancy.~~ No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

§ ~~2.12.~~ *2.11.* Reservations/fees.

A. ~~Making a reservation.~~ The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents or field originators with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates are also nontransferable. Funds will not be reserved longer than 60 days unless the originating agent requests and receives an additional one-time extension prior to the 60-day deadline. Locked-in interest rates on all loans, including those on which there may be a VA Guaranty, cannot be reduced under any circumstances.

B. ~~More than one reservation.~~ An applicant, including an applicant for a loan to be guaranteed by VA, may request a second reservation if the first has expired or has been cancelled. If the second reservation is made within 12 months of the date of the original reservation, the interest rate will be the greater of (i) the locked-in rate or (ii) the current rate offered by the authority at the time of the second reservation.

C. ~~The reservation fee.~~ The originating agent or field originator shall collect ~~and remit to the authority~~ a nonrefundable reservation fee in such amount and according to such procedures as the authority may require from time to time. Under no circumstances is this fee refundable. A second reservation fee must be collected for a second reservation. No substitutions of applicants or properties are permitted.

D. *The following* other fees *shall be collected.*

1. ~~Origination fee.~~ In connection with the origination and closing of the loan, the originating agent shall collect *at closing or, at the authority's option, simultaneously with the acceptance of the authority's commitment,* an amount equal to 1.0% of the loan amount (please note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan does not close ~~and the failure to close is not due to the fault of the applicant~~, then the origination fee shall be waived.

2. ~~Discount point.~~ The originating agent shall collect from the seller at the time of closing an amount equal to 1.0% of the loan amount.

§ ~~2.13.~~ *2.12.* Commitment. (Exhibit J)

A. ~~In general.~~ Upon approval of the applicant, the authority will send a mortgage loan commitment to the borrower in care of the originating agent. ~~(For FmHA loans, upon approval of the applicant, the authority will submit the credit package to FmHA and upon receipt of the FmHA conditional commitment, will send the mortgage loan commitment.)~~ Also enclosed in the commitment package will be other documents necessary for closing. The originating agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the originating agent within 15 days after the date of the commitment *or prior to settlement, whichever occurs first.*

A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. If an additional commitment is issued to an applicant, the interest rate may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. ~~Loan rejection.~~ If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

§ ~~2.14.~~ *2.13.* Buy-down points.

~~Special note regarding~~ *With respect to* checks for buy-down points ~~(this applies to~~ *under* both the monthly payment buydown program described in § 2.8 ~~D~~ *F* above and the interest rate buydown program described in § 2.8 ~~E).~~ *G,* a certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay debt service rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down funds may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

§ ~~2.15.~~ *2.14.* Property guidelines.

A. ~~In general.~~ For each application the authority must make the determination that the property will constitute adequate security for the loan. That determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing (mobile homes), both new construction and certain existing, may be financed only if the loan is insured 100% by FHA (see subsection C).

B. *The following rules apply to* conventional loans.

1. ~~Existing housing and new construction.~~ The following requirements apply to both new construction and existing

housing to be financed by a conventional loan: (i) all property must be located on a state maintained road; provided, however, that the authority may, on a case-by-case basis, approve financing of property located on a private road acceptable to the authority if the right to use such private road is granted to the owner of the residence pursuant to a recorded right-of-way agreement providing for the use of such private road and a recorded maintenance agreement provides for the maintenance of such private road on terms and conditions acceptable to the authority (any other easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority, *provided further that cisterns will be considered on a case-by-case basis to determine whether the cistern will be adequate to serve the property.*

2. ~~Additional requirements for new construction.~~ New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

C. *The following rules apply to* FHA, VA or ~~FmHA~~ *RECD* loans.

1. ~~Existing housing and new construction.~~ Both new construction and existing housing financed by an FHA, VA or ~~FmHA~~ *RECD* loan must meet all applicable requirements imposed by FHA, VA or ~~FmHA~~ *RECD*.

2. ~~Additional requirements for new construction. If such homes~~ *Manufactured housing (mobile homes)* being financed by FHA loans ~~are new manufactured housing they~~ must *also* meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

§ ~~2.16.~~ *2.15.* Substantially rehabilitated.

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1 D ~~(New mortgage requirement)~~. The authority will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

§ ~~2.17.~~ *2.16.* Condominium requirements.

A. *For* conventional loans~~.~~, the originating agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The originating agent must submit evidence at the time the borrower's application is submitted to the authority for approval.

B. *For* FHA, VA or ~~FmHA~~ *RECD* loans~~.~~, the authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, by VA, in the case of a VA loan or by ~~FmHA~~ *RECD*, in the case of an ~~FmHA~~ *RECD* loan.

§ ~~2.18.~~ *2.17.* FHA plus program.

A. ~~In general.~~ Notwithstanding anything to the contrary herein, the authority may make loans secured by second deed of trust liens ("second loans") to provide downpayment and closing cost assistance to eligible borrowers who are obtaining FHA loans secured by first deed of trust liens. Second loans shall not be available to a borrower if the FHA loan is being made under the FHA buydown program or is subject to a step adjustment in the interest rate thereon or is subject to a reduced interest rate due to the financial support of the authority.

B. ~~Mortgage insurance requirements.~~ The second loans shall not be insured by mortgage insurance; accordingly, the

requirements of § 2.7 regarding mortgage insurance shall not be applicable to the second loan.

C. ~~Maximum loan amount.~~ The requirements of § 2.6 regarding calculation of maximum loan amount shall not be applicable to the second loan. In order to be eligible for a second loan, the borrower must obtain an FHA loan for the maximum loan amount permitted by FHA. The second loan shall be for the lesser of:

1. The lesser of sales price or appraised value plus FHA allowable closing fees (i.e., fees which FHA permits to be included in the FHA acquisition cost and to be financed) minus the FHA maximum base loan amount, seller paid closing costs and 1.0% of the sales price, or

2. 3.0% of the lesser of the sales price or appraised value plus $1,100.

In no event shall the combined FHA loan and the second loan amount exceed the authority's maximum allowable sales price.

D. ~~Underwriting.~~ With respect to underwriting, no additional requirements or criteria other than those applicable to the FHA loan shall be imposed on the second loan.

E. ~~Assumptions.~~ The second mortgage loan shall be assumable on the same terms and conditions as the FHA loan.

F. ~~Fees.~~ No origination fee or discount point shall be collected on the second loan.

G. ~~Commitment.~~ Upon approval of the applicant, the authority will issue a mortgage loan commitment pursuant to § ~~2.13.~~ *2.12.* The mortgage loan commitment will include the terms and conditions of the FHA loan and the second loan and an addendum setting forth additional terms and conditions applicable to the second loan. Also enclosed in the commitment package will be other documents necessary to close the second loan.

NOTE: Documents and forms referred to herein as Exhibits have not been adopted by the authority as a part of the rules and regulations for single family mortgage loans to persons and households of low and moderate income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the foregoing rules and regulations for single family mortgage loans to persons and households of low and moderate income. Copies of such documents and forms are available upon request at the offices of the authority.

VA.R. Doc. No. R95-372; Filed March 24, 1995, 3:38 p.m.

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Title of Regulation: **VR 400-02-0011. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.**

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Summary:

The proposed regulations (i) govern the solicitation of applications for federal low-income housing tax credits; (ii) score such applications based on readiness, housing needs characteristics, development characteristics, tenant population characteristics, sponsor characteristics, efficient use of resources, and a commitment by sponsors to go beyond the minimum requirements of § 42 of the Internal Revenue Code; (iii) provide for the reservation and allocation of federal low-income housing tax credits; and (iv) provide for the monitoring of federal low-income housing tax credit developments for compliance with the Internal Revenue Code.

VR 400-02-0011. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.

§ 1. Definitions.

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

"Applicant" means an applicant for credits under these rules and regulations and also means the owner of the development to whom the credits are allocated.

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

"Estimated highest gross square footage per bedroom" means in subdivision 3 a of § 6, the highest total usable, heated square footage, as certified by an architect (or contractor for rehabilitation developments of 24 units or less), per bedroom in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6.

"Estimated lowest gross square footage per bedroom" means in subdivision 3 a of § 6, the lowest total usable, heated square footage, as certified by an architect (or contractor for rehabilitation developments of 24 units or less), per bedroom in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6.

"Estimated highest per bedroom cost for new construction units" means, in subdivision 6 d of § 6, the highest total development cost (adjusted by the authority for location) per bedroom, as proposed by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6 and which is composed solely of new construction units.

"Estimated highest per bedroom cost for rehabilitation units" means, in subdivision 6 d of § 6, the highest total development cost (adjusted by the authority for location) per bedroom, as proposed by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6 and which is composed solely of rehabilitation units.

"Estimated highest per bedroom credit amount for new construction units" means, in subdivision 6 b of § 6, the highest amount of credits per bedroom (within the low-income housing units), as requested by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6 and which is composed solely of new construction units.

"Estimated highest per bedroom credit amount for rehabilitation units" means, in subdivision 6 b of § 6, the highest amount of credits per bedroom (within the low-income housing units), as requested by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6 and which is composed solely of rehabilitation units.

"Estimated highest per unit cost for new construction units" means, in subdivision 6 c of § 6, the highest total development cost (adjusted by the authority for location), as proposed by an applicant, in any development in the state (or if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6 and which is composed solely of new construction units.

"Estimated highest per unit cost for rehabilitation units" means, in subdivision 6 c of § 6, the highest total development cost (adjusted by the authority for location), as proposed by an applicant, in any development in the state (or if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6 and which is composed solely of rehabilitation units.

"Estimated highest per unit credit amount for new construction units" means, in subdivision 6 a of § 6, the highest amount of credits per low-income unit, as requested by an applicant, in any development in the state (or if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6 and which is composed solely of new construction units.

"Estimated highest per unit credit amount for rehabilitation units" means, in subdivision 6 a of § 6, the highest amount of credits per low-income unit, as requested by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to § 6 and which is composed solely of rehabilitation units.

"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 application" means a written request for tax credits which is submitted on a form or forms prescribed or approved by the executive director together with all documents required by the authority for submission and meets all minimum scoring requirements.

"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 credits thereunder.

§ 2. Purpose and applicability.

The following rules and regulations will govern the allocation by the authority of credits pursuant to § 42 of the IRC.

Notwithstanding anything to the contrary herein, the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause to promote the goals and interests of the Commonwealth in the federal low-income housing tax credit program, to the extent not inconsistent with the IRC.

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

Any determination made by the authority pursuant to these rules and regulations 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 authority as to such feasibility or viability.

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

§ 3. General description.

The IRC provides for credits to the owners of residential rental developments 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 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 not less than 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. Credit allocation amounts are counted against the Commonwealth's annual state housing credit ceiling for credits for the calendar year in which the credits are allocated. The IRC provides for the allocation of the Commonwealth's state housing credit ceiling for credits to the housing credit agency of the Commonwealth. The authority 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 credits to qualified low-income buildings or developments in accordance herewith.

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.

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 authority shall receive and review applications for reservations of credits as described hereinbelow and shall make such reservations of 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 credits shall be allocated to such buildings or the development as a whole in the calendar year for which such credits were reserved by the authority.

Except as otherwise provided herein or as may otherwise be required by the IRC, these rules and regulations shall not apply to 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 credits hereunder. (See § 10 hereinbelow.)

The authority shall charge to each applicant fees in such amount as the executive director shall determine to be necessary to cover the administrative costs to the authority, but not to exceed the maximum amount permitted under the IRC. Such fees shall be payable at such time or times as the executive director shall require.

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

The IRC requires that the authority adopt a qualified allocation plan which shall set forth the selection criteria to be used to determine housing priorities of the authority which are appropriate to local conditions and which shall give certain priority to and preference among developments in accordance with the IRC. The executive 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 executive director may include all or any portion of these rules and regulations in the qualified allocation plan. However, the authority may amend the qualified allocation plan without public approval if required to do so by changes to the IRC.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for 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 executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications and the selection thereof as he shall consider necessary or appropriate.

§ 5. Application.

Application for a reservation of credits shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the IRC and these rules and regulations and to make the reservation and allocation of the credits in accordance with these rules and regulations. The application shall include a breakdown of sources and uses of funds sufficiently detailed to enable the authority to ascertain 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 cost 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 credits unless such evidence is submitted with the application and the authority 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.

Each application shall include, in a form required by the executive director, a listing of all residential real estate developments in which the general partner(s) has or had an ownership interest, the location of such developments and the number of residential units and low-income housing units in such developments. Furthermore, the applicant must indicate, for developments receiving an allocation of tax credits under § 42 of the IRC, whether any such development has ever been determined to be out of compliance with the requirements of the IRC by the appropriate state housing credit agency, and if so, an explanation of such noncompliance and whether it has been corrected. No application shall be considered for a

reservation or allocation of credits unless the above information is submitted with the application. If an applicant is in substantial noncompliance with the requirements of the IRC, the executive director, in his sole discretion, may reject applications by the applicant.

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 executive director may also require the submission of a legal opinion or other assurances satisfactory to the executive 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 executive director, setting forth the calculation of the amount of 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 credits requested.

If an applicant submits an application for reservation or allocation of credits that contains a material misrepresentation or fails to include information regarding developments involving the applicant that have been determined to be out of compliance with the requirements of the IRC, the executive director may reject the application or stop processing such application upon discovery of such misrepresentation or noncompliance and may prohibit such applicant from submitting applications for credits to the authority in the future.

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

After receipt of the applications, the authority 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 officers 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 authority. If any such development is to be financed by the authority, the application for such financing shall be submitted to and received by the authority in accordance with its applicable rules and regulations.

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

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

The executive director may divide the amount of 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 state; 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 executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling for credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. 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. (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 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 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 authority to be related to or affiliated with one or more of such general partners) in connection with the development; (iii) the executive director of the authority shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; (iv) the executive director of the authority 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 executive director, and (v) the executive director of the authority shall have determined that no officer or member of the board of directors of such qualified nonprofit organization will materially participate in the proposed development as a for-profit entity. In making the determination required by clause (iv) of this subdivision, the executive 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 executive 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 (by itself or in combination with one or more qualified nonprofit organizations) holds 100% of the stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the executive 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 credits be available for developments other than those satisfying the preceding requirements. The executive director may establish such pools or subpools ("nonprofit pools or subpools") of credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools or subpools are so established, the executive director may rank the applications therein and reserve credits to such applications before ranking applications and reserving credits in other pools and subpools, and any such applications in such nonprofit pools or subpools not receiving any reservations of credits or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough 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 credits are later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of credits made from any nonprofit pools or subpools or a rescission in whole or in part of an allocation of credits made from such nonprofit pools or subpools or otherwise) for reservation and allocation by the authority 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 executive director may, in such situations, designate all or any portion of such additional credits for the nonprofit pools or subpools (or for any other pools or subpools as he shall determine) and may, if additional 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 credits to such applications in accordance with the IRC and these rules and regulations. In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of credits reserved within such nonprofit pools or subpools is less than the total amount of credits made available therein, the executive director may either (i) leave such unreserved 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 credits to such other pools or subpools as the executive director shall designate and in which there are or remain qualified applications for credits which have not then received reservations therefor in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess qualified applications") or (iii) carry over such unreserved 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 qualified applications divided by the total amount originally distributed to all such pools or subpools with excess qualified 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 or any combination of pools or subpools may request a reservation or allocation of annual credits in an amount greater than $500,000. For the purposes of implementing this limitation, the executive 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 authority shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Readiness.

a. Approval by local authorities of:

(1) The plan of development for the proposed development or written evidence satisfactory to the authority that such approval is not required. (20 points)

(2) Proper zoning for such site or written evidence satisfactory to the authority that no zoning requirements are applicable. (30 points)

(3) Building permit(s). (20 points)

b. Evidence satisfactory to the authority documenting:

(1) Availability of all requisite public utilities for such site. (15 points)

(2) Availability of access to a state maintained road. (15 points)

(3) Completion of plans and specifications or, in the case of rehabilitation for which plans will not be used, work write-up for such rehabilitation. (20 points multiplied by the quotient calculated by dividing the percentage of completion of such plans and specifications or such work write-up by 75%.)

2. Housing needs characteristics.

a. (1) A letter addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, 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 Section 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." (50 points)

(2) No letter from the chief executive officer of the locality in which the proposed development is to be located, or a letter addressed to the authority and signed by such chief executive officer stating neither support (as described in subdivision a (1) above) nor opposition (as described in subdivision a (3) below) as to the allocation of credits to the applicant for the development. (25 points)

(3) A letter in response to its notification to the chief executive officer of the locality in which the proposed development is to be located opposing the allocation of credits to the applicant for the development. (0 points)

b. (1) A letter addressed to the authority and signed by the elected local representative to the city council or board of supervisors, or nearest equivalent, from the district in which the proposed development is to be located stating, 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 Section 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." (30 points)

(2) No letter from such official from the locality in which the proposed development is to be located, or a letter addressed to the authority and signed by such official stating neither support (as described in subdivision b (1) above) nor opposition (as described in subdivision b (3) below) as to the allocation of credits to the applicant for the development. (15 points)

(3) If the authority receives a letter from an elected official from the locality in which the proposed development is to be located opposing the allocation of credits requested by to the applicant for the development. (0 points)

c. Documentation from the local authorities that the proposed development is located in a Qualified Census Tract (QCT) as defined by the U. S. Department of Housing and Urban Development or in an Enterprise Zone designated by the state. (20 points)

d. Commitment by the applicant to give first leasing preference to individuals and families on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located and notification of the availability of such units to the local housing authority by the applicant. (10 points)

e. Commitment by the applicant to give first leasing preference to individuals and families on section 8 (as defined in § 9 hereinbelow) waiting lists maintained by the local or nearest section 8 administrator for the locality in which the proposed development is to be located and notification of the availability of such units to the local section 8 administrator by the applicant. (10 points)

f. Firm financing commitment(s) from the local government or housing authority or a resolution passed by the locality in which the proposed development is to be located committing a grant or below-market rate loan to the development. (The amount of such financing will be divided by the total development sources of funds and the proposed development receives two points for each percentage point up to a maximum of 40 points.)

3. Development characteristics.

a. The average unit size per bedroom (100 points multiplied by the quotient calculated by (i) the actual gross square footage per bedroom minus the estimated lowest gross square footage per bedroom divided (ii) the estimated highest gross square footage per bedroom minus the estimated lowest gross square footage per bedroom.)

b. Increase in the housing stock attributable to new construction or adaptive reuse of units or to the rehabilitation of units determined by the applicable local governmental unit to be uninhabitable and so documented in the application. (80 points multiplied by the percentage of such units in the proposed development)

c. Lower amount of credit request. (30 points multiplied by the percentage by which the total amount of the annual tax credits requested is less than $1,000,000.)

d. The quality of the proposed development's amenities as determined by the following:

(1) If all 2-bedroom units have 1.5 bathrooms and all 3-bedroom units have 2 bathrooms. (15 points)

(2) If all units have a washer and dryer. (7 points)

(3) If all units have a balcony or patio. (5 points)

(4) If all units have a washer and dryer hook-up only. (3 points)

(5) If all units have a dishwasher. (2 points)

(6) If all units have a garbage disposal. (1 point)

(7) If the development has a laundry room. (1 point)

4. Tenant population characteristics.

a. Commitment by the applicant to lease low-income housing units in the proposed development only to one or more of the following: (i) persons 62 years or older, (ii) homeless persons or families, or (iii) physically or mentally disabled persons. Applicants receiving points under this subdivision a may not receive points under subdivision b below. (30 points)

b. Commitment by the applicant to creating a development in which 20% or more of the low-income units have three or more bedrooms. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (30 points)

5. Sponsor characteristics.

a. Evidence that the development team for the proposed development has the demonstrated experience, qualifications and ability to perform. In comparison with the proposed development, the controlling general partner(s), acting in the capacity of controlling general partner(s), has placed in service one or more developments which, in the aggregate, would result in the highest number of points under one of the following: (i) at least an equal number of residential rental units (10 points); or (ii) two or more times as many residential rental units (20 points); or (iii) three or more times as many residential rental units (30 points); or (iv) at least an equal number of low-income housing units in any state, as evidenced by issuance of IRS Forms 8609 (40 points); or (v) two or more times as many low-income housing units in any state, as evidenced by issuance of IRS Forms 8609 (50 points); or (vi) three or more times as many low-income housing units in any state, as evidenced by issuance of IRS Forms 8609 (60 points); or (vii) at least an equal number of low-income housing units in Virginia as evidenced by issuance of IRS Forms 8609 (70 points); or (viii) two or more times as many low-income housing units in Virginia as evidenced by issuance of IRS Forms 8609 (80 points); or (ix) three or more times as many low-income housing units in Virginia as evidenced by issuance of IRS Forms 8609 (90 points).

b. Participation in the ownership of the proposed development (either directly or through a wholly-owned subsidiary) by any organization which has its principal place of business in Virginia and which is exempt from federal taxation. (10 points)

6. Efficient use of resources.

a. The percentage by which the total of the amount of credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the weighted average of the estimated highest per unit credit amount for new construction units and the estimated highest per unit credit amount for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per unit credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per unit credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 120 points.)

b. The percentage by which the total of the amount of credits per bedroom in such low-income housing units (the "per bedroom credit amount") of the proposed development is less than the weighted average of the estimated highest per bedroom credit amount for new construction units and the estimated highest per bedroom credit amount for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per bedroom credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per bedroom credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 60 points.)

c. The percentage by which the cost per low-income housing unit (the "per unit cost"), adjusted by the authority for location, of the proposed development is less than the weighted average of the estimated highest per unit cost for new construction units and the estimated highest per unit cost for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per unit cost of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per unit cost of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 115 points.)

d. The percentage by which the total of the cost per bedroom in such low-income housing units (the "per bedroom cost"), adjusted by the authority for location, of the proposed development is less than the weighted average of the estimated highest per bedroom cost for new construction units and the estimated highest per bedroom cost for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per bedroom cost of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per bedroom cost of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 55 points.)

With respect to this subdivision 6 only, the term "new construction units" shall be deemed to include adaptive reuse units and units determined by the applicable local governmental unit to be uninhabitable which are intended to be rehabilitated. Also, for the purpose of calculating the points to be assigned pursuant to such subdivision 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 any use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of credits as provided in the IRC.

After points have been assigned to each application in the manner described above, the executive director shall compute the total number of points assigned to each such application. Notwithstanding any other provisions herein, any application which is assigned a total number of points less than a threshold amount of 350 points shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits.

7. Bonus points. For each application to which the total number of points assigned is equal to or more than the above-described threshold amount of points, bonus points shall be assigned as follows:

a. Commitment by the applicant to impose income limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. (The product of (i) 50 points multiplied by (ii) the percentage of low-income housing units restricted for occupancy to households at or below 50% of the area median gross income.)

b. Commitment by the applicant to maintain the low-income housing units in 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 authority 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. Applicants receiving points under this subdivision b may not receive bonus points under subdivision c below. (40 points for a 15-year commitment beyond the 15-year compliance period or 50 points for a 25-year commitment beyond the 15-year compliance period).

c. Commitment by the applicant to convert the low-income housing units to homeownership by qualified low income tenants at the end of the 15-year compliance period, as defined by IRC, according to a homeownership plan approved by the authority. Such plan must include, but not be limited to, (i) a provision that a portion of the rental revenue will be set aside in an escrow account for each tenant for the purpose of accumulating funds for a down payment, (ii) a provision for determining a sale price, affordable to the tenant, at the end of the 15-year compliance period, (iii) a provision for maintaining a replacement reserve for the property which would be transferable to the tenant at the time of sale to the tenant, (iv) an agreement by the applicant to record such plan as an exhibit to the low-income housing commitment described in § 7 hereinbelow. The authority reserves the right to waive any of the above conditions, if in the sole discretion of the authority, the applicant proposes a satisfactory alternative condition. Applicants receiving points under this subdivision c may not receive bonus points under subdivision b above. (50 points)

d. Applications for developments located in communities which have removed local regulatory barriers to affordable housing, as evidenced by a certification and appropriate documentation from the chief executive officer of the locality for each of the following actions: (i) waived utility tap fees for low-income housing units, (ii) adopted a local affordable dwelling unit (ADU or density bonus) ordinance under the provisions of § 15.1-491.8 or § 15.1-491.9 of the Code of Virginia, (iii) adopted a local ordinance in accordance with § 15.1-37.3:9 of the Code of Virginia to provide a source of local funding for the repair or production of low- or moderate-income housing units, (iv) adopted an ordinance in accordance with § 58.1-3220 of the Code of Virginia to provide for the partial exemption of qualifying rehabilitated residential real estate from real property taxes, (v) adopted local land use regulations permitting the permanent placement of all manufactured housing units conforming in appearance to site-built housing in one or more residential zoning districts in addition to those currently required under the terms of § 15.1-486.4 of the Code of Virginia, (vi) adopted local zoning, site plan, and subdivision regulations permitting the use of the full range of attached single-family dwelling units by right in designated districts and zoning land for such purposes, (vii) adopted local subdivision street standards no more stringent than those adopted by the Virginia Department of Transportation, (viii) adopted a linked deposits ordinance under the provisions of § 11-47.33 of the Code of Virginia, (ix) adopted a coordinated program to facilitate the local development review process, including self-imposed deadlines, preapplication conferences on request, review expediters or similar methods, and (x) adopted other innovative local actions removing regulatory barriers to affordable housing which may be submitted for review and approval by the authority. (10 points for each of the above actions taken, up to a maximum of 30 points)

The executive 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 executive 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.

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 state, and in the event that the amount of credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility of all of the developments described therein, the authority shall, to the extent necessary 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 with the most bonus points as described above, and each application so selected shall receive (in order based upon the number of such bonus points, beginning with the application with the most bonus points) a reservation of credits in the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool or subpool or, if none, in the Commonwealth. If two or more of the tied applications receive the same number of bonus points and if the amount of credits available for reservation to such tied applications is determined by the executive director to be insufficient for the financial feasibility of all the developments described therein, the executive director shall select one or more of such applications by lot, and each application so selected by lot shall receive (in order of such selection by lot) the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool or subpool or, if none, in the Commonwealth.

For each application which may receive a reservation of credits, the executive director shall determine the amount, as of the date of the deadline for submission of applications for reservation of 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 executive 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 authority to be generated with respect to the development, and the percentage of the 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 executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive 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 credit dollar amount used for development costs, other than the costs of intermediaries, as the executive 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 executive director shall designate, the executive director shall reserve credits to applications in descending order of ranking within each pool or subpool, if applicable, until either substantially all credits therein are reserved or all qualified 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 executive director, of credits remaining in a pool or subpool after reservations have been made, "substantially all" of the credits in such pool shall be deemed to have been reserved.) The executive director may rank the applications within pools or subpools at different times for different pools or subpools and may reserve credits, based on such rankings, one or more times with respect to each pool or subpool. The executive director may also establish more than one round of review and ranking of applications and reservation of credits based on such rankings, and he shall designate the amount of 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 executive 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 credits so reserved exceed the maximum amount permissible under the IRC.

If the amount of credits available in any pool is determined by the executive director to be insufficient for the financial feasibility of the proposed development to which such available credits are to be reserved, the executive 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 credits or (ii), for developments which meet the requirements of § 42(h)(1)(E) of the IRC only, reserve additional 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 executive 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 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 credits from the state housing credit ceiling for the current year. However, any such reservation shall be in the sole discretion of the executive director if he determines it to be in the best interest of the plan. In the event a reservation or an allocation of credits from the current year or a prior year is reduced, terminated or cancelled, the executive director may substitute such credits for any 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 credits reserved within any pools or subpools is less than the total amount of credits made available therein during such round, the executive director may either (i) leave such unreserved credits in such pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved credits to such other pools or subpools as the executive director may designate and in which there remain excess qualified applications or (iii) carry over such unreserved 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 executive director with excess qualified applications divided by the total amount originally distributed to all such designated pools or subpools with excess qualified applications. Such redistributions may continue to be made until either all of the credits are reserved or all qualified applications have received reservations.

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

The authority's board shall review and consider the analysis and recommendation of the executive director for the reservation of credits to an applicant, and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the credits to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the aforementioned binding commitment issued or to be issued to the applicant, the IRC and these rules and regulations. If the board determines not to ratify a reservation of credits or to establish any such terms and conditions, the executive director shall so notify the applicant.

Subsequent to such ratification of the reservation of credits, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of such reservation by an amount not to exceed 10% of the initial reservation amount.

The executive 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, these rules and regulations 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 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 executive director, the applicant is entitled to an allocation of the credits under the IRC, these rules and regulations and the terms of any binding commitment that the authority would have otherwise issued to such applicant, the executive director may at that time allocate the credits to such qualified low-income buildings or development without first providing a reservation of such credits. This provision in no way limits the authority of the executive 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 credits. Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom 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 authority. If on the basis of such written confirmation and documentation as the executive director shall have received in response to such a request, or on the basis of such other available information, or both, the executive 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 or will not otherwise qualify for such credits under the IRC, these rules and regulations or the binding commitment, then the executive director may terminate the reservation of such credits and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether before or after allocation of the credits, he may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.

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

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the credits therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with these rules and regulations, the IRC, the binding commitment and any other contractual agreement between the authority and the applicant, reduce the amount of 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 executive director, he may terminate or reduce the reservation of such credits,

impose additional terms and conditions with respect thereto, seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or any combination of the foregoing.

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

§ 7. Allocation of credits.

At such time as one or more of an applicant's buildings or an applicant's development which has received a reservation of 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 rules and regulations, the binding commitment and any other applicable contractual agreements between the applicant and the authority, the applicant shall so advise the authority, shall request the allocation of all of the credits so reserved or such portion thereof to which the applicant's buildings or development is then entitled under the IRC, these rules and regulations, 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 executive director shall require in order to determine that the applicant's buildings or development is entitled to such credits as described above. The applicant shall certify to the authority 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 credits to any building or development and as of the date such building or such development is placed in service, the executive director shall determine the amount of 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 executive 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 authority to be generated with respect to the development and the percentage of the 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 executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive 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 credit dollar amount used for development costs, other than the costs of intermediaries, as the executive 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 credits allocated to the applicant shall in no event exceed such amount as so determined by the executive director by more than a de minimis amount of not more than $100.

Prior to allocating the credits to an applicant, the executive 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 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 authority 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 executive 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 these rules and

regulations. 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.

In accordance with the IRC, the executive director may, for any calendar year during the project period (as defined in the IRC), allocate 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 executive director determines that the buildings or development is so entitled to the credits, he shall allocate the 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 executive director shall determine that the applicant's buildings or development is not so entitled to the credits, he shall not allocate the 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 credits or whose buildings or development shall be deemed by the executive director not to be entitled to any or all of its reserved credits, the executive director may reserve or allocate, as applicable, such unallocated 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 rules and regulations.

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

The executive director may make the allocation of 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 executive 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 authority as the executive director may require with respect to the 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 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 executive director determines that a development for which an allocation of 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 authority, the executive director may terminate the allocation and rescind the credits in accordance with the IRC and, in addition, may draw on any good faith deposit and enforce any of the authority's rights and remedies under any contractual agreement. An allocation of credits to an applicant may also be cancelled with the mutual consent of such applicant and the executive director. Upon the termination or cancellation of any credits, the executive director may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and these rules and regulations.

§ 8. Reservation and allocation of additional 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' credits have been reserved may submit an application for a reservation of additional credits. Subsequent to such initial determination of the qualified basis, the applicant may submit an application for an additional allocation of credits 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 credits shall include such information, opinions, certifications and documentation as the executive director shall require in order to determine that the applicant's buildings or development will be entitled to such additional credits under the IRC and these rules and regulations. The application shall be submitted, reviewed, ranked and selected by the executive director in accordance with the provisions of § 6 hereof, and any allocation of credits shall be made in accordance with § 7 hereof. For the purposes of such review, ranking and selection and the determinations to be made by the executive director under the rules and regulations as to the financial feasibility of the development and its viability as a qualified low-income development during the credit period, the amount of credits 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 credits hereunder, the amount of credit which may be claimed by the applicant) shall be included with the amount of such credits so requested.

§ 9. Monitoring for IRS compliance.

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

B. The owner of a low-income housing development must keep records for each qualified low-income building in the development 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) of IRC (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 this subdivision 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) of the IRC.

8. The eligible basis and qualified basis of the building at the end of the first year of the credit period.

9. The character and use of the nonresidential portion of the building included in the building's eligible basis under § 42(d) of the IRC (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 development).

The owner of a low-income housing development must retain the records described in this subsection B 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.

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

1. The development met the requirements of the 20-50 test under § 42(g)(1)(A) of the IRC or the 40-60 test under § 42(g)(2)(B) of the IRC, whichever minimum set-aside test was applicable to the development.

2. There was no change in the applicable fraction (as defined in § 42(c)(1)(B) of the IRC) of any building in the development, 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 7 of subsection B.

4. Each low-income unit in the development was rent-restricted under § 42(g)(2) of the IRC.

5. All units in the development 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) of the IRC).

6. Each building in the development 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 the IRC) of any building in the development, 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 the IRC of any building in the development, 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 development 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 development 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 development increased above the limit allowed in § 42(g)(2)(D)(ii) of the IRC, the next available unit of comparable or smaller size in the development was or will be rented to tenants having a qualifying income.

11. An extended low-income housing commitment as described in § 42(h)(6) of the IRC 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 development must provide to the authority, on a form prescribed by the authority, a certification containing such information necessary for the Commonwealth to determine the eligibility of tax credits for the first year of the development's compliance period.

D. The authority will review each certification set forth in subsection C of this section for compliance with the requirements of § 42 of the IRC. Also, the authority will inspect at least 20% of low-income housing developments 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 developments. The authority will determine which low-income housing developments will be reviewed in a particular year and which tenant's records are to be inspected.

In addition, the authority, at its option, may request an owner of a low-income housing developments not selected for the review procedure set forth above in a particular year to submit to the authority 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 development.

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

E. The authority has the right to perform, and each owner of a development receiving credits shall permit the performance of, an on-site inspection of any low-income housing development 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.

The owner of a low-income housing development should notify the authority when the development is placed in service. The authority, at its sole discretion, reserves the right to inspect the property prior to issuing IRS Form 8609 to verify that the development conforms to the representations made in the Application for Reservation and Application for Allocation.

F. The authority will provide written notice to the owner of a low-income housing development if the authority 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 development is not in compliance with the provisions of § 42 of the IRC.

Such written notice will set forth a correction period which shall be that period specified by the authority during which an owner must supply any missing certifications and bring the development into compliance with the provisions of § 42 of the IRC. The authority will set the correction period for a time not to exceed 90 days from the date of such notice to the owner. The authority may extend the correction period for up to 6 months, but only if the authority determines there is good cause for granting the extension.

The authority 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 any permitted extensions) and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The authority 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 2 and 7 of subsection C of this section, respectively, that results in a decrease in the qualified basis of the development under § 42(c)(1)(A) of the IRC is noncompliance that must be reported to the IRS under this subsection F. If the authority 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 authority need not file Form 8823 in subsequent years to report that building's noncompliance.

The authority will retain records of noncompliance or failure to certify for six years beyond the authority's filing of the respective Form 8823. In all other cases, the authority must retain the certifications and records described in subsection C of this section for 3 years from the end of the calendar year the authority receives the certifications and records.

G. If the authority 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 authority 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 authority 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 authority. The authority may assume the accuracy of the information provided by FmHA or the tax-exempt bond issuer without verification. The authority will review the information and determine that the income limitation and rent restriction of § 42(g)(1) and (2) of the IRC are met. However, if the information provided by the FmHA or tax-exempt bond issuer is not sufficient for the authority to make this determination, the authority 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 authority may have to calculate the tenant's income for purposes of § 42 of the IRC and may need to request additional income information from the owner.

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

§ 10. Tax-exempt bonds.

In the case of any buildings or development to be financed by certain tax-exempt bonds of the authority, or an issuer other than the authority, in such amount so as not to require under the IRC an allocation of credits hereunder, the owner of the buildings or development shall submit to the authority, in a timely fashion, an application for allocation of credits and supporting information and documents as described in § 7 hereof, and such other information and documents as the executive director may require. The executive director shall determine, in accordance with the IRC, whether such buildings or development satisfies the requirements for allocation of credits hereunder. For the purposes of such determination, buildings or a development shall be deemed to satisfy the requirements for allocation of credits hereunder if (i) the application submitted to the authority in connection therewith is assigned not fewer than the threshold number of points (exclusive of bonus points) under the ranking system described in § 6 hereof, and (ii) the executive director shall determine that the buildings or development shall receive an amount of credits 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, and more fully described in § 7 hereof. The owner of the buildings or development shall, as required by the executive director, pay such fees as described in § 5 hereof, and such good faith deposits as described in § 7 hereof. Furthermore, the owner of the buildings or development shall satisfy all other requirements for an allocation as required by the executive director, including execution, delivery and recordation of an extended low-income housing commitment as more fully described in § 7 hereof and all requirements for compliance monitoring as described in § 9 hereof.

VA.R. Doc. No. R95-389; Filed March 28, 1995, 3:57 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **VR 460-02- 4.1910. Methods and Standards for Establishing Payment Rates--Inpatient Hospital Care (Hospital Reporting Requirements).**

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

The Department of Medical Assistance Services has **WITHDRAWN** the proposed amendments relating to hospital reporting requirements to the regulation entitled, "VR 460-02-4.1910, Methods and Standards for Establishing Payment Rates--Inpatient Hospital Care," which was published in 9:17 VA.R. 2747-2756 May 17, 1993. The agency does not intend to pursue the completion of the regulatory process for this issue.

VA.R. Doc. No. R95-398; Filed March 30, 1995, 11:25 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: **VR 480-03-19. Coal Surface Mining Reclamation Regulation (VR 480-03-19.816.102 and VR 480-03-19.817.102. Backfilling and Grading: General Requirements).**

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Public Hearing Date: June 6, 1995 — 10 a.m.
Written comments may be submitted until June 17, 1995.
(See Calendar of Events section for additional information)

Basis: The Department of Mines, Minerals and Energy has the authority to promulgate this amendment to the Coal Surface Mining Reclamation Regulation pursuant to §§ 45.1-161.3 and 45.1-230 of the Code of Virginia. Section 45.1-161.3 authorizes the department to promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under Title 45.1 in accordance with Article 2 (§ 9-6.14:7.1 et seq.) of the Administrative Process Act. Section 45.1-230 vests authority with the department to promulgate regulations necessary to carry out the purposes and provisions of Chapter 19 of Title 45.1, the "Virginia Coal Surface Mining Control and Reclamation Act of 1979" (§ 45.1-226 et seq.). Such regulations must be consistent with regulations promulgated by the federal Office of Surface Mining.

The proposed changes to the regulation would amend the performance standards for surface and underground coal mining activities. These performance standards are authorized under § 45.1-242 of the Code of Virginia.

Purpose: The amendments to the Coal Surface Mining Reclamation Regulations are necessary to allow Virginia coal surface mine operators to continue the practice of placing scalp rock and mine development rock in backfills along highwalls on surface coal mines.

Use of scalp rock and mine development rock in highwall backfills was previously allowed under federal and state mining regulations. Virginia mine operators have used this practice for many years. The practice provides for safe, environmentally sound management of scalp rock and mine development rock in a cost effective manner. This amendment will allow these practices to continue.

Recently, the federal Office of Surface Mining changed its interpretation of the federal regulations governing backfilling highwalls on coal mines. The new interpretation would require operators to either construct diversion channels above highwalls containing scalp rock or mine development rock, or to construct new refuse fills to dispose of this rock.

Construction of diversion channels above a highwall would lead to larger disturbed areas on coal mines and increased risk of slope failure in highwall backfills. Diversion channel construction would result in some portions of highwalls not

being reclaimed. Construction of new or expanded fills would increase the amount of disturbed lands from coal mining activities. This increases hazards to the public safety and environment. These regulatory changes are necessary to avoid increased hazards to the public safety and environment.

Substance: This regulation amendment would make permanent the changes to performance standards for backfilling highwalls on coal mines. The changes were promulgated as an emergency regulation amendment effective October 19, 1994.

The amendment would clarify that coal mine operators may continue to use scalp rock and mine development rock to backfill highwalls on disturbed mine areas. Operators will continue to be required to properly design and construct the backfills, and must continue to show that appropriate control measures will be taken to direct or convey runoff across the surface areas in a controlled manner.

Issues: The advantages to the public for implementing this amendment include minimizing the risk of backfill slope failure, and eliminating the need to create or expand mine refuse disposal areas. Without this amendment, mine operators using scalp rock or mine development rock in highwall backfills would be required to construct diversion channels above the highwalls. Construction of such diversion channels would create drainage patterns which could cause failure of the backfills. Any failure would be a hazard to the public safety and to the environment.

Construction of new or expanded mine refuse areas or diversion channels also would cause significant expense to mine operators.

After the federal Office of Surface Mining changed its interpretation of the federal backfilling regulations, the office instituted federal enforcement actions against seven Virginia coal operators and the Department of Mines, Minerals and Energy. This regulatory amendment will allow closure of these federal enforcement actions.

There are no disadvantages to the public, to mine operators, to the Department of Mines, Minerals and Energy, or to the Commonwealth from this regulatory proposal.

Estimated Impact: This amendment will have an immediate impact on the seven coal mines subject to federal enforcement action for use of scalp rock in highwall backfills. The Office of Surface Mining has identified six other coal mines in Virginia that would be subject to federal enforcement if this amendment is not promulgated. There are an undetermined number of additional sites that would be subject to enforcement action for use of scalp rock in highwall backfills if this amendment is not promulgated.

This amendment also will have an immediate impact on the Department of Mines, Minerals and Energy. The federal Office of Surface Mining will be able to close out both the violations issued to the coal mines and the notices issued to the Department of Mines, Minerals and Energy.

This amendment will allow mine operators to continue existing backfilling practices in a safe and environmentally sound manner on Virginia coal mines. There will be no cost increase for either coal operators or the Department of Mines, Minerals and Energy for compliance with these changes.

If this regulation is not implemented, coal operators will be faced with significant cost increases to backfill highwalls and dispose of scalp rock and mine development rock. The Department of Mines, Minerals and Energy has not estimated total costs as they would vary based on site conditions at each mine. Costs for an example site follow.

Typical cost to backfill a highwall:

Assume: 1,000 linear feet of highwall
82 feet tall highwall, 150 feet wide bench
2 to 1 backfill slope
228 cubic yards backfill per linear foot at $ 1.00/cy

Total cost: $ 228,000

Estimated added cost for diversion channel construction:

Assume: 1,000 linear feet of ditch
16 feet wide ditch for equipment access
1.5 to 1 backslope to daylight
2 to 1 natural ground slope
20.7 cubic yards per linear foot of ditch at $42.50/cy

Total added cost: $ 51,750

Unknowns which may affect costs:

Difficult access to construct the drainage channel
Ripping or blasting needs
Distance to haul material off site for disposal
Need for riprap, grouting, or both

Estimated added cost for hauling and disposal of scalp rock instead of using the rock in a highwall backfill:

Assume: 4 acre pile at 20 feet depth; 129,000 cubic yards total
$ 1.00/ cubic yard handling
$ 1,500/ acre for grading and seeding

Total added cost: $ 135,000

Unknowns which may affect costs:

Distance to haul material off site for disposal
Unusual site-specific fill construction

Identity of Any Locality Particularly Affected: This regulation amendment will not affect any local government. Local governments do not operate coal mines. If coal mining must be completed as an integral part of a local construction project, an exemption from the Coal Surface Mining Reclamation Regulations is available.

This regulatory amendment will affect mine operators in the seven counties in the southwest Virginia coalfields. They include the Counties of Lee, Scott, Wise, Russell, Buchanan, Dickenson, and Tazewell. The amendment should not affect other localities in Virginia.

Summary:

The Department of Mines, Minerals and Energy proposes to amend its Coal Surface Mining Reclamation Regulation to allow Virginia coal surface mine operators to continue the practice of placing scalp rock and mine development rock in backfills along highwalls on surface coal mines. The amendment is necessary to avoid increased hazards to the public safety and environment which could result from application of federal refuse pile regulations to highwalls containing scalp and mine development rock. The proposed regulation is identical to, and will make permanent, the department's October 19, 1994, emergency regulation amendment.

VR 480-03-19. Coal Surface Mining Reclamation Regulations.

§ 480-03-19.816.102. Backfilling and grading: general requirements.

(a) Disturbed areas shall be backfilled and graded to:

(1) Achieve the approximate original contour, except as provided in ~~paragraph~~ *subsection* (k) of this section;

(2) Eliminate all highwalls, spoil piles, and depressions, except as provided in ~~paragraph~~ *subsection* (h) (small depressions) and in ~~paragraph~~ *subdivision* (k)(3)(iii) (previously mined highwalls) of this section;

(3) Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides;

(4) Minimize erosion and water pollution both on and off the site; and

(5) Support the approved postmining land use.

(b) Spoil, except excess spoil disposed of in accordance with §§ 480-03-19.816.71 through 480-03-19.816.75, shall be returned to the mined-out area.

(c) Spoil and waste materials shall be compacted where advisable to ensure stability or to prevent leaching of toxic materials.

(d) Spoil may be placed on the area outside the mined-out area in nonsteep slope areas to restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

(1) All vegetative and organic material shall be removed from the area.

(2) The topsoil on the area shall be removed, segregated, stored, and redistributed in accordance with § 480-03-19.816.22.

(3) The spoil shall be backfilled and graded on the area in accordance with the requirements of this section.

(e) Disposal of coal processing waste and underground development waste in the mined-out area shall be in accordance with §§ 480-03-19.816.81 and 480-03-19.816.83 *as provided in subdivisions (1) and (2) of this subsection,* except that a long-term static safety factor of 1.3 shall be achieved.

(1) Disposal of coal processing waste and underground development waste in the mined-out area to backfill disturbed areas shall be in accordance with § 480-03-19.816.81.

(2) Disposal of coal processing waste and underground development waste in the mined-out area as a refuse pile and not to backfill disturbed areas shall be in accordance with §§ 480-03-19.816.81 and 480-03-19.816.83. The division may approve a variance to § 480-03-19.816.83(a)(2) if the applicant demonstrates that the area above the refuse pile is small and that appropriate measures will be taken to direct or convey runoff across the surface area of the pile in a controlled manner.

(f) Exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining shall be covered with a minimum of four feet of nontoxic and noncombustible material, or treated, to control the impact on surface and ground water in accordance with § 480-03-19.816.41, to prevent sustained combustion, and to minimize adverse effects on plant growth and the approved postmining land use. Acid- and toxic-forming materials shall not be buried or stored in proximity to any drainage course.

(g) Cut-and-fill terraces may be allowed by the division where:

(1) Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

(2) Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land-use plan.

(h) Small depressions may be constructed if they are needed to retain moisture, minimize erosion, create and enhance wildlife habitat, or assist revegetation.

(i) Permanent impoundments may be approved if they meet the requirements of §§ 480-03-19.816.49 and 480-03-19.816.56 and if they are suitable for the approved postmining land use.

(j) Preparation of final-graded surfaces shall be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

(k) The postmining slope may vary from the approximate original contour when:

(1) The standards for thin overburden in § 480-03-19.816.104 are met;

(2) The standards for thick overburden in § 480-03-19.816.105 are met; or

(3) Approval is obtained from the division for:

(i) Mountaintop removal operations in accordance with § 480-03-19.785.14;

(ii) A variance from approximate original contour requirements in accordance with § 480-03-19.785.16; or

(iii) Incomplete elimination of highwalls in previously mined areas in accordance with § 480-03-19.816.106.

§ 480-03-19.817.102. Backfilling and grading: general requirements.

(a) Disturbed areas shall be backfilled and graded to:

(1) Achieve the approximate original contour, except as provided in ~~paragraph~~ *subsection* (k) of this section;

(2) Eliminate all highwalls, spoil piles, and depressions, except as provided in ~~paragraph~~ *subsection* (h) (small depressions) and in ~~paragraph~~ *subdivision* (k)(2) (previously mined highwalls) of this section;

(3) Achieve a postmining slope that does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum long-term static safety factor of 1.3 and to prevent slides;

(4) Minimize erosion and water pollution both on and off the site; and

(5) Support the approved postmining land use.

(b) Spoil, except as provided in ~~paragraph~~ *subsection* (l) of this section, and except excess spoil disposed of in accordance with §§ 480-03-19.817.71 through 480-03-19.817.75, shall be returned to the mined-out surface area.

(c) Spoil and waste materials shall be compacted where advisable to ensure stability or to prevent leaching of toxic materials.

(d) Spoil may be placed on the area outside the mined-out surface area in nonsteep slope areas to restore the approximate original contour by blending the spoil into the surrounding terrain if the following requirements are met:

(1) All vegetative and organic material shall be removed from the area.

(2) The topsoil on the area shall be removed, segregated, stored, and redistributed in accordance with § 480-03-19.817.22.

(3) The spoil shall be backfilled and graded on the area in accordance with the requirements of this section.

(e) Disposal of coal processing waste and underground development waste in the mined-out area shall be in accordance with §§ 480-03-19.817.81 and 480-03-19.817.83 *as provided in subdivisions (1) and (2) of this subsection,* except that a long-term static safety factor of 1.3 shall be achieved.

(1) Disposal of coal processing waste and underground development waste in the mined-out area to backfill disturbed areas shall be in accordance with § 480-03-19.817.81.

(2) Disposal of coal processing waste and underground development waste in the mined-out area as a refuse pile and not to backfill disturbed areas shall be in accordance with §§ 480-03-19.817.81 and 480-03-19.817.83. The division may approve a variance to § 480-03-19.817.83(a)(2) if the applicant demonstrates that the area above the refuse pile is small and that appropriate measures will be taken to direct or convey runoff across the surface area of the pile in a controlled manner.

(f) Exposed coal seams, acid- and toxic-forming materials, and combustible materials exposed, used, or produced during mining shall be covered with a minimum of four feet of nontoxic and noncombustible materials, or treated, to control the impact on surface and ground water in accordance with § 480-03-19.817.41, to prevent sustained combustion, and to minimize adverse effects on plant growth and the approved postmining land use. Acid- and toxic-forming materials shall not be buried or stored in proximity to any drainage course.

(g) Cut-and-fill terraces may be allowed by the division where:

(1) Needed to conserve soil moisture, ensure stability, and control erosion on final-graded slopes, if the terraces are compatible with the approved postmining land use; or

(2) Specialized grading, foundation conditions, or roads are required for the approved postmining land use, in which case the final grading may include a terrace of adequate width to ensure the safety, stability, and erosion control necessary to implement the postmining land-use plan.

(h) Small depressions may be constructed if they are needed to retain moisture, minimize erosion, create and enhance wildlife habitat, or assist revegetation.

(i) Permanent impoundments may be approved if they meet the requirements of §§ 480-03-19.817.49 and 480-03-19.817.56 and if they are suitable for the approved postmining land use.

(j) Preparation of final-graded surfaces shall be conducted in a manner that minimizes erosion and provides a surface for replacement of topsoil that will minimize slippage.

(k) The postmining slope may vary from the approximate original contour when approval is obtained from the division for:

(1) A variance from approximate original contour requirements in accordance with § 480-03-19.785.16; or

(2) Incomplete elimination of highwalls in previously mined areas in accordance with § 480-03-19.817.106.

(l) Regrading of settled and revegetated fills to achieve approximate original contour at the conclusion of underground mining activities shall not be required if the conditions of ~~paragraph~~ *subdivision* (l)(1) or (l)(2) of this section are met.

(1) (i) Settled and revegetated fills shall be composed of spoil or nonacid- or nontoxic-forming underground development waste.

(ii) The spoil or underground development waste shall not be located so as to be detrimental to the environment, to the health and safety of the public, or to the approved postmining land use.

(iii) Stability of the spoil or underground development waste shall be demonstrated through standard geotechnical analysis to be consistent with backfilling and grading requirements for material on the solid bench (1.3 static safety factor) or excess spoil requirements for material not placed on a solid bench (1.5 static safety factor).

(iv) The surface of the spoil or underground development waste shall be vegetated according to § 480-03-19.817.116, and surface runoff shall be controlled in accordance with § 480-03-19.817.43.

(2) If it is determined by the division that disturbance of the existing spoil or underground development waste would increase environmental harm or adversely affect the health and safety of the public, the division may allow the existing spoil or underground development waste pile to remain in place. The division may require stabilization of such spoil or underground development waste in accordance with the requirements of ~~paragraphs~~ *subdivisions* (l)(1)(i) through (l)(1)(iv) of this section.

VA.R. Doc. No. R95-396; Filed March 29, 1995, 11:28 p.m.

DEPARTMENT OF STATE POLICE

Title of Regulation: **VR 545-01-18. Regulations Governing the Operation and Maintenance of the Sex Offender Registry.**

Statutory Authority: § 19.2-390.1 of the Code of Virginia.

Public Hearing Date: N/A — Written comments may be submitted through June 16, 1995.
(See Calendar of Events section for additional information)

Basis: Section 19.1-390.1 of the Code of Virginia directs the agency, beginning July 1, 1994, to establish and maintain a registry of convicted sex offenders.

Purpose: This regulation is being proposed to fulfill the requirements of § 19.2-390.1 of the Code of Virginia which was enacted by the 1994 General Assembly. This code section requires the Department of State Police to establish and maintain a Sex Offender Registry. This, in effect, requires the department to promulgate regulations governing the operation and maintenance of the Sex Offender Registry and the expungement of records on persons who are deceased, whose convictions have been reversed or who have been pardoned, and those for whom an order of expungement has been entered, as well as establishing a fee for responding to requests for information from the Sex Offender Registry. The proposed regulation will replace the emergency Sex Offender Registry regulation (as required by the Virginia Administrative Process Act) that was adopted to comply with a state mandate (§ 19.2-390.1 of the Code of Virginia).

Substance: The proposed regulation is similar to the emergency regulation that became effective on November 17, 1994. It will help localities track the location of convicted sex offenders by requiring them to register with the State Police. The registration will help communities and potential employers to prevent registered offenders from working with children or other possible victims. Also included in the regulation are necessary procedures and forms that can be used by a person to request the dissemination of sex offender information from the registry.

Issues: The proposed regulation will benefit the public and localities by allowing them to track the whereabouts of registered sex offenders. It will also enable potential employers to keep registered sex offenders from working with children and other possible victims.

The proposed regulation will enable the agency to comply with the requirements of the Administrative Process Act by replacing its emergency Sex Offender Registry regulation within the required time schedule. The agency foresees no disadvantages for the public or state.

Estimated Impact: The proposed regulation will affect those localities that have registered sex offenders within their jurisdictions. The number of offenders affected is determined by the number who enter the state or already reside within the state. Individuals and organizations within the affected localities will be able to locate registered sex offenders by requesting necessary information from the department's registry. No particular locality is affected by this regulation.

The agency will not incur extra costs as a result of adopting the subject regulation. The costs for establishing and maintaining the registry have been absorbed within the department's existing budget. A fee of $15 will be collected from any person who requests information from the registry. The fee will cover the operational costs of the registry.

Summary:

Chapter 362 of the 1994 Acts of Assembly (SB 455) amended the Code of Virginia by adding § 19.2-390.1, requiring the Department of State Police to keep and maintain a Sex Offender Registry. The Department of State Police is required to promulgate regulations (i) governing the operation and maintenance of the Sex Offender Registry and the expungement of records on persons who are deceased, whose convictions have been reversed or who have been pardoned, and those for whom an order of expungement has been entered; and (ii) establishing a fee for responding to requests for information from the Sex Offender Registry. These regulations establish the procedures and forms to be used in registration of persons required by law to register with the Sex Offender Registry, and in the lawful dissemination of the Sex Offender Registry. These regulations also establish the fee to be charged for responding to requests for information from the Sex Offender Registry.

VR 545-01-18. Regulations Governing the Operation and Maintenance of the Sex Offender Registry.

§ 1. Sex Offender Registry established.

A. The Department of State Police shall keep and maintain a Sex Offender Registry, to include conviction data received from the courts pursuant to § 19.2-390 of the Code of Virginia and registrations received from persons required to do so by § 19.2-298.1 of the Code of Virginia.

B. The records of the Sex Offender Registry shall be maintained separate and apart from all other records maintained by the Department of State Police.

§ 2. Registration.

A. Any person required to register with the Department of State Police pursuant to § 19.2-298.1 of the Code of Virginia shall do so by completing the Sex Offender Registration Form, Form SP-236, and mailing it to Department of State Police, Central Criminal Records Exchange, Attn: Sex Offender Registry, P. O. Box 27472, Richmond, Virginia 23261-7472. Form SP-236 may be obtained at any office of the Department of State Police.

B. Within 30 days following any change of residence by any person required to register with the Sex Offender Registry, any such person shall reregister by mailing a new Sex Offender Registration Form with the new residence information.

§ 3. Expungement from registry.

A. Upon receipt of a certified copy of a death certificate recording the death of any person registered with the Sex Offender Registry, the Department of State Police will expunge any and all records concerning such person from the Sex Offender Registry.

B. Upon receipt of a duly attested copy of a pardon issued by the Governor of Virginia as to any conviction reported to the Sex Offender Registry, the Department of State Police will expunge any and all records concerning such conviction from the Sex Offender Registry. If the pardoned person has no other convictions requiring registration, the Department of State Police will expunge any and all records concerning such person from the Sex Offender Registry.

C. Upon receipt of a report from any clerk of a circuit court that any conviction previously reported to the Sex Offender Registry has been reversed, the Department of State Police will expunge any and all records concerning such conviction from the Sex Offender Registry. If the person whose conviction is reversed has no other convictions requiring registration, the Department of State Police will expunge any and all records concerning such person from the Sex Offender Registry.

D. Upon receipt of a certified copy of an order of expungement entered pursuant to § 19.2-298.3 or § 19.2-392.1 of the Code of Virginia, the Department of State Police will expunge any and all records concerning such conviction from the Sex Offender Registry. If the person whose conviction has been expunged has no other convictions requiring registration, the Department of State Police will expunge any and all records concerning such person from the Sex Offender Registry.

§ 4. Dissemination of Sex Offender Registry information.

Any authorized officer or employee of an agency authorized to receive Sex Offender Registry information pursuant to § 19.2-390.1 of the Code of Virginia may request such information by completing a Sex Offender Registry Record Request form, Form SP-230, and mailing the completed form, along with the appropriate fee, to Department of State Police, Central Criminal Records Exchange, P. O. Box C-85076, Richmond, Virginia 23261-5076. Form SP-230 may be obtained from any office of the Department of State Police.

§ 5. Fee for responding to requests for information.

Any person requesting Sex Offender Registry information shall pay a fee of $15 for each Sex Offender Registry record requested. If the request is made in conjunction with a request for a criminal history "name search" record for the same individual, the person making the request shall pay a fee of $20 to cover both requests.

VA.R. Doc. No. R95-394; Filed March 29, 1995, 11:56 a.m.

SP-236 7-1-94

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF STATE POLICE

SEX OFFENDER REGISTRATION FORM

Section 19.2-298.1(B) requires every person serving a sentence of confinement or under community supervision for a felony sexual offense as specified on the reverse side of this form to register with the Department of State Police. Refer to reverse for instructions on completing this form.

☐ AGENCY OR ☐ INDIVIDUAL PROVIDING REGISTRY INFORMATION:

(CHECK ONE)

☐ CIRCUIT COURT
NAME OF COURT _____ SIGNATURE: _____

☐ DEPT. OF CORRECTIONS Name of Location _____

Type of Release & Date _____

Inmate Number _____

☐ PROBATION/PAROLE/OTHER COMMUNITY SUPERVISION
District Office _____

TYPE OF REGISTRATION
INITIAL ☐
UPDATE ☐

OFFENDER INFORMATION: (PRINT CLEARLY)

LAST NAME	MAIDEN	FIRST	MIDDLE	SEX	RACE	DOB

ALIASES USED: _____

SSN ___ ___

HOME ADDRESS	STREET	CITY-TOWN	STATE	ZIP CODE

VIRGINIA CONVICTION(S) INFORMATION:

DATE CONVICTED	CONVICTED OF	CODE SECTION	SENTENCING COURT	COURT CASE NO.

OUT OF STATE CONVICTION(S) INFORMATION:

CONVICTED IN ANOTHER STATE OF SEX OFFENSE (S)? YES ☐ NO ☐

STATE(S)	DATE(S) OF CONVICTION	SENTENCING COURT (S)	COURT CASE NO.

*SIGNATURE OF PERSON REGISTERING _____ DATE SUBMITTED _____

*My signature herewith signifies that I have been duly informed of my responsibilities to maintain this information current with the Department of State Police. Furthermore, I understand I am required to re-register with the Department of State Police within 30 days following any change of address. The intentional failure to register or knowingly providing false information to the Registry is punishable as a Class 1 misdemeanor.

MAIL THIS FORM TO:
DEPARTMENT OF STATE POLICE
CENTRAL CRIMINAL RECORDS EXCHANGE
ATTN: SEX OFFENDER REGISTRY
P. O. BOX 27472
RICHMOND, VA 23261-7472

REGISTRY NUMBER:
STATE POLICE USE ONLY
_____

Instructions for Completing Sex Offender Registration Form

Sections 19.2-298.1 (A) and (C), 19.2-390 (C), 19.2-390.1 (A), 46.2-323, 53.1-116.1, and 53.1-160.1 require all individuals convicted of any sex offense(s) listed below whether such conviction occurred pursuant to Virginia law or under substantially similar law of the United States or any other state to register with the Department of State Police.

This registration form is to be used for reporting and/or updating the Sex Registry as maintained by the Department of State Police. Questions concerning this form or procedures relating to the registry may be directed to the Office Manager, Central Criminal Records Exchange by phoning (804) 674-2086.

Convictions Reportable to Sex Offender Registry

18.2-61	Rape
18.2-63	Carnal knowledge of child between 13 and 15 years old
18.2-64.1	Carnal knowledge of certain minors
18.2-67.1	Forcible sodomy
18.2-67.2	Inanimate Object Sexual Penetration
18.2-67.3	Aggravated Sexual Battery
18.2-67.5	Attempted Rape, Forcible Sodomy, Inanimate Object Sexual Penetration, Aggravated Sexual Battery and Sexual Battery.
18.2-361	Crimes Against Nature
18.2-366	Adultery and Fornication by Persons Forbidden to Marry: Incest
18.2-370	Taking Indecent Liberties with Children
18.2-370.1	Taking Indecent Liberties with Child by Person in Custodial or Supervisory Relationship.

Clerk of Courts

Section 19.2-390 of the Code, as amended, requires the Clerk of a Circuit Court to register an individual, whether convicted as a juvenile or adult with the Department of State Police. Instructions for completing the registration form are as follows:

1. Check the block to identify the Circuit Court of origin, write the name of the court, and sign the document.

2. Indicate the type of registration: initial or update. When this report is submitted after conviction, consider it an initial registration. If the court modifies or amends information submitted on a previous report, show "update" as the type of registration.

3. Offender Information: Enter the full name of individual who was convicted as it **appears on the sentencing court order**, record all aliases the individual is known to have used, including sex, race, date of birth, social security number and home address.

4. Virginia Conviction(s) Information: List the specific reference to the offense(s) for which the individual has been convicted by recording the Code Section(s) and literal description(s) of the offense(s). PLEASE NOTE: If the individual has previously been convicted in your court at any time of any of the aforementioned offenses, provide this information in this category of the registration form.

5. Out of State Conviction(s) Information: Record any past criminal convictions which may become a matter of court record in any other state or federal law conviction which is substantially similar to the offenses as aforementioned.

Section 19.2-298.1, as amended requires sentencing order(s) for a conviction of any of the aforementioned offenses to specify, as a part of the sentence imposed, to register with the Department and imposes a duty to keep the registration current. The signature block of this form has been developed to disclose to the offender his responsibility to maintain his/her registration current, therefore, obtaining the offender's signature in the space provided will finalize the official completion of the registration form.

Department of Corrections/Probation/Parole and Other Community Supervision

Section 19.2-298.1 (B) of the Code requires every person serving a sentence of confinement or under community supervision for a felony as aforementioned to be required to register with the Department of State Police and shall be given notice of the duty of register. Additionally, Section 19.2-390(F), as amended, provides for the Department of Corrections to make reports of correctional status changes to the Sex Offender Registry, therefore, the completion and submission of this form to the Department of State Police will be utilized to report correctional status information.

1. Check the block to indicate the form was submitted by a Correctional facility and note the location in which the form was prepared.

2. Indicate the type of release (i.e. parole, discharge, etc.) and the date of release from custody.

3. Offender Information: Record the individuals full commitment name, all aliases used, sex, race, date of birth, social security number and the full post-release address.

4. Out of State Conviction(s) Information: Record any past convictions within any other state or federal court which are substantially similar to the offenses listed above.

SP-230 9/94

*SEX OFFENDER REGISTRY RECORD REQUEST ☐
CRIMINAL HISTORY RECORD REQUEST ☐

(Please check box to identify the type of search requested.)

A CERTIFIED CHECK OR MONEY ORDER MADE PAYABLE TO "VIRGINIA STATE POLICE" FOR $15.00 MUST ACCOMPANY THIS REQUEST BEFORE A FILE SEARCH WILL BE INITIATED. A REQUEST FOR BOTH RECORDS MUST INCLUDE A CERTIFIED CHECK OR MONEY ORDER IN THE AMOUNT OF $20.00.

• Personal Checks Not Accepted •

MAIL REQUEST TO:	DEPARTMENT OF STATE POLICE CENTRAL CRIMINAL RECORDS EXCHANGE P. O. BOX C-85076 RICHMOND, VIRGINIA 23261-5076	☐ CHARGE ACCT# _____ ☐ PAID ☐ CJA

Please fold reply at marks indicated

1. (Print Clearly) NAME TO BE SEARCHED

LAST NAME	FIRST	MIDDLE	MAIDEN	SEX	RACE	DATE OF BIRTH
						/ /

PLACE OF BIRTH - County or City	PLACE OF BIRTH - State or Country	SOCIAL SECURITY NUMBER
		— —

2. AGENCY, INDIVIDUAL OR AUTHORIZED AGENT MAKING REQUEST

MAIL REPLY TO: Agency, Individual or Authorized Agent Making Request

NAME

STREET\RFD

CITY STATE ZIP CODE

Search conducted for:
(Check the appropriate box)
- ☐ Registered small family day-care home
- ☐ Unregistered small family day-care home
- ☐ Foster care
- ☐ Domestic adoption
- ☐ International adoption
- ☐ VISA application
- ☐ Other _____ (Specify)

As provided for in Sections 19.2 - 389 and 19.2-390.1, Code of Virginia, I hereby request the criminal history record and/or sex offender record of the individual named in Section 1 above.

I certify that I am entitled by law to receive this record, and that the record provided shall be used only for the administration of criminal justice or for the screening of current or prospective employees or volunteers. I understand that further dissemination of sex offender registry records or use for purposes not authorized by law is prohibited and constitutes a violation punishable as a Class 1misdemeanor. Sex Offender Registry searches may only be conducted for: law enforcement agencies; public school divisions; private, denominational or parochial schools; child welfare agencies; or a registered/unregistered small family day-care home as specified in Section 63.1-195, Code of Virginia.

Date of Request _____ Signature of Person Making Request _____ Printed Name _____

FOR AN ADDITIONAL COPY OF A ☐ SEX OFFENDER RECORD OR ☐ A CRIMINAL HISTORY RECORD, CHECK THE APPROPRIATE BLOCK AND ENCLOSE A SEPARATE CHECK OR MONEY ORDER IN THE AMOUNT OF $5.00 FOR EACH ADDITIONAL RECORD.

NOTICE

Response based on comparison of information about person named in request against a master name index contained in the files of the Virginia State Police Central Criminal Records Exchange/Sex Offender Registry **only**.

NO CONVICTION DATA ☐ **NO CRIMINAL RECORD - Name Search Only ☐** **NO SEX OFFENDER RECORD ☐**

Date: _____ By: _____

STATE AIR POLLUTION CONTROL BOARD

REGISTRAR'S NOTICE: On July 14, 1994, the State Air Pollution Control Board adopted final amendments to its regulations VR 120-01, Regulations for the Control and Abatement of Air Pollution (Revision HH - Rule 5-6, Regulated Medical Waste Incinerators). These final regulations were published in 10:23 VA.R. 5706-5713 August 8, 1994. When a final regulation is published, the Administrative Process Act provides that within 30 days any person may petition the agency for an opportunity to submit comments on any change made to the regulation from the time that it is published as a proposed regulation to the time it is published as a final regulation that has substantial impact.

The agency received more than 25 requests for an additional comment period on the changes. Therefore, the effective date of the final amendments was suspended, and the board released the regulation for public comment on the changes.

An additional public hearing was advertised accordingly and held on November 29, 1994, and the public comment period closed on December 14, 1994. There are no changes to the regulation since it was published as a final regulation on August 8, 1994.

Title of Regulation: **VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision HH -- Rule 5-6, Regulated Medical Waste Incinerators).**

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

Effective Date: June 1, 1995.

Summary:

The regulation contains provisions covering standards of performance for regulated medical waste incinerators. The regulation will require owners of regulated medical waste incinerators to limit emissions of dioxins/furans, particulate matter, carbon monoxide, hydrogen chloride, and visible emissions to specified levels necessary to protect public health and welfare. This will be acccomplished through the establishment of emissions limits and process parameters based on control technology, and monitoring, testing, and record keeping to assure compliance with the limits.

Substantive amendments that were adopted by the board include:

1. The particulate matter standard for units with a rated capacity equal to or greater than 1000 pph was changed from 0.010 gr/dscf to 0.015 gr/dscf.

2. The carbon monoxide standard for units with a rated capacity equal to or greater than 500 pounds per hour was changed from 25 ppmvd to 50 ppmvd.

3. The hydrogen chloride standard was changed from a ppmvd limit to a percentage reduction rate standard: 90% reduction for medium units; 95% for large units.

4. The dioxin/furan standard was changed to allow the option of either meeting the 8 gr/dscf emission limit or a 1:100,000 risk demonstration.

5. The opacity standard was changed from 5.0% to 10%.

6. Most compliance provisions related to design and operation were eliminated, including:

a. final particulate matter control device inlet temperature,

b. burn-down cycle control,

c. rated capacity limitation,

d. flue gas temperature at the outlet of the final control device,

e. operator certification requirements,

f. operator training requirements, and

g. monitoring and notification, records and reporting requirements associated with the above.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Alma Jenkins, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4070.

VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision HH -- Rule 5-6, Regulated Medical Waste Incinerators).

PART V.
STANDARDS OF PERFORMANCE FOR REGULATED MEDICAL WASTE INCINERATORS.
(RULE 5-6).

§ 120-05-0601. Applicability and designation of affected facility.

A. Except as provided in subsections C and D of this section, the affected facility to which the provisions of this rule apply is each regulated medical waste incinerator.

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. The provisions of this rule do not apply to incinerators the construction or modification of which as defined in Part VIII commenced prior to September 1, 1993.

D. The provisions of this rule do not apply to combustion units or incinerators burning materials that do not include regulated medical waste.

§ 120-05-0602. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

"Commercial regulated medical waste incinerator" means any regulated medical waste incinerator that burns regulated medical waste if more than 25% of such waste is generated off-site.

"Continuous emission monitoring system" means a monitoring system for continuously measuring the emissions of a pollutant from an affected facility.

"Dioxins" and "furans" means tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans.

"Four-hour block average" means the average of all hourly emission rates or temperatures when the affected facility is operating and combusting regulated medical waste measured over four-hour periods of time from midnight to 4 a.m., 4 a.m. to 8 a.m., 8 a.m. to noon, noon to 4 p.m., 4 p.m. to 8 p.m., 8 p.m. to midnight.

"Incinerator" means any furnace or device used in the process of burning any type of waste for the primary purpose of destroying matter or reducing the volume of the waste by removing combustible matter or both.

[~~"Maximum demonstrated particulate matter control device inlet" means the maximum four-hour block average temperature measured at the final particulate matter control device inlet during the most recent dioxin/furan test demonstrating compliance with the emission standard in § 120-05-0606. If more than one particulate matter control device is used in a series at the affected facility, the maximum four-hour block average temperature is measured at the final particulate matter control device.~~]

"On-site" means (i) the same or geographically contiguous property which may be divided by a public or private right-of-way, provided the entrance and exit between the properties are at a crossroads intersection and access is by crossing, as opposed to going along, the right-of-way or (ii) noncontiguous properties owned by the same person but connected by a right-of-way controlled by the same person and to which the public does not have an access.

"Off-site" means any site that does not meet the definition of on-site.

"Pathological waste" means a solid waste that is human tissues, organs, body parts, fetuses, placentas, effluences or similar material, and animal tissue, organs, body parts, fetuses, placentas, effluence or similar material from animals exposed to human pathogens for purposes of testing or experimentation.

["Potential hydrogen chloride emission rate" means the hydrogen chloride emission rate that would occur from the combustion of regulated medical waste in the absence of any hydrogen chloride emissions control.]

"Rated capacity" means the waste charging rate expressed as the maximum capacity guaranteed by the equipment manufacturer or the maximum normally achieved during use, whichever is greater.

"Regulated medical waste" means any solid waste identified or suspected by the health care profession as being capable of producing an infectious disease in humans. A waste shall be considered to be capable of producing an infectious disease if it has been or is likely to have been contaminated by an organism likely to be pathogenic to humans, such organism is not routinely and freely available in the community, and such organism has a significant probability of being present in significant quantities and with sufficient virulence to transmit disease. In addition, regulated medical waste shall include the following:

1. Discarded cultures, stocks, specimens, vaccines, and associated items likely to have been contaminated with organisms likely to be pathogenic to humans, discarded etiologic agents, and wastes from production of biologicals and antibiotics likely to have been contaminated by organisms likely to be pathogenic to humans;

2. Wastes consisting of human blood, human blood products, and items contaminated by free-flowing human blood;

3. Pathological wastes;

4. Used sharps likely to be contaminated with organisms that are pathogenic to humans, and all sharps used in patient care;

5. The carcasses, body parts, bedding material, and all other wastes of animals intentionally infected with organisms likely to be pathogenic to humans for purposes of research, in vivo testing, production of biological materials or any other reason, when discarded, disposed of, or placed in accumulated storage;

6. Any residue or contaminated soil, water, or debris resulting from cleanup of a spill of any regulated medical waste; and

7. Any waste contaminated by or mixed with regulated medical waste.

Regulated medical waste shall not include:

1. Wastes contaminated only with organisms which are not generally recognized as pathogenic to humans, even if those organisms cause disease in other plants or animals, and which are managed in complete accord with all regulations of the U.S. Department of Agriculture and the Virginia Department of Agriculture and Consumer Services;

2. Meat or other food items being discarded because of spoilage or contamination, unless included in subdivisions 1 through 7 above;

3. Garbage, trash, and sanitary waste from septic tanks, single or multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, except for waste generated by provision of professional health care services on the premises, provided that all medical sharps shall be placed in a container with a high degree of puncture resistance before being mixed with other wastes or discarded;

4. Used products for personal hygiene, such as diapers, facial tissues, and sanitary napkins; and

5. Material, not including sharps, containing small amounts of blood or body fluids, and no free-flowing or unabsorbed liquid.

"Regulated medical waste incinerator" means any incinerator used in the process of burning regulated medical waste.

"Sharps" means needles, scalpels, knives, broken glass, syringes, pasteur pipettes and similar items having a point or sharp edge.

"Solid waste" shall have the meaning ascribed thereto in § 10.1-1400 of the Code of Virginia. However, for purposes of this rule, the following materials are not solid wastes:

1. Domestic sewage, including wastes that are not stored and are disposed of in a sanitary sewer system (with or without grinding);

2. Any mixture of domestic sewage and other wastes that pass through a sewer system to a wastewater treatment works permitted by the State Water Control Board or the Department of Health;

3. Human remains under the control of a licensed physician or dentist, when the remains are being used or examined for medical purposes and are not abandoned materials; and

4. Human remains properly interred in a cemetery or in preparation by a licensed mortician for such interment or cremation.

§ 120-05-0603. Standard for particulate matter.

No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any particulate emissions in excess of the following limits:

1. For incinerators with a rated capacity equal to or greater than 1000 pounds per hour: [~~0.010~~ 0.015] grains per dry standard cubic foot of exhaust gas corrected to 7.0% oxygen (dry basis).

2. For incinerators with a rated capacity equal to or greater than 500 pounds per hour and less than 1000 pounds per hour: 0.03 grains per dry standard cubic foot of exhaust gas corrected to 7.0% oxygen (dry basis).

3. For incinerators with a rated capacity less than 500 pounds per hour: 0.10 grains per dry standard cubic foot of exhaust gas corrected to 7.0% oxygen (dry basis).

§ 120-05-0604. Standard for carbon monoxide.

No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any carbon monoxide emissions in excess of [~~the following limits: 1. For incinerators with a rated capacity equal to or greater than 500 pounds per hour: 25~~ 50] parts per million [by] volume dry average per operating cycle or per day, whichever is less in duration, corrected to 7.0% oxygen (dry basis). An operating cycle shall be the period of time from the initial loading of waste into the incinerator through the burn-down cycle.

[~~2. For incinerators with a rated capacity less than 500 pounds per hour: 50 parts per million volume dry one hour average corrected to 7.0% oxygen (dry basis).~~]

§ 120-05-0605. Standard for hydrogen chloride.

No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any hydrogen chloride emissions in excess of [~~20 parts per million dry volume, corrected to 7.0% oxygen (dry basis).~~ the following limits:

1. For incinerators with a rated capacity equal to or greater than 500 pounds per hour and less than 1000 pounds per hour: 10% of the potential hydrogen chloride emission rate (90% reduction by weight or volume).

2. For incinerators with a rated capacity equal to or greater than 1000 pounds per hour: 5.0% of the potential hydrogen chloride emission rate (95% reduction by weight or volume).]

§ 120-05-0606. Standard for dioxins and furans.

A. No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator with a rated capacity equal to or greater than 500 pounds per hour any total dioxin or furan emissions in excess of 8 grains per billion dry standard cubic feet corrected to 7.0% oxygen (dry basis).

B. [~~No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any dioxin or furan emissions that will result in a maximum annual risk in excess of 1 in 1,000,000. Ambient air concentrations and risk assessments shall be determined using air quality analysis techniques and methods acceptable to the board.~~ A waiver from the provisions of subsection A of this section may be obtained from the board upon a demonstration to the board's satisfaction that the maximum annual risk does not exceed 1 in 100,000. Ambient air concentrations and risk assessments shall be determined using air quality analysis techniques and methods acceptable to the board.]

§ 120-05-0607. Standard for visible emissions.

A. The provisions of Rule 5-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply except

that the provisions in subsection B of this section apply instead of § 120-05-0103 A of Rule 5-1.

B. No owner or other person shall cause or permit to be discharged into the atmosphere from any regulated medical waste incinerator any visible emissions which exhibit greater than [~~5.0%~~10%] opacity. Failure to meet the requirements of this section because of the presence of water vapor shall not be a violation of this section.

§ 120-05-0608. Standard for fugitive dust/emissions.

The provisions of Rule 5-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply.

§ 120-05-0609. Standard for odor.

The provisions of Rule 5-2 (Emission Standards for Odor) apply.

§ 120-05-0610. Standard for toxic pollutants.

The provisions of Rule 5-3 (Emission Standards for Toxic Pollutants) apply, including those provisions that apply to emissions of hydrogen chloride, except that the provisions of § 120-05-0606 apply to emissions of dioxins and furans.

§ 120-05-0611. Standard for radioactive materials.

Radioactive materials shall be handled in accordance with the regulations of the U.S. Environmental Protection Agency, the U.S. Nuclear Regulatory Commission, and the Virginia Department of Health.

§ 120-05-0612. Compliance.

A. In addition to the provisions of § 120-05-02 (Compliance), the provisions of subsections B through [~~I~~ D] of this section apply.

B. The owner of an affected facility shall operate the facility within parameters as specified below in accordance with methods and procedures acceptable to the board.

[~~1. For incinerators with a rated capacity equal to or greater than 500 pounds per hour, the temperature, measured at the final particulate matter control device inlet, shall not exceed 30#oF above the maximum demonstrated particulate matter control device inlet temperature.~~

~~2.~~ 1.] The minimum primary chamber temperature shall be 1400°F or the manufacturer's recommended operating temperature, whichever is higher, for a period of time needed to achieve complete pyrolysis.

[~~3.~~ 2.] A secondary combustion chamber with afterburner is required. The minimum secondary chamber temperature shall be [~~2000°F~~ 1800°F] or the manufacturer's recommended operating temperature, whichever is higher, for a period of no less than two seconds.

[~~4.~~ 3.] Combustion [control systems shall include] chamber thermostats [~~are to ignite and fire~~ to ensure that] the auxiliary burners automatically [ignite and fire] in order to maintain the primary and secondary chamber temperatures.

[~~5.~~ 4.] An interlock system to prevent incinerator feeding prior to attaining the minimum secondary chamber temperature is required.

[~~6. The burn-down cycle shall be automatically controlled and the minimum burn-down cycle time shall be set at the manufacturer's recommended time.~~

~~7. No incinerator shall be charged more than its rated capacity.~~

~~8. For incinerators with a rated capacity equal to or greater than 500 pounds per hour, the flue gas temperature at the outlet of the final control device shall not exceed 300°F unless a demonstration is made that an equivalent collection of condensible heavy metals and toxic organics can be achieved at a higher temperature.~~

~~9. For incinerators with a rated capacity equal to or greater than 500 pounds per hour and less than 1000 pounds per hour, hydrogen chloride emissions shall be controlled by a scrubber system capable of removing at least 90% by weight of the hydrogen chloride entering the scrubber system.~~

~~10. For incinerators with a rated capacity equal to or greater than 1000 pounds per hour, hydrogen chloride emissions shall be controlled by a scrubber capable of removing at least 95% by weight of the hydrogen chloride entering the scrubber system.~~

~~11.~~ 5.] The minimum sorbent injection rate, expressed in pounds per hour of active neutralizing agent, shall be calculated as follows:

$$SI_{min} = 1.2\ (SI_{test})(\%\ ANA)$$

where:

SI_{min} = minimum sorbent injection rate (pounds per hour).

SI_{test} = pounds per hour of sorbent injected during the performance test, while the hydrogen chloride inlet concentration was highest.

% ANA = percent by weight of active neutralizing agent in the sorbent.

C. An owner may request that compliance with the applicable emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7.0% oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established during the initial performance tests. In such cases, the applicable emission limit shall be corrected to the established percentage of carbon dioxide without the contribution of auxiliary fuel carbon dioxide when using a fuel other than natural gas or liquified petroleum gas.

[D. All facilities are required to meet the compliance requirements of Part VII of the Virginia Waste Management Board's Regulated Medical Waste Management Regulations (VR 672-40-01:1).]

[~~D. Each chief incinerator operator and shift supervisor shall obtain and keep current either a provisional or operator certification in accordance with the certification requirements~~

~~of VR 674-01-02, promulgated by the Virginia Board for Waste Management Facility Operators, or an equivalent certification acceptable to the board.~~

~~E. No owner shall allow an affected facility to operate at any time without a certified shift supervisor, as provided by subsection D of this section, on duty at the affected facility~~

~~F. The owner of an affected facility shall develop and update, on a yearly basis, a site-specific operating manual that shall, at minimum, address the following elements of regulated medical waste incinerator operation:~~

~~1. Summary of the applicable standards;~~

~~2. Description of basic combustion theory applicable to a regulated medical waste incinerator;~~

~~3. Procedures for receiving, handling, and feeding regulated medical waste;~~

~~4. Procedures for regulated medical waste incinerator startup, shutdown, and malfunction;~~

~~5. Procedures for maintaining proper combustion air supply levels;~~

~~6. Procedures for operating the regulated medical waste incinerator within the emission standards and operational parameters established under this rule;~~

~~7. Procedures for responding to periodic upset or off-specification conditions;~~

~~8. Procedures for minimizing particulate matter carryover;~~

~~9. Procedures for monitoring the degree of regulated medical waste burnout;~~

~~10. Procedures for handling ash;~~

~~11. Procedures for monitoring regulated medical waste incinerator emissions; and~~

~~12. Procedures for reporting and recordkeeping.~~

~~G. The owner of an affected facility shall establish a programfor reviewing the operating manual annually with each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.~~

~~H. The initial review of the operating manual, as specified under subsection G of this section, shall be conducted prior to assumption of responsibilities affecting incinerator operation by any person required to undergo training under subsection G of this section. Subsequent reviews of the manual shall be carried out annually by each such person.~~

~~I. The operating manual shall be kept in a readily accessible location for all persons required to undergo training under subsection G of this section. The operating manual and records of training shall be available for inspection by the board upon request.~~]

§ 120-05-0613. Test methods and procedures.

A. In addition to the provisions of § 120-05-03 (Performance testing), the provisions of subsections B through E of this section apply.

B. The owner of an affected facility shall conduct performance tests and reduce associated data as specified below in accordance with methods and procedures acceptable to the board.

1. For all incinerators: particulate matter, carbon monoxide and visible emissions.

2. For all incinerators with a rated capacity equal to or greater than 500 pounds per hour: hydrogen chloride emissions and control efficiency of [*any*] *scrubber* [~~*systems for*~~ *system used to control*] *hydrogen chloride emissions. Hydrogen chloride performance tests shall begin no earlier than one hour after the initial loading of waste into the incinerator. Hourly feed rate during hydrogen chloride performance tests shall be determined as the total amount of waste loaded into the incinerator between the beginning of the first sampling run of the day and the end of the last sampling run of the day, divided by the total number of hours elapsed.*

3. For all incinerators with a rated capacity equal to or greater than 500 pounds per hour: dioxin and furan emissions.

C. Frequency of testing as required in subsection B of this section shall be required as follows.

1. For all incinerators: on-site initial performance tests.

2. For incinerators with a rated capacity equal to or greater than 1000 pounds per hour: on-site annual performance tests [*for dioxins and furans*] .

D. Regulated medical waste incinerators which are of standardized manufacture and are shipped as assembled incinerators from the factory of manufacture may be exempt from on-site initial particulate matter and carbon monoxide performance testing, provided that:

1. The incinerator has a rated capacity of less than 100 pounds per hour;

2. The manufacturer has obtained a satisfactory test on a identical incinerator of similar size and design certified by a registered engineer;

3. The test has been certified for the same type of waste as designated for the incinerator subject to the permit; and

4. The test results are submitted to the board and found acceptable (waste type, incinerator design, acceptable feed range, equivalent operating parameters, equivalent auxiliary fuel, acceptable methodology).

E. Required on-site testing shall be done while the incinerator is operated at 90% or greater of the rated capacity and operated by trained plant personnel only.

§ 120-05-0614. Monitoring.

A. In addition to the provisions of § 120-05-04 (Monitoring), the provisions of subsection B of this section apply.

B. The owner of an affected facility shall install, calibrate, maintain and operate equipment for continuously monitoring and recording emissions or process parameters or both as specified below in accordance with methods and procedures acceptable to the board.

1. For all incinerators with a rated capacity equal to or greater than 500 pounds per hour, continuous measurement and display is required for primary and secondary chamber temperatures. Thermocouples shall be located at or near the primary and secondary chamber exits.

2. For all incinerators with a rated capacity equal to or greater than 1,000 pounds per hour, continuous recording is required for the secondary chamber temperature.

3. For all incinerators with a rated capacity equal to or greater than 1,000 pounds per hour, continuous measurement, display and recording is required for opacity, with the output of the system recording on a six-minute average basis.

[~~4. For all incinerators with a rated capacity equal to or greater than 1000 pounds per hour, continuous measurement, display and recording is required for flue gas stream temperature at the inlet to the final particulate matter control device. Temperatures shall be calculated in four-hour block arithmetic averages.~~

~~5.~~ 4.] For all incinerators with a rated capacity equal to or greater than 1,000 pounds per hour, continuous measurement, display and recording is required for carbon monoxide emissions, with carbon dioxide or oxygen diluent monitor.

[~~6.~~ 5.] A pH meter is required for each wet scrubber system.

[~~7.~~ 6.] A flow meter to measure the sorbent injection rate is required for each wet scrubber system.

§ 120-05-0615. Notification, records and reporting.

A. In addition to the provisions of § 120-05-05 (Notification, records and reporting), the provisions of subsections B through F of this section apply.

B. Following initial notification as required under § 120-05-05 A 3, the owner of an affected facility shall submit the initial performance test data [, and] the performance evaluation of the continuous emission monitoring systems using the applicable performance specifications in 40 CFR Part 60 Appendix B [~~, and the maximum demonstrated particulate matter control device inlet temperature established during the dioxin and furan test~~].

C. Following initial notification as required under § 120-05-05 A 3, the owner of an affected facility shall submit quarterly compliance reports for hydrogen chloride, carbon monoxide, [and] secondary combustion chamber temperature [~~and maximum demonstrated particulate matter control device inlet temperature~~] to the board containing the information for each applicable pollutant or parameter. The hourly average values recorded under subdivision F 2 of this section are not required to be included in the quarterly reports. Such reports shall be postmarked no later than the 30th day following the end of each calendar quarter.

D. The owner of an affected facility shall submit quarterly excess emission reports, as applicable, for opacity. The quarterly excess emission reports shall include all information recorded under this subsection which pertains to opacity, and a listing of the six-minute average opacity levels recorded under this subsection for all periods when such six-minute average levels exceeded the opacity limit under § 120-05-0607. The quarterly report shall also list the percentage of the affected facility operating time for the calendar quarter during which the opacity continuous emission monitoring system was operating and collecting valid data. Such excess emission reports shall be postmarked no later than the 30th day following the end of each calendar quarter.

E. The owner of an affected facility shall submit reports to the board of all annual performance tests for [~~particulate matter, carbon monoxide,~~] dioxins and furans [~~, and hydrogen chloride, as applicable,~~] from the affected facility. [~~For each annual dioxin and furan performance test, the maximum demonstrated particulate matter control device inlet temperature shall be reported.~~] Such reports shall be submitted when available but in no case later than the date of the required submittal of the quarterly report specified under subsection C of this section covering the calendar quarter following the quarter during which the test was conducted.

F. The owner of an affected facility shall maintain and make available to the board upon request records of the following information for a period of at least five years:

1. Dates of emission tests and continuous monitoring measurements.

2. The emission rates and parameters measured using performance tests or continuous emission or parameter monitoring, as applicable, as follows:

a. The following measurements shall be recorded in computer-readable format and on paper:

(1) The six-minute average opacity levels;

(2) All one-hour average hydrogen chloride emission rates at the inlet and outlet of the acid gas control device [~~if compliance is based on a percentage reduction and outlet emission limit~~] ; and

(3) All one-hour average carbon monoxide emission rates [, and] secondary combustion chamber temperatures [~~and final particulate matter control device inlet temperatures~~] .

b. The following average rates shall be computed and recorded:

(1) All 24-hour daily [~~geometric~~ arithmetic,] average percentage reductions in hydrogen chloride emissions and all 24-hour daily [geometric arithmetic] average hydrogen chlorideemission rates;

(2) All [~~four-hour block~~ operating cycle] or 24-hour daily arithmetic average carbon monoxide emission rates, as applicable; and

(3) All four-hour block arithmetic average secondary combustion chamber temperatures [~~and final particulate matter control device inlet temperatures~~].

3. Identification of the operating days when any of the average emission rates, percentage reductions, or operating parameters specified under this subsection or the opacity level have exceeded the applicable limit, with reasons for such exceedances as well as a description of corrective actions taken.

4. Identification of operating days for which the minimum number of hours of emissions rate or operational data have not been obtained, including reasons for not obtaining sufficient data and a description of corrective actions taken.

5. Identification of the times when emissions rate [~~or operational~~] data have been excluded from the calculation of average emission rates or parameters and the reasons for excluding data.

6. The results of daily carbon monoxide continuous emission monitor system drift tests and accuracy assessments as required under 40 CFR Part 60, Appendix F, Procedure 1.

7. The results of all applicable performance tests conducted to determine compliance with the particulate matter, carbon monoxide, dioxins and furans, and hydrogen chloride limits. [~~For all applicable dioxin and furan tests, the maximum demonstrated particulate matter control device inlet temperature shall be recorded along with supporting calculations.~~]

8. Records of continuous emission or parameter monitoring system data for opacity, carbon monoxide, [and] secondary combustion chamber temperature [~~and final particulate matter control device inlet temperature data~~].

[~~9. Records showing the names of the persons who have completed review of the operating manual and the date of the initial review and all subsequent annual reviews.~~

~~10.~~ 9.] For commercial regulated medical waste incinerators, records of the amount and types of waste brought in from off-site.

§ 120-05-0616. Registration.

The provisions of § 120-02-31 (Registration) apply.

§ 120-05-0617. Facility and control equipment maintenance or malfunction.

The provisions of § 120-02-34 (Facility and control equipment maintenance or malfunction) apply.

§ 120-05-0618. Permits.

A permit may be required prior to beginning any of the activities specified below if the provisions of Part V (New and Modified Sources) and Part VIII (Permits for Stationary Sources) apply. Owners contemplating such action should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.

1. Construction of a facility.

2. Reconstruction (replacement of more than half) of a facility.

3. Modification (any physical change to equipment) of a facility.

4. Relocation of a facility.

5. Reactivation (re-startup) of a facility.

VA.R. Doc. No. R95-392; Filed March 29, 1995, 11:31 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

REGISTRAR'S NOTICE: The Department of Professional and Occupational Regulation has claimed an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 C(4) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Department of Professional and Occupational Regulation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 140-01-01. Public Participation Guidelines (REPEALED).**

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

Effective Date: May 17, 1995.

Summary:

The Athletic Board was abolished by Chapter 481 of the 1994 Acts of Assembly and the regulations are being repealed because there no longer exists the statutory authority for promulgating these regulations.

VA.R. Doc. No. R95-370; Filed March 21, 1995, 11:58 a.m.

* * * * * * * *

Title of Regulation: **VR 140-01-02. Rules and Regulations of the Virginia Athletic Board (REPEALED).**

Statutory Authority: §§ 54.1-201 and 54.1-805 (Repealed) of the Code of Virginia.

Effective Date: May 17, 1995.

Summary:

The Athletic Board was abolished by Chapter 481 of the 1994 Acts of Assembly and the regulations are being repealed because there no longer exists the statutory authority for promulgating these regulations.

VA.R. Doc. No. R95-388; Filed March 28, 1995, 3:42 p.m.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

REGISTRAR'S NOTICE: The following regulations are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **VR 425-02-03. Marine Terminals Standard (1917.1-1917.158).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

In accordance with regulations issued under the federal Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), this amended standard for the Retention of DOT Markings, Placards, and Labels in Marine Terminals requires employers who receive hazardous materials to retain Department of Transportation labeling on packages, freight containers, motor vehicles, rail freight cars, or transport vehicles which contain hazardous materials.

These markings, placards and labels generally must be retained on packages until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards. Additionally, the markings, placards and labels must be retained on transport vehicles, freight containers, motor vehicles or rail freight cars until the hazardous material requiring the marking or placarding is removed from the vehicles.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's amended standard for the Retention of DOT Markings, Placards, and Labels, Marine Terminals Standard, Public Sector Employment Only, § 1917.29, which was published in the Federal Register, Vol. 59, No. 137, pp. 36699-36700, Tuesday, July 19, 1994, along with the following standards for Retention of DOT Markings, Placards, and Labels: Shipyard Employment, § 1915.100 (VR 425-02-180); General Industry, § 1910.1201 (VR 425-02-179); Longshoring, § 1918.100 (VR 425-02-181); and Construction, § 1926.61 (VR 425-02-182). Also published with the above standards and adopted by the board at the December 19, 1994, meeting was an amendment to the Agriculture Standard, Applicable Standards in 29 CFR 1910, § 1928.21 (VR 425-02-99). The amendments as adopted are set out below:

§ 1917.29. Retention of DOT markings, placards and labels.

(a) Any employer who receives a package of hazardous material which is required to be marked, labeled or placarded in accordance with the U.S. Department of Transportation's Hazardous Materials Regulations (49 CFR Parts 171 through 180) shall retain those markings, labels and placards on the package until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards.

(b) Any employer who receives a freight container, rail freight car, motor vehicle, or transport vehicle that is required to be marked or placarded in accordance with the Hazardous Materials Regulations shall retain those markings and placards on the freight container, rail freight car, motor vehicle or transport vehicle until the hazardous materials which require the marking or placarding are sufficiently removed to prevent any potential hazards.

(c) Markings, placards and labels shall be maintained in a manner that ensures that they are readily visible.

(d) For non-bulk packages which will not be reshipped, the provisions of this section are met if a label or other acceptable marking is affixed in accordance with the Hazard Communications Standard (29 CFR 1910.1200).

(e) For the purposes of this section, the term "hazardous material" and any other terms not defined in this section have the definitions as in the Hazardous Materials Regulations (49 CFR Parts 171 through 180).

When the regulations as set forth in the standard for the Retention of DOT Markings, Placards and Labels, Marine Terminals Standard, Public Sector Employment Only, § 1917.29, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
October 17, 1994	June 1, 1995

VA.R. Doc. No. R95-373; Filed March 24, 1995, 1:50 p.m.

* * * * * * * *

Title of Regulation: **VR 425-02-52. ~~Pulpwood~~ Logging *Operations* (1910.266).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

Federal OSHA has issued a final standard specifying safety requirements covering all logging operations, regardless of the end use of the forest products (saw logs, veneer bolts, pulpwood, chips, etc.). This revised logging standard replaces the existing Pulpwood Logging standard at § 1910.266 that had applied only to pulpwood logging, and thereby expands coverage to provide protection for all employees engaged in logging operations. This standard addresses the unique hazards found in logging operations, and supplements other general industry standards in 29 CFR Part 1910. It strengthens and further clarifies some provisions of the existing standard and eliminates unnecessary provisions.

This revised standard establishes basic training requirements that must be provided by employers covering safe performance of assigned work tasks, safe use of tools, and recognition and control of workplace hazards. Employers also will be required to ensure that their workers wear logging boots, although the employer is not required to pay for the boots.

The revised logging standard requires employers to:

1. Offer first-aid training to employees, including training in cardiopulmonary resuscitation;

2. Provide workers with first-aid kits at the work site, landing area, and in each crew vehicle;

3. Ensure that each chain saw placed in service be equipped with a chain break or other protective device that minimizes chain saw kickback; and

4. Provide rollover protective structures to protect workers in each tractor, skidder, swing yarder, log stacker, and mechanical felling device such as tree shears or feller-bunchers placed into service after the effective date of the standard.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Logging Operations Standard for the General Industry (1910.266) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations.* Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revised standard for Logging Operations, General Industry, § 1910.266, which was published in the Federal Register, Vol. 59, No. 196, pp. 51741-51748, Wednesday, October 12, 1994, along with the amended standards for Electric Power Generation, Transmission and Distribution, § 1910.269 (VR 425-02-97) and Agriculture Standard, Applicable Standards in 29 CFR 1910, § 1928.21 (VR 425-02-99). The amendments as adopted are not set out.

When the regulations as set forth in the standard for Logging Operations, General Industry, § 1910.266, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
February 9, 1994	June 1, 1995

VA.R. Doc. No. R95-374; Filed March 24, 1995, 1:43 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

[illegible]
RICHMOND, VIRGINIA 23219
(804) 786-3591

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-03 Retention of DOT Markings, Placards, and Labels, Marine Terminals Standard, Public Sector Employment Only, § 1917.29

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS/jbc

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-52 Logging Operations, General Industry Section 1910.266

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

* * * * * * * *

Title of Regulation: **VR 425-02-97. Electric Power Generation, Transmission and Distribution, General Industry (1910.269).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

Paragraph (r)(5) of the Electric Power Generation, Transmission, and Distribution standard, General Industry, § 1910.269, has been revised so that gasoline-engine power saw operations will meet the requirements of paragraph (e) of the revised standard on Logging Operations, General Industry, § 1910.266, instead of the requirements of the former § 1910.266(c)(5) of the former Pulpwood Logging standard.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Electric Power Generation, Transmission and Distribution Standard for the General Industry (1910.269) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations.* Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revised standard for Electric Power Generation, Transmission and Distribution, General Industry, § 1910.269, which was published in the Federal Register, Vol. 59, No. 196, p. 51748, Wednesday, October 12, 1994, along with the amended standards for Logging Operations, General Industry, § 1910.266 (VR 425-02-52) and Agriculture Standard, Applicable Standards in 29 CFR 1910, § 1928.21 (VR 425-02-99). The amendments as adopted are set out below:

§ 1910.269. Electric power generation, transmission and distribution.

* * * * * *

(r) * * *

(5) Gasoline-engine power saws. Gasoline-engine power saw operations shall meet the requirements of § 1910.266(e) and the following:

* * * * * *

When the regulations as set forth in the standard for for Electric Power Generation, Transmission and Distribution, General Industry, § 1910.269, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
February 9, 1994	June 1, 1995

VA.R. Doc. No. R95-377; Filed March 24, 1995, 1:45 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

[illegible]

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425 02-97 Electric Power Generation, Transmission and Distribution, General Industry, § 1910.269

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS/jfa

* * * * * * * *

Title of Regulation: **VR 425-02-99. Agriculture Industry Standard for Applicable Standards in 29 CFR 1910 (1928.21).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

In accordance with regulations issued under the federal Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), the new standard for the Retention of DOT Markings, Placards, and Labels requires employers who receive hazardous materials to retain Department of Transportation labeling on packages, freight containers, motor vehicles, rail freight cars, or transport vehicles which contain hazardous materials.

These markings, placards and labels generally must be retained on packages until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards. Additionally, the markings, placards and labels must be retained on transport vehicles, freight containers, motor vehicles or rail freight cars until the hazardous material requiring the marking or placarding is removed from the vehicles.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Agriculture Industry Standard for Applicable Standards in 29 CFR 1910 (1928.21) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revised Agriculture Industry Standard for Applicable Standards in 29 CFR 1910, § 1928.21, which was published in the Federal Register, Vol. 59, No. 137, p. 36700, Tuesday, July 19, 1994, along with the following standards for Retention of DOT Markings, Placards, and Labels: General Industry, § 1910.1201 (VR 425-02-179); Shipyard Employment, § 1915.100 (VR 425-02-180); Marine Terminals, Public Employment Sector Only, § 1917.29 (VR 425-02-03); Longshoring, § 1918.100 (VR 425-02-181); and Construction, § 1926.61 (VR 425-02-182). The amendments as adopted are set out below:

§ 1928.21. Applicable standards in 29 CFR Part 1910.

(a) * * *
(6) (Reserved)
(7) Retention of DOT markings, placards and labels -- § 1910.1201.
* * * * *

When the regulations as set forth in the Agriculture Industry Standard for Applicable Standards in 29 CFR 1910 (§ 1928.21), are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
October 17, 1994	June 1, 1995

VA.R. Doc. No. R95-375; Filed March 24, 1995, 1:50 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-99 Agriculture Standard, Applicable Standards in 29 CFR 1910, § 1928.21, General Industry

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS/jbc

* * * * * * * *

Title of Regulation: **VR 425-02-99. Agriculture Industry Standard for Applicable Standards in 29 CFR 1910 (1928.21).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

Paragraph (a)(3) of § 1928.21, Agriculture Standard, Applicable Standards in 29 CFR Part 1910, has been revised to reference the revised general industry standard on "Logging Operations-- § 1910.266."

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Agriculture Industry Standard for Applicable Standards in 29 CFR 1910 (1928.21) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations.* Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revised Agriculture Industry Standard for Applicable Standards in 29 CFR 1910, § 1928.21, which was published in the Federal Register, Vol. 59, No. 196, p. 51748, Wednesday, October 12, 1994, along with the amended standards for Logging Operations, General Industry, § 1910.266 (VR 425-02-52) and Electric Power Generation, Transmission and Distribution, General Industry, § 1910.269 (VR 425-02-97). The amendment as adopted is set out below:

§ 1928.21. Applicable Standards in 29 CFR Part 1910.

(a) * * *
(3) Logging Operations--§ 1910.266;
* * * * * *

When the regulations as set forth in the Agriculture Industry Standard for Applicable Standards in 29 CFR 1910 (§ 1928.21), are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
February 9, 1994	June 1, 1995

VA.R. Doc. No. R95-376; Filed March 24, 1995, 1:47 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

[illegible]

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-99 Agriculture Standard, Applicable Standards in 29 CFR 1910, § 1928.21

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS/jbc

* * * * * * * * *

Title of Regulation: **VR 425-02-179. Retention of Dot Markings, Placards, and Labels; General Industry (1910.1201).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

In accordance with regulations issued under the federal Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), this new standard for the Retention of DOT Markings, Placards, and Labels requires employers who receive hazardous materials to retain Department of Transportation labeling on packages, freight containers, motor vehicles, rail freight cars, or transport vehicles which contain hazardous materials.

These markings, placards and labels generally must be retained on packages until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards. Additionally, the markings, placards and labels must be retained on transport vehicles, freight containers, motor vehicles or rail freight cars until the hazardous material requiring the marking or placarding is removed from the vehicles.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's amended standard for the Retention of DOT Markings, Placards, and Labels, General Industry, § 1910.1201, which was published in the Federal Register, Vol. 59, No. 137, pp. 36699-36700, Tuesday, July 19, 1994, along with the following standards for Retention of DOT Markings, Placards, and Labels: Shipyard Employment, § 1915.100 (VR 425-02-180); Marine Terminals, Public Employment Sector Only, § 1917.29 (VR 425-02-03); Longshoring, § 1918.100 (VR 425-02-181); and Construction, § 1926.61 (VR 425-02-182). Also published with the above standards and adopted by the board at the December 19, 1994, meeting was an amendment to the Agriculture Standard, Applicable Standards in 29 CFR 1910, § 1928.21 (VR 425-02-99). The amendments as adopted are set out below:

§ 1910.1201. Retention of DOT markings, placards and labels.

(a) Any employer who receives a package of hazardous material which is required to be marked, labeled or placarded in accordance with the U.S. Department of Transportation's Hazardous Materials Regulations (49 CFR Parts 171 through 180) shall retain those markings, labels and placards on the package until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards.

(b) Any employer who receives a freight container, rail freight car, motor vehicle, or transport vehicle that is required to be marked or placarded in accordance with the Hazardous Materials Regulations shall retain those markings and placards on the freight container, rail freight car, motor vehicle or transport vehicle until the hazardous materials which require the marking or placarding are sufficiently removed to prevent any potential hazards.

(c) Markings, placards and labels shall be maintained in a manner that ensures that they are readily visible.

(d) For nonbulk packages which will not be reshipped, the provisions of this section are met if a label or other acceptable marking is affixed in accordance with the Hazard Communications Standard (29 CFR 1910.1200).

(e) For the purposes of this section, the term "hazardous material" and any other terms not defined in this section have the definitions as in the Hazardous Materials Regulations (49 CFR Parts 171 through 180).

When the regulations as set forth in the standard for the Retention of DOT Markings, Placards and Labels, General Industry Standard, § 1910.1201, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
October 17, 1994	June 1, 1995

VA.R. Doc. No. R95-378; Filed March 24, 1995, 1:51 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-179 Retention of DOT Markings, Placards, and Labels, General Industry, § 1910.1201

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS/jbc
Register/Ltr/Exc/Ayn

* * * * * * * *

Title of Regulation: **VR 425-02-180. Retention of Dot Markings, Placards, and Labels; Shipyard Employment (1915.100).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

In accordance with regulations issued under the federal Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), this amended standard for the Retention of DOT Markings, Placards, and Labels in Shipyard Employment requires employers who receive hazardous materials to retain Department of Transportation labeling on packages, freight containers, motor vehicles, rail freight cars, or transport vehicles which contain hazardous materials.

These markings, placards and labels generally must be retained on packages until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards. Additionally, the markings, placards and labels must be retained on transport vehicles, freight containers, motor vehicles or rail freight cars until the hazardous material requiring the marking or placarding is removed from the vehicles.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's amended standard for the Retention of DOT Markings, Placards, and Labels, Shipyard Employment, § 1915.100, which was published in the Federal Register, Vol. 59, No. 137, pp. 36699-36700, Tuesday, July 19, 1994, along with the following standards for Retention of DOT Markings, Placards, and Labels: General Industry, § 1910.1201 (VR 425-02-179); Marine Terminals, Public Employment Sector Only, § 1917.29 (VR 425-02-03); Longshoring, § 1918.100 (VR 425-02-181); and Construction, § 1926.61 (VR 425-02-182). Also published with the above standards and adopted by the board at the December 19, 1994, meeting was an amendment to the Agriculture Standard, Applicable Standards in 29 CFR 1910, § 1928.21 (VR 425-02-99). The amendments as adopted are set out below:

§ 1915.100. Retention of DOT markings, placards and labels.

(a) Any employer who receives a package of hazardous material which is required to be marked, labeled or placarded in accordance with the U.S. Department of Transportation's Hazardous Materials Regulations (49 CFR Parts 171 through 180) shall retain those markings, labels and placards on the package until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards.

(b) Any employer who receives a freight container, rail freight car, motor vehicle, or transport vehicle that is required to be marked or placarded in accordance with the Hazardous Materials Regulations shall retain those markings and placards on the freight container, rail freight car, motor vehicle or transport vehicle until the hazardous materials which require the marking or placarding are sufficiently removed to prevent any potential hazards.

(c) Markings, placards and labels shall be maintained in a manner that ensures that they are readily visible.

(d) For nonbulk packages which will not be reshipped, the provisions of this section are met if a label or other acceptable marking is affixed in accordance with the Hazard Communications Standard (29 CFR 1910.1200).

(e) For the purposes of this section, the term "hazardous material" and any other terms not defined in this section have the definitions as in the Hazardous Materials Regulations (49 CFR Parts 171 through 180).

When the regulations as set forth in the standard for the Retention of DOT Markings, Placards and Labels, Shipyard Employment, § 1915.100, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
October 17, 1994	June 1, 1995

VA.R. Doc. No. R95-379; Filed March 24, 1995, 1:52 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-180 Retention of DOT Markings, Placards, and Labels, Shipyard Employment, § 1915.100

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS/jbc

* * * * * * * * *

Title of Regulation: **VR 425-02-181. Retention of Dot Markings, Placards, and Labels; Longshoring (1918.100).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

In accordance with regulations issued under the federal Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), this new standard for the Retention of DOT Markings, Placards, and Labels requires employers who receive hazardous materials to retain Department of Transportation labeling on packages, freight containers, motor vehicles, rail freight cars, or transport vehicles which contain hazardous materials.

These markings, placards and labels generally must be retained on packages until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards. Additionally, the markings, placards and labels must be retained on transport vehicles, freight containers, motor vehicles or rail freight cars until the hazardous material requiring the marking or placarding is removed from the vehicles.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's amended standard for the Retention of DOT Markings, Placards, and Labels, Longshoring, § 1918.100, which was published in the Federal Register, Vol. 59, No. 137, pp. 36699-36700, Tuesday, July 19, 1994, along with the following standards for Retention of DOT Markings, Placards, and Labels: General Industry, § 1910.1201 (VR 425-02-179); Marine Terminals, Public Employment Sector Only, § 1917.29 (VR 425-02-03); Shipyard Employment, § 1915.100 (VR 425-02-180); and Construction, § 1926.61 (VR 425-02-182). Also published with the above standards and adopted by the board at the December 19, 1994, meeting was an amendment to the Agriculture Standard, Applicable Standards in 29 CFR 1910, § 1928.21 (VR 425-02-99). The amendments as adopted are set out below:

§ 1918.100. Retention of DOT markings, placards and labels.

(a) Any employer who receives a package of hazardous material which is required to be marked, labeled or placarded in accordance with the U.S. Department of Transportation's Hazardous Materials Regulations (49 CFR Parts 171 through 180) shall retain those markings, labels and placards on the package until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards.

(b) Any employer who receives a freight container, rail freight car, motor vehicle, or transport vehicle that is required to be marked or placarded in accordance with the Hazardous Materials Regulations shall retain those markings and placards on the freight container, rail freight car, motor vehicle or transport vehicle until the hazardous materials which require the marking or placarding are sufficiently removed to prevent any potential hazards.

(c) Markings, placards and labels shall be maintained in a manner that ensures that they are readily visible.

(d) For nonbulk packages which will not be reshipped, the provisions of this section are met if a label or other acceptable marking is affixed in accordance with the Hazard Communications Standard (29 CFR 1910.1200).

(e) For the purposes of this section, the term "hazardous material" and any other terms not defined in this section have the definitions as in the Hazardous Materials Regulations (49 CFR Parts 171 through 180).

When the regulations as set forth in the standard for the Retention of DOT Markings, Placards and Labels, Longshoring, § 1918.100, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
October 17, 1994	June 1, 1995

VA.R. Doc. No. R95-380; Filed March 24, 1995, 1:52 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-181 Retention of DOT Markings, Placards, and Labels, Longshoring, § 1918.100

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith

Joan W. Smith
Registrar of Regulations

JWS/jbc
Register/FedEx/Mgn

* * * * * * * * *

Title of Regulation: **VR 425-02-182. Retention of Dot Markings, Placards, and Labels; Construction Industry (1926.61).**

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

In accordance with regulations issued under the federal Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), this new standard for the Retention of DOT Markings, Placards, and Labels, Construction Industry, § 1926.61, requires employers who receive hazardous materials to retain Department of Transportation labeling on packages, freight containers, motor vehicles, rail freight cars, or transport vehicles which contain hazardous materials.

These markings, placards and labels generally must be retained on packages until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards. Additionally, the markings, placards and labels must be retained on transport vehicles, freight containers, motor vehicles or rail freight cars until the hazardous material requiring the marking or placarding is removed from the vehicles.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's amended standard for the Retention of DOT Markings, Placards, and Labels, Construction Industry, § 1926.61, which was published in the Federal Register, Vol. 59, No. 137, pp. 36699-36700, Tuesday, July 19, 1994, along with the following standards for Retention of DOT Markings, Placards, and Labels: General Industry, § 1910.1201 (VR 425-02-179); Marine Terminals, Public Employment Sector Only, § 1917.29 (VR 425-02-03); Shipyard Employment, § 1915.100 (VR 425-02-180); and Longshoring, § 1918.100 (VR 425-02-181). Also published with the above standards and adopted by the board at the December 19, 1994, meeting was an amendment to the Agriculture Standard, Applicable Standards in 29 CFR 1910, § 1928.21 (VR 425-02-99). The amendments as adopted are set out below:

§ 1926.61. Retention of DOT markings, placards and labels.

(a) Any employer who receives a package of hazardous material which is required to be marked, labeled or placarded in accordance with the U.S. Department of Transportation's Hazardous Materials Regulations (49 CFR Parts 171 through 180) shall retain those markings, labels and placards on the package until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards.

(b) Any employer who receives a freight container, rail freight car, motor vehicle, or transport vehicle that is required to be marked or placarded in accordance with the Hazardous Materials Regulations shall retain those markings and placards on the freight container, rail freight car, motor vehicle or transport vehicle until the hazardous materials which require the marking or placarding are sufficiently removed to prevent any potential hazards.

(c) Markings, placards and labels shall be maintained in a manner that ensures that they are readily visible.

(d) For nonbulk packages which will not be reshipped, the provisions of this section are met if a label or other acceptable marking is affixed in accordance with the Hazard Communications Standard (29 CFR 1910.1200).

(e) For the purposes of this section, the term "hazardous material" and any other terms not defined in this section have the definitions as in the Hazardous Materials Regulations (49 CFR Parts 171 through 180).

When the regulations as set forth in the standard for the Retention of DOT Markings, Placards and Labels, Construction Industry, § 1926.61, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
October 17, 1994	June 1, 1995

VA.R. Doc. No. R95-381; Filed March 24, 1995, 1:53 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-182 Retention of DOT Markings, Placards, and Labels, Construction Industry, § 1926.61

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS/jbc

* * * * * * * *

Title of Regulation: **VR 425-02-183. Competent Person, General Provisions, Shipyard Employment (1915.7).**

Statutory Authority: § 40.1-22 (5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

This standard, § 1915.7, revises many requirements related to the designation and use of competent persons. Changes in this amended standard include the following:

Employers are required to designate one or more competent person, and to provide a roster of competent persons which must contain the names of these persons and the dates of their training.

Although the requirement for the employer to complete OSHA Forms 73 (Designation of Competent Persons) and 74 (Log of Inspection and Tests by Competent Person) has been eliminated, the employer must continue to keep records of all testing performed under subparts B, C, D, and H.

Competent persons are required to:

1. Know and understand the requirements of subparts B (confined and enclosed spaces and other dangerous atmospheres), C (surface preparation and preservation), D (welding, cutting, and heating), and H (tools and related equipment);

2. Know the locations and designations of spaces where work is to be performed;

3. Have the ability to calibrate and use test equipment and perform the tests required by subparts B, C, D, and H;

4. Be able to evaluate whether spaces need to be tested further by a marine chemist, certified industrial hygienist or Coast Guard authorized person;

5. Be able to understand and carry out instructions and other information provided by personnel listed above; and

6. Be able to maintain the records required by § 1915.7.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Competent Person, General Provisions, Shipyard Employment standard (1915.7) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Buildings, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revised standard entitled, "Competent Persons," General Provisions, Shipyard Employment, § 1915.7, which was published in the Federal Register, Vol. 59, No. 141, pp. 37856-37857, Monday, July 25, 1994, along with the amended standard for Confined and Enclosed Spaces and other Dangerous Atmospheres in Shipyard Employment, §§ 1915.11 through 1915.16 (VR 425-02-184). The amendments as adopted are not set out.

When the regulations as set forth in the amended standard for Competent Person, General Provisions, Shipyard Employment, § 1915.7, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
October 24, 1994	June 1, 1995

VA.R. Doc. No. R95-383; Filed March 24, 1995, 1:48 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-183 Competent Person, General Provisions Shipyard Employment, § 1915.7

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS/jbc

* * * * * * * *

Title of Regulation: **VR 425-02-184. Confined and Enclosed Spaces and Other Dangerous Atmospheres, Shipyard Employment (1915.11-1915.16).**

Statutory Authority: § 40.1-22 (5) of the Code of Virginia.

Effective Date: June 1, 1995.

Summary:

The previous subpart B of part 1915, "Explosive and Other Dangerous Atmospheres in Vessel and Vessel Sections," §§ 1915.11 through 1915.16, set out requirements for work in explosive and other dangerous atmospheres in vessels and vessel sections and applied to shipbuilding, ship repairing, and shipbreaking operations and to related employment. This revised subpart B, "Confined and Enclosed Spaces and Other Dangerous Atmospheres, Shipyard Employment," extends the protection afforded by the previous subpart B to employees entering any confined or enclosed space or working in any other dangerous atmosphere in or out of a shipyard.

Among other things, this revision requires shipyard employers to label confined spaces that are deemed unsafe and unsuitable for workers as "Not Safe for Workers." High oxygen levels or flammable atmospheres would have to be labeled "Not Safe for Workers--Not Safe for Hot Work" to prevent workers from inadvertently igniting those atmospheres.

New elements in revised subpart B include training, duty to employers (contractors), and rescue. Other additions in subpart B will reduce risks in confined and enclosed spaces and other dangerous atmospheres work, including: specifying the order of testing of atmospheres, increasing the required oxygen content from 16.5% to 19.5% by volume, and restricting oxygen content of spaces for hot work to 22% by volume.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Confined and Enclosed Spaces and Other Dangerous Atmospheres, Shipyard Employment standard (1915.11-1915.16) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in *The Virginia Register of Regulations*. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the Office of the Registrar of Regulations, General Assembly Buildings, Capitol Square, Room 262, Richmond, Virginia 23219.

On December 19, 1994, the Safety and Health Codes Board adopted federal OSHA's revised standard for Confined and Enclosed Spaces and Other Dangerous Atmospheres, Shipyard Employment, §§ 1915.11-1915.16, which was published in the Federal Register, Vol. 59, No. 141, pp. 37857-37863, Monday, July 25, 1994, along with the amended standard entitled, "Competent Person," General Provisions, Shipyard Employment, § 1915.7 (VR 425-02-183). The amendments as adopted are not set out.

When the regulations as set forth in the amended standard for Confined and Enclosed Spaces and Other Dangerous Atmospheres, Shipyard Employment, §§ 1915.11-1915.16, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
October 24, 1994	June 1, 1995

VA.R. Doc. No. R95-382; Filed March 24, 1995, 1:49 p.m.

COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

March 30, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attn: John J. Crisanti, Director, Office of Enforcement Policy

Re: VR 425-02-184 Confined and Enclosed Spaces and Other Dangerous Atmospheres, Shipyard Employment §§ 1915.11 - 1915.16

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS/jbc

PROPOSED REGULATION

STATE CORPORATION COMMISSION

Bureau of Financial Institutions

Title of Regulation: **VR 225-01-0607. Sale of Noncredit-Related Life Insurance in Consumer Finance Offices.**

Statutory Authority: §§ 6.1-302 and 12.1-13 of the Code of Virginia.

AT RICHMOND, MARCH 27, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: In the matter of a proposed regulation to be promulgated under the Consumer Finance Act

CASE NO. BFI950139

ORDER DIRECTING NOTICE

ON A FORMER DAY a licensee under the Consumer Finance Act ("the Act"), Virginia Code §§ 6.1-244 et seq., applied to the Commission pursuant to § 6.1-267 of the Act for authority to conduct its licensed business in offices where non-credit-related life insurance would be sold. Such authority was granted subject to certain conditions which the Commission believes should be promulgated pursuant to § 6.1-302 of the Act as a regulation which would apply if and when other licensees apply for like authority.

The proposed regulation will require compliance with all applicable laws, including insurance laws; prohibit any connection between lending and insurance sales; give customers a right to cancel insurance contracts purchased; and give the Bureau of Financial Institutions access to records relating to the insurance sales business. The text of the proposed regulation can be examined at, or obtained from, the Commission's Clerk, Document Control Center, First Floor, Tyler Building, 1300 East Main Street, P. O. Box 2118, Richmond, Virginia 23216, telephone (804) 371-9033.

It appears to the Commission that licensees under the Act and others should be afforded notice of the proposed regulation and an opportunity to be heard in the matter. Accordingly,

IT IS ORDERED:

(1) That this matter be assigned Case No. BFI950139, and associated papers be filed therein;

(2) That, on or before May 15, 1995, any person may file written comments in support of, or in opposition to the Commission's adoption of the proposed regulation with the Clerk at the above address;

(3) That, on or before May 15, 1995, any person who desires a hearing on the proposed regulation shall file with the Clerk, at the above address, a written request for a hearing;

(4) That written comments and requests for hearing should contain a reference to Case No. BFI950139;

(5) That this order, and the proposed regulation, shall be sent to the Registrar of Regulations for appropriate publication in the Virginia Register; and

(6) That the Bureau of Financial Institutions shall mail notice of this proceeding, together with a copy of the proposed regulation, to all licensees under the Act.

AN ATTESTED COPY of this Order shall be sent to the Commissioner of Financial Institutions.

VR 225-01-0607. Sale of Noncredit-Related Life Insurance in Consumer Finance Offices.

§ 1. Legal compliance.

All governing state and federal laws shall be observed.

§ 2. Separation of lending and insurance sales.

No loan or extension of credit by the consumer finance licensee, or any affiliate conducting business in the licensee's office, shall be conditioned upon the purchase of life insurance. If a person expresses an interest in obtaining a loan or extension of credit from the consumer finance licensee, or from any affiliate conducting business in the licensee's office, the sale of life insurance to such person shall not be solicited until at least one day after the loan or extension of credit transaction is consummated. Neither the consumer finance licensee, nor any affiliate conducting business in the licensee's office, shall make a loan or extension of credit in order to enable a person to purchase life insurance solicited or sold under this regulation.

§ 3. Purchaser's right to cancel insurance.

Any person who purchases life insurance solicited in a consumer finance office shall have a right to cancel such purchase and receive a full refund until midnight of the 20th day following consummation of the purchase or the effective date of coverage, whichever is later. The consumer finance licensee shall clearly and conspicuously disclose to the individual his right to cancel, and shall provide the individual at the time of consummation of the purchase with a form in duplicate by which the right to cancel may be exercised by mailing or delivering the form to the consumer finance licensee. Such form shall clearly and conspicuously set forth:

1. The cost of the insurance;

2. The name and address of the consumer finance licensee;

3. The actions necessary for the individual to cancel the insurance; and

4. The individual's right to receive a full refund of the insurance premium upon cancellation.

§ 4. Compliance with insurance laws.

Persons soliciting the sale of life insurance in licensed consumer finance offices shall be licensed to do so, as required under Virginia insurance laws. The underwriter and selling company of life insurance sold in licensed consumer finance offices shall be authorized to transact the insurance business, as required under Virginia insurance laws.

§ 5. Examination of records.

The Bureau of Financial Institutions shall be given access to the books and records of the consumer finance business and the insurance sales business and be furnished such information as it may need in order to ensure that these conditions are being observed.

VA.R. Doc. No. R95-384; Filed March 28, 1995, 10:37 a.m.

FINAL REGULATION

Bureau of Insurance

Title of Regulation: **Insurance Regulation No. 46. Rules Governing Essential and Standard Health Benefit Plan Contracts.**

Statutory Authority: §§ 12.1-13, 38.2-223, 38.2-3431 and 38.2-3432 of the Code of Virginia.

Effective Date: May 1, 1995.

Agency Contact: Copies of the regulation may be obtained from Ann Colley, State Corporation Commission, Bureau of Insurance, P. O. Box 1157, Richmond, VA 23209, telephone (804) 371-9074. Copying charges are $1.00 for the first two pages, and 50¢ for each page thereafter.

AT RICHMOND, MARCH 16, 1995

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS940205

Ex Parte: In the matter of adopting Rules Governing Essential and Standard Health Benefit Plan Contracts

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein October 27, 1994, the Commission ordered that a hearing be conducted on November 29, 1994, for the purpose of considering the adoption of a regulation proposed by the Bureau of Insurance ("Bureau") entitled "Rules Governing Essential and Standard Health Benefit Plan Contracts";

WHEREAS, the Commission's order required all interested persons to file their comments to the proposed regulation on or before November 22, 1994;

WHEREAS, the Commission conducted the aforesaid hearing where it received additional comments to the proposed regulation;

WHEREAS, the Commission required the Bureau to file a post-hearing response to the prefiled comments and the additional comments received by the Commission at the hearing;

WHEREAS, the Commission further permitted interested persons to reply to the Bureau's aforesaid response; and

THE COMMISSION, having considered the proposed regulation and the comments of interested persons, is of the opinion that the regulation, as amended, should be adopted;

THEREFORE, IT IS ORDERED that the regulation entitled "Rules Governing Essential and Standard Health Benefit Plan Contracts" which is attached hereto should be, and it is hereby, ADOPTED to be effective May 1, 1995.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this order, together with a copy of the regulation, without editing marks, to all insurers, health services plans, and health maintenance organizations licensed to write accident and sickness insurance in the Commonwealth of Virginia.

Insurance Regulation No. 46. Rules Governing Essential and Standard Health Benefit Plan Contracts.

§ 1. Purpose.

The purpose of this regulation is to implement § 38.2-3431 D of the Code of Virginia, with respect to the recommendations of the Essential Health Services Panel [*~~, established pursuant to Chapter 847 of the 1992 Acts of the Assembly,~~*] *and to establish the requirements for the essential health benefit plan and the standard health benefit plan.*

§ 2. Scope.

[*A.*] *Every insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis, each corporation providing individual or group accident and sickness subscription contracts, and each health maintenance organization or multiple employer welfare arrangement providing health care plans for health care services that offers coverage to the small employer or primary small employer market shall be subject to the provisions of this regulation if any of the following conditions are met:*

1. Any portion of the premiums or benefits is paid by or on behalf of the small employer;

2. The eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the small employer for any portion of the premium;

3. The small employer has permitted payroll deduction for the covered individual or any portion of the premium is paid by the small employer; or

4. The health benefit plan is treated by the employer or any of the covered individuals as part of a plan or program for the purposes of §§ 106, 125, or 162 of the United States Internal Revenue Code.

[*B. The Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1144(b)(6)(A)) exempts fully-insured multiple employer welfare arrangements from state regulation. As such, fully-insured multiple employer welfare arrangements*

are not subject to the requirements of this regulation. However:

1. In addition to the requirements of subsection A, every insurer, health services plan, or health maintenance organization providing health care plans for health care services that offers coverage to a multiple employer welfare arrangement shall be subject to the provisions of this regulation if any of the employer members of the multiple employer welfare arrangement satisfy the definition of small employer or primary small employer. The insurer, health services plan, or health maintenance organization shall offer the essential and standard health benefit plans to any such multiple employer welfare arrangement. Nothing herein contained shall be construed to require a multiple employer welfare arrangement to purchase the essential or standard health benefit plans;

2. Any other health care plans offered by an insurer, health services plan, or health maintenance organization to such multiple employer welfare arrangement shall comply with all other applicable provisions of §§ 38.2-3431 through 38.2-3433 of the Code of Virginia, which do not relate to the benefits or cost sharing of the essential or standard plans. There is no requirement that such other health care plans be community rated; and

3. Multiple employer welfare arrangements that are not fully-insured must comply with the requirements of Article 3 (§ 38.2-3420 et seq.) of Chapter 34 of Title 38.2 of the Code of Virginia, as well as any regulations promulgated pursuant thereto, and must, therefore, also comply with the requirements of this regulation.]

§ 3. Definitions.

For the purposes of this regulation;

"Adult" means an individual 18 years old and older [~~*up to the age of 65*~~] .

"Carrier" means any person that provides one or more health benefit plans or insurance in this Commonwealth, including an insurer, a health services plan, a fraternal benefit society, a health maintenance organization, a multiple employer welfare arrangement, a third party administrator or any other person providing a plan of health insurance subject to the authority of the commission.

"Case management" means a form of [~~*utilization review used to monitor and manage treatment and suggest appropriate medical services*~~ *medical management that coordinates the health care needs of individuals having chronic conditions or serious illness or injury requiring multiple medical services over an extended period of time, to ensure the cost-effective and appropriate use of medically necessary health care services*] .

"Child" means an individual from birth to the age of 18 years.

"Coinsurance percentage" or "coinsurance" means the percentage of allowable charges allocated to the carrier and to the covered person.

"Copayment" means a specified charge that a covered person must pay each time services of a particular type or in a designated setting are received by a covered person.

"Deductible" means the amount of allowable charges that must be incurred by an individual or a family per year before a carrier begins payment.

"First-degree relative" means a parent or child of an individual.

[*"Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a MEWA (Multiple Employer Welfare Arrangement) or plan provided by another benefit arrangement. Health benefit plan does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.*]

"Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

1. The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

a. Be an institution operated pursuant to law;

b. Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and

c. Provide 24-hour nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

2. The definition of the term "hospital" may state that such term shall not include:

a. Convalescent homes, convalescent rest, or nursing facilities;

b. Facilities primarily affording custodial, educational or rehabilitative care; [*or*]

c. Facilities for the aged, drug addicts or alcoholics [; ~~*or*~~

~~*d. Any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof, for the treatment of*~~

~~members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services~~] .

[*"Medically effective" means a service which (i) is furnished or authorized for the diagnosis or treatment of the covered individual's illness, disease, injury or pregnancy; (ii) pursuant to the prevailing opinion within the appropriate specialty of the United States medical profession, is safe and effective for its intended use, and that omission would adversely affect the person's medical condition; and (iii) is furnished by a provider with appropriate training, experience, staff and facilities to furnish that particular service.*]

"Medical emergency" means a condition or chief complaint manifested by acute symptoms of sufficient severity which, without immediate and necessary medical attention, could reasonably be expected to result in (i) serious jeopardy to the mental or physical health of the individual, or (ii) danger of serious impairment of the individual's bodily functions, or (iii) serious dysfunction of any of the individual's organs, or (iv) in the case of a pregnant woman, serious jeopardy to the health of the fetus.

"Medically necessary" means a service acknowledged as acceptable medical practice by an established United States medical society for the treatment or management of pregnancy, illness, or injury which (i) is the most appropriate and cost-effective service to be provided safely to the patient, (ii) is consistent with the patient's symptoms or diagnosis, and (iii) is not experimental or investigative in nature. The fact that a physician prescribes a service does not automatically mean such service is medically necessary and will qualify for coverage.

"Medicare" shall be defined in any hospital, surgical or medical expense policy which relates its coverage to eligibility for Medicare or Medicare benefits. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of the Public Laws 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the 'Health Insurance for the Aged Act,' as then constituted and any later amendments or substitutes thereof," or words of similar import.

"Mental or nervous disorder" shall not be defined more restrictively than a definition including neurosis, psycho neurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind including physiological and psychological dependence on alcohol and drugs.

[*"Morbid obesity" means the greater of two times normal body weight or 100 pounds more than normal body weight. Normal body weight is determined for a covered person using generally accepted weight tables for a person's age, sex, height and frame.*

"Newborn care" means the initial routine history, examination and subsequent care of a healthy newborn infant, rendered while the newborn infant is an inpatient at the facility where, and during the admission when, birth occurred.]

"Nurse" may be defined so that the description of nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse" or "registered nurse" are used without specific description as to type, then the use of such terms requires the carrier to recognize the services of any individual who qualifies under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

"Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician."

"Plan" means the contracts offering the standard or essential benefits pursuant to §§ 38.2-3431 through [~~*38.2-3434*~~ *38.2-3433*] *of the Code of Virginia.*

[*"Prehospital emergency medical services" means care received by acutely ill or injured patients who require immediate medical attention because of an unexpected or sudden occurrence or accident or an urgent or pressing need, including care that may be provided by urgent care centers.*]

"Primary care provider" means the physician or other health care practitioner designated from a network of providers as the provider responsible for providing, managing or directing all health care received by the covered individual enrolled in a preferred provider organization or a health maintenance organization.

"Primary small employer," a subset of "small employer," means any person actively engaged in business that, on at least 50% of its working days during the preceding year, employed no more than 25 eligible employees and not less than two unrelated eligible employees, except as provided in subdivision A 2 of § 38.2-3523 of the Code of Virginia, the majority of whom are enrolled within this Commonwealth. Primary small employer includes companies that are affiliated companies or that are eligible to file a combined tax return. Except as otherwise provided, the provisions of this regulation that apply to a primary small employer shall apply until the earlier of the plan anniversary or one year following the date the employer no longer meets the requirements of this [~~*subsection*~~ *definition*] .

[*"Small employer" or "small employer market" means any person actively engaged in business that, on at least 50% of its working days during the preceding year, employed less than 50 eligible employees and not less than two unrelated eligible employees, the majority of whom are employed within this Commonwealth. A small employer market group includes companies that are affiliated companies or that are eligible to file a combined tax return. Except as otherwise provided, the provisions of Article 5 (§ 38.2-3431 et seq.) of Chapter 4 of Title 38.2 of the Code of Virginia that apply to a small employer shall continue to apply until the earlier of the plan anniversary or one year following the date the employer no longer meets the requirements of this definition.*]

§ 4. General requirements.

A. Every insurer, health services plan, fraternal benefit society, or health maintenance organization licensed to issue policies of accident and sickness insurance, subscription

contracts, or evidences of coverage in this Commonwealth; and every multiple employer welfare arrangement operating in this Commonwealth and subject to the jurisdiction of the commission must notify the commission in writing of its intent to participate or not participate in the primary small group market or the small group market within 90 days of the effective date of this regulation.

B. All [small employer] carriers issuing essential and standard plans must report to the commission annually by [~~January~~ March] 1 the number of primary small employers covered by the essential and standard plans [during the preceding calendar year] . The report shall include the number of employees covered, including dependents, [~~and their~~ the] age and sex [of all employees,] and shall be on the "Virginia Primary Small Employer Coverage Report" form [as adopted herewith or later modified by the commission] .

C. Periodic demonstration of fair and active marketing of the essential and standard benefit plans shall be submitted to the commission by all [small employer] carriers. The number of new plans issued, their geographic location, and industry must be submitted to the commission [~~every six months~~ annually] beginning December 1, 1995, on the "Virginia Primary Small Employer New Business Report" form [as adopted herewith or later modified by the commission] . Each federally qualified health maintenance organization must demonstrate to the commission's satisfaction its inability to offer the essential plan in the event the health maintenance organization believes that it is unable to offer such plan.

D. [~~Carriers~~ Small employer carriers] are not allowed to issue riders or endorsements which reduce or eliminate benefits, with the exception of dental benefits which may be provided by separate contract in accordance with § 38.2-3431 D of the Code of Virginia.

E. No contract may exclude coverage for a loss due to a preexisting condition for a period greater than 12 months as described in §§ 38.2-3432 A 1 and 38.2-3431 C of the Code of Virginia.

F. All contracts must comply with the requirements of Title 38.2 of the Code of Virginia which are not inconsistent with Article 5 (§ 38.2-3431 et seq.) of Chapter 34 of Title 38.2.

G. [~~Carriers~~ Small employer carriers] must provide 30 days advance notice to the commission and either the policyholder, contract holder, enrollee or employer of their decision to cease to write new business in the primary small employer market.

[H. Any plan which does not utilize a primary care provider shall be responsible for providing all benefits required by the essential and standard benefit plans. The requirement that a primary care provider provide, manage, or direct care for a covered individual shall be waived.

I. Carriers must offer primary small employers electing to be covered under an essential or standard health benefit plan the option to choose coverage that does not provide dental benefits. The primary small employer making such election must purchase separate dental coverage for all eligible employees and eligible dependents from a dental services plan authorized pursuant to Chapter 45 (§ 38.2-4500 et seq.) of Title 38.2 of the Code of Virginia.

J. Plans must comply with §§ 38.2-3408 or 38.2-4221 of the Code of Virginia relating to reimbursement to providers.]

§ 5. Minimum standards for benefits for the Essential Benefit Plan Contracts.

Essential Benefit Plan Contracts shall include the following:

1. Inpatient hospital care of 21 days [, including mental health and substance abuse,] in a [~~12-month period~~ contract or calendar year] for individuals 18 years and older; for individuals up to age 18, 21 days of inpatient hospital care and inpatient care beyond 21 days must also be covered when certified as medically necessary by the primary care provider when appropriate utilization review has been conducted and payment authorization has been obtained. Inpatient hospital care includes the following:

a. Daily room and board expenses [for a semi-private room] and ancillary services including anesthesia, casts, dressings, drugs and medications, equipment, general nursing, inhalation therapy, intensive care unit stay, laboratory and x-ray services, oxygen services, radiation therapy, short-term physical therapy, special diets, supplies, use of operating room, and use of recovery room;

b. Inpatient medical services including primary, consultative and specialty provider services;

c. Inpatient therapeutic blood services, including blood derivatives and their administration and whole blood when a volunteer program is not available;

d. Inpatient [~~mental health~~ treatment of a mental or nervous disorder or substance abuse] services upon referral by the primary care provider for up to 21 days per contract year [not to exceed the limits set forth in subdivision 1 of § 6] ; and

e. Newborn care.

2. Outpatient care. [The following outpatient benefits are available when, as required by the health plan, the benefits have been certified as medically necessary and preauthorization has been obtained. In plans using primary care physicians, a referral by the primary care physician shall satisfy all medical necessity or preauthorization requirements.]

a. Outpatient medical and surgical care including consultation, surgery, medication management visits for physical or psychiatric chronic or acute illnesses, and facility fees, when medically necessary and upon referral by the primary care provider;

b. Outpatient diagnostic [and therapeutic] services including testing and treatment upon referral by the primary care provider including outpatient radiation or chemotherapy treatment when medically necessary and upon referral by the primary care provider; laboratory services, screening services, x-rays, or psychological testing;

c. Outpatient therapeutic blood services including blood derivatives and their administration and whole blood services when a volunteer blood program is not available; and

d. Outpatient mental health or substance abuse treatment services of up to 20 visits per contract year.

3. Maternity care. Maternity care shall be included consistent with the current recommendations of the American College of Obstetrics and Gynecology.

[~~a. The existing recommendations include the following: diagnosis of pregnancy and, when medically indicated and consistent with the guidelines of the American College of Obstetrics and Gynecology, laboratory services and other diagnostic or testing procedures including amniocentesis, ultra sound, radiology, etc.;~~

~~b. Inpatient hospital services, including anesthesia, complications of pregnancy, delivery by vaginal and cesarean section, labor and delivery room, medications, operating or other special procedure rooms, etc.; and~~

~~c. Postpartum care.~~]

4. Emergency services.

a. Prehospital emergency medical services, ambulance services, emergency hospital services, inpatient and emergency room;

[b. Emergency hospital service, including emergency room and inpatient services.]

[~~b.~~ c.] Emergency room services for medical emergencies upon primary care provider certification [if required, and according to the plan's primary care provider notification requirements] ;

[~~c.~~ d.] Acute medical detoxification; and

[~~d.~~ e.] Severe mental health crisis services, with ambulatory treatment. Inpatient treatment only on referral by primary care provider.

5. Preventive care. Preventive care shall be included for children consistent with the current recommendations of the American Academy of Pediatrics and for adults according to the recommendations of the American Academy of Family Physicians.

[~~Existing recommendations include the following:~~

~~a. Eighteen preventive health visits from birth to age 18, including: documented child health history; physical examination; developmental or behavioral assessment; anticipatory guidance; immunizations, including diphtheria, tetanus, and pertussis (DTP), or diphtheria, tetanus toxoids, and acellular pertussis (DTaP), oral poliovirus (OPV), measles-mumps-rubella (MMR), and Hemophilus influenza type B (HIB), hepatitis B virus (HBV), and laboratory services.~~

~~b. One preventive health visit every one to three years for individuals from age 18 through age 39, including: documented health history; physical examination; laboratory or diagnostic procedures, including nonfasting or fasting blood cholesterol at least every five years; Papnicolaou smear annually for women who are sexually active or who were sexually active; or every three years, at the primary care provider's discretion, for women with three or more consecutive satisfactory normal annual examinations.~~

~~(1) Individuals who are determined to be in high-risk groups shall be covered for: fasting plasma glucose; rubella antibodies; Venereal Disease Research Laboratory and Rapid Plasma Reagin Tests; urinalysis for bacteriuria; chlamydial testing; gonorrhea culture; counseling and testing for Human Immunodeficiency Virus (HIV); hearing testing; tuberculin skin test; electrocardiogram; mammogram for women 35 years and older with a family history of premenopausally diagnosed breast cancer in a first-degree relative; and colonoscopy for individuals with a family history of familial polyposis coli or cancer family syndrome.~~

~~(2) The coverage must also include counseling on: diet; exercise; substance use; sexual practices, including sexually transmitted diseases and family planning; injury prevention; dental health; other primary preventive measures; and immunizations including a tetanus-diphtheria booster every 10 years and for high-risk individuals, hepatitis B vaccine, pneumococcal vaccine, influenza vaccine annually, and measles-mumps-rubella vaccines.~~

~~c. One preventive health visit every one to three years for individuals from age 40 through age 64, including interval and family health history; physical examination; laboratory or diagnostic procedures including nonfasting or fasting blood cholesterol (at least every five years); Papnicolaou smear (annually for women who are or have been sexually active; every three years for women having three or more consecutive satisfactory normal annual examinations); mammograms bi-annually for women age 40 to age 49; mammograms annually for women age 50 and older; fasting plasma glucose; Venereal Disease Research Laboratory and Rapid Plasma Reagin Tests; urinalysis for bacteriuria; chlamydial testing; gonorrhea culture; counseling and testing for Human Immunodeficiency Virus (HIV); hearing test; tuberculin skin test; electrocardiogram; fecal occult blood or sigmoidoscopy for individuals aged 50 and older who have first-degree relatives with colorectal cancer; a personal history of endometrial, ovarian, or breast cancer, or a previous diagnosis of inflammatory bowel disease, adenomatous polyps, or colorectal cancer; fecal occult blood or colonscopy for individuals with a family history of familial polyposis coli or cancer family syndrome; and bone mineral content.~~

~~d. Counseling on diet, exercise, substance use, sexual practices, injury prevention, dental health, and other primary preventive measures.~~

~~e. Immunizations, including tetanus-diphtheria booster every 10 years; and for high-risk groups, hepatitis B~~

~~vaccine, pneumococcal vaccine and influenza vaccine.~~]

[*A carrier shall have up to six months from the date of any change made to the recommendations of the organizations listed in subdivisions 3 or 5 of this § 5 to implement such change. A copy of the guidelines shall be delivered to the covered person upon request.*]

6. Prescription drugs. Prescription drug coverage shall be limited to generic drugs approved by the Virginia Voluntary Formulary Board unless a generic drug is not available. [*A drug is not available if the physician checks dispense as written on the prescription form, or if the generic drug cannot be reasonably obtained from a pharmacy in the patient's community.*] *Prescription drugs include prescription contraceptives.*

7. Durable medical equipment. Coverage for rental [*or purchase*] *of* [~~*medically necessary*~~] *durable medical equipment and supplies, including oxygen, crutches, walkers, wheel chairs, hospital type beds, and traction equipment, shall be included when medically necessary.*

8. Prescription or corrective lenses. Coverage for children for one pair of lenses [*and frames*] *per contract year. The selection of frames may be limited* [*to certain styles of frames. Contact lenses are not included*] .

9. Dental care. Preventive and acute dental care for children as follows:

a. Two regular examinations per contract year;

b. X-rays [~~*where medically indicated*~~] ;

c. Two prophylaxes per contract year;

d. One administration of topical fluoride per contract year;

e. Sealants for permanent molars for children between the ages of 6 to age 17;

f. Fillings not including multistructure resins in posterior teeth [~~*, temporary crowns of stainless steel and polycarbonate*~~] ;

g. Temporary crowns of stainless steel and polycarbonate;

h. Pulpotomy with preauthorization;

i. Root canals with preauthorizations;

j. Space maintenance for early lost teeth with preauthorization;

k. Oral surgery including extractions for relief of pain, infection or cystic lesions, biopsy, removal of tumors, cysts or medical or dental neoplasms; treatment of fractures of maxilla or mandible whether medical or dental; and correction of congenital facial deformities [*. This may be covered under medical surgical coverage*] *; and*

l. Emergency care including palliative care, trauma care, replacement crowns [*(which may be of stainless steel and polycarbonate)*] *, repair of space maintainers and repair of full or partial dentures.*

10. Transplants. Transplants of the kidney or cornea exclusively.

§ 6. Minimum standards for benefits for the Standard Benefit Plan Contracts.

In addition to the benefits provided under the Essential Benefit Plan Contracts as required by § 5 of this regulation, Standard Benefit Plan Contracts shall include the following:

1. Inpatient hospital care [*in a semi-private room*] *of* [~~*from*~~] *21* [~~*to*~~ *or*] *365 days in a 12-month period, when appropriate utilization review has been conducted and payment authorization has been obtained.*

2. Prescription or corrective lenses. Coverage for adults for one pair of lenses per contract year. The selection of frames may be limited [*to certain styles of frames. Contact lenses are not included*] .

3. Dental care. Preventive and acute dental care for adults as follows:

a. Two regular examinations per contract year;

b. X-rays [~~*where medically indicated*~~] ;

c. Two prophylaxes per contract year;

d. One administration of topical fluoride per contract year;

e. Diagnostic radiographs;

f. Fillings not including multistructure resins in posterior teeth [~~*, temporary crowns of stainless steel and polycarbonate*~~] ;

g. Temporary crowns of stainless steel and polycarbonate;

h. Pulpotomy with preauthorization;

i. Root canals with preauthorizations;

j. Oral surgery including extractions for relief of pain, infection or cystic lesions, biopsy, removal of tumors, cysts or medical or dental neoplasms; treatment of fractures of maxilla or mandible whether medical or dental; and correction of congenital facial deformities [*. This may be covered under medical surgical coverage*] *; and*

k. Emergency examination and care including palliative, trauma care, replacement crowns, repair of space maintainers and repair of full or partial dentures.

4. Transplants. Transplants of the heart, liver and others when determined to be medically effective.

5. Rehabilitative care. Rehabilitative care shall be covered when properly referred by the primary care provider. Rehabilitative care shall include occupational therapy, physical therapy, and mental health and substance abuse therapy. [*Mental health and substance abuse therapy is limited to the benefits set forth in subdivisions 1 d and 2 d of § 5.*]

6. Audiology services. Audiology, speech, and hearing disorder services shall be covered when properly referred by the primary care provider. Audiology services shall include hearing aids.

7. Allergy treatments. Allergy treatments shall be covered when properly referred by the primary care provider. Treatments shall include skin testing and injections.

8. Posthospital care. Skilled nursing home care, hospice care, and home health visits shall be covered when approved by the primary care provider as part of an overall treatment plan to reduce or eliminate the need for inpatient hospital stay.

9. Case management services. Medical case management performed by or under the direction of the primary care [~~practitioner, social case management performed under the direction of the primary care practitioner~~ provider] , and high-cost illness case management.

§ 7. Limitations and exclusions.

A. No [~~policy~~ plan] shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows:

1. Preexisting conditions or disease [as provided in subsection E of § 4] , except for congenital anomalies of a covered dependent child;

2. Services or care not medically necessary;

3. Illness, treatment or medical condition arising out of [~~: a.~~] war or act of war, whether declared or undeclared; participation in a felony, riot or insurrection, service in the armed forces or units auxiliary thereto [~~; or b. Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury~~] ;

4. Cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part, and reconstructive surgery because of congenital disease or anomaly of a covered dependent child which has resulted in a functional defect;

5. Foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

6. Care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion or subluxation in the human body for purposes of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column;

7. Treatment provided in a government hospital [except for veterans in Veterans' Administration or armed forces facilities for services received for which the recipient is liable] ; benefits provided [~~under Medicare or other~~ by] governmental [~~program~~ programs] (except Medicaid [and Medicare]) any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;

8. Rest cures, custodial care and transportation;

9. Radial keratotomy;

10. Experimental or investigative medical and surgical procedures;

11. Autologous bone marrow transplants;

12. In vitro fertilization [, ovum transplants and gamete intrafallopian tube transfer, zygote intrafallopian transfer, or cryogenic or other preservation techniques used in these or similar procedures] ;

13. Telephone consultations, charges for not keeping appointments or charges for completing claim forms;

14. Hearing aids or examinations for these devices [in the essential plan] ;

15. Services for surgical sexual transformation or sexual dysfunction;

16. Services for acupuncture;

17. Services for marital and family counseling, educational, behavioral, vocational, recreational and coma-stimulation therapy;

18. Sleep therapy;

19. Treatment for obesity, except for surgical treatment of morbid obesity;

20. Separate charges for local infiltration anesthesia or any anesthesia services conducted by the same doctor performing surgical or obstetrical services;

21. Smoking cessation aids or services of smoking cessation clinics;

22. Services by a home health agency, nursing facility or long-term care facility [in the essential plan] ; [~~and~~]

23. [~~Territorial limitations.~~ Except for emergency services, services while the covered person is outside the United States; and]

[24. Personal and convenience items including, but not limited to, air conditioners, humidifiers, or physical fitness equipment.]

B. Waivers are not allowed to exclude, limit or reduce coverage or benefits for preexisting diseases or physical conditions.

§ 8. Cost-sharing requirements.

Each Essential [and Standard] Benefit Plan Contract must meet the minimum cost-sharing requirements for the appropriate delivery system:

1. Indemnity coverage.

a. For an employee enrolled under individual coverage a deductible of no more than $500 per contract [or calendar] year; for an employee enrolled under coverage other than individual, a deductible of no more than $1,000 in aggregate per contract [or calendar] year [, and no more than $500 per person. Deductible expenses shall be included in the out-of-pocket limit] ;

b. For an employee enrolled under individual coverage, an out-of-pocket limit of no more than $3,000 per contract [or calendar] year; for an employee enrolled under other than individual coverage an out-of-pocket limit of no more than $6,000 in aggregate per contract [or calendar] year;

c. Lifetime maximum of $1 million per covered person; and

d. Carrier's coinsurance percentage of at least 70% of allowable charges.

2. Preferred provider coverage.

a. A covered person shall be responsible for no more than a $400 inpatient hospital deductible [per admission] and carrier's coinsurance of at least 70% of allowable charges after deductible for in-network benefits and a $500 inpatient hospital deductible [per admission] and carrier's coinsurance of at least 50% of allowable charges after deductible for out-of-network benefits [. Inpatient hospital deductible expenses shall be included in the out of pocket limit] ;

[(1) A covered person shall be responsible for no more than $15 per provider visit for at least the first four annual visits per contract or calendar year for a primary care physician or no more than 30% of allowable charges for in-network benefits. A covered person shall be responsible for no more than $20 per provider visit for a specialist. Provider visits shall include all laboratory and diagnostic tests as well as x-rays which are required as a result of the visit, and additional copayments shall not apply.

(2) A covered person shall be responsible for no more than 50% of allowable charges for out-of-network benefits. Provider visits shall include all laboratory and diagnostic tests as well as x-rays which are required as a result of the visit.]

[~~b. $15 per provider visit for at least four annual visits for in-network providers and $20 per provider visit for out-of-network providers;~~]

[~~c.~~ b.] Carrier's coinsurance of at least 70% of allowable charges for in-network benefits and [~~40%~~ 50%] for out-of-network benefits for:

(1) Outpatient visits;

(2) Laboratory and diagnostic tests;

(3) X-rays; and

(4) Prescriptions [, or a charge of $10 per prescription, for up to a 90-day supply] .

[~~d.~~ c.] For an employee enrolled under individual coverage combined in-network and out-of-network, out-of-pocket limit of no more than $5,000 per contract [or calendar] year; for an employee enrolled under other than individual coverage, out-of-pocket limit of no more than $15,000 in aggregate per contract [or calendar] year; and

[~~e.~~ d.] Lifetime maximum of $1 million per covered person in-network and $250,000 per covered person out-of-network.

3. Health maintenance organization not federally qualified.

a. A covered person shall be responsible for no more than the following:

(1) $20 per visit for primary care provider,

(2) $20 per visit for physician inpatient hospital services,

(3) $20 for outpatient laboratory services, x-rays [per visit] ,

(4) $10 per prescription [, for up to a 90-day supply] , and

(5) $400 per inpatient hospital admission;

b. For an employee enrolled under individual coverage, the out-of-pocket limit is no more than $5,000 per contract [or calendar] year; for an employee enrolled under other than individual coverage, the out-of-pocket limit is no more than $15,000 per contract [or calendar] year; and

c. Lifetime maximum of $1 million per covered person.

4. Health maintenance organizations federally qualified.

a. A covered person shall be responsible for no more than the following:

(1) $20 per outpatient visit,

(2) $20 laboratory or diagnostic tests [per visit] ,

(3) $20 x-rays [per visit] , and

(4) $10 per prescription [, for up to a 90-day supply] ;

b. For an employee enrolled under individual coverage, the out-of-pocket limit is no more than $5,000 per contract [or calendar] year; for an employee enrolled under other than individual coverage, the out-of-pocket limit is no more than $15,000 per contract [or calendar] year; [and]

[~~c. Lifetime maximum of $1 million per covered person; and~~]

[~~d.~~ c.] No deductibles or limits on hospital stay.

[5. Point of service products for health maintenance organizations. All health maintenance organizations subject to this regulation shall be permitted to offer a point of service product offering benefits out of network. The benefits offered shall comply with the out-of-network benefits set forth in subdivision 2 of subsection A of this § 8.]

§ 9. Required disclosure provisions.

A. After date of [~~policy~~ plan] issue, any rider or endorsement that increases benefits or coverage with an accompanying increase in premium during the policy period must be agreed to in writing by the [~~insured~~ contract holder] .

B. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the [~~policy~~ plan] .

C. [~~Policy~~ Plan] limitations with respect to preexisting conditions must appear as a separate paragraph of the [~~policy~~ plan] and be labeled as "Preexisting Condition Limitations."

D. The availability of the toll-free number for the State Corporation Commission's Bureau of Insurance must be included in the plan.

[E. Carriers shall include language in each plan advising insureds of their right to receive a copy of the current recommendations of the organizations listed in subdivisions 3 or 5 of § 5 upon request.]

§ 10. Severability.

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Virginia Primary Small Employer Coverage Report

Insurance Company Name:

NAIC Number: Date:

Contact Person:

Title:

Telephone Number:

ESSENTIAL HEALTH BENEFIT PLANS

Number of Primary Small Employer Groups Covered:

Number of Covered Employees:

	Male	Female
[Age 0-18		
~~Age~~]18-29		
30-39		
40-49		
50-64		
[65 & over		

~~Number of Covered Dependents:~~

	~~Male~~	~~Female~~
~~Age 18-29~~	----------	----------
~~30-39~~	----------	----------
~~40-49~~	----------	----------
~~50-64~~	----------	----------

Total Number of Persons Covered:]

STANDARD HEALTH BENEFIT PLANS

Number of Primary Small Employer Groups Covered:

Number of Covered Employees:

	Male	Female
[Age 0-18		
~~Age~~]18-29		
30-39		
40-49		
50-64		
[65 & over		

~~Number of Covered Dependents:~~

	~~Male~~	~~Female~~
~~Age 18-29~~	----------	----------
~~30-39~~	----------	----------
~~40-49~~	----------	----------
~~50-64~~	----------	----------

Total Number of Persons Covered:]

VPSE-1
May/95

Virginia Primary Small Employer
New Business Report

Insurance Company Name: _____

NAIC Number: _____ Date: _____

Contact Person: _____

Title: _____

Telephone Number: _____

Period Covered: _____ to _____

ESSENTIAL HEALTH BENEFIT PLANS

Number of New Essential Plans Issued: _____

For each new essential plan issued, identify the industrial classification and geographical location of the employer below.

New Plan	Industrial Classification	Geographic Location
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

STANDARD HEALTH BENEFIT PLANS

Number of New Standard Plans Issued: _____

For each new standard plan issued, identify the industrial classification and geographical location of the employer below.

New Plan	Industrial Classification	Geographic Location
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

VPSE-2
May/95

VA.R. Doc. No. R95-364; Filed March 17, 1995, 3:36 p.m.

* * * * * * * *

BUREAU OF INSURANCE

March 24, 1995

ADMINISTRATIVE LETTER 1995-7

TO: All Insurers, Health Services Plans, and Health Maintenance Organizations Licensed to Write Accident and Sickness Insurance in Virginia

RE: Standard and Essential Benefit Plans - Small Employer Market

The Virginia State Corporation Commission adopted Regulation No. 46 on March 16, 1995. This Regulation approves Essential and Standard Benefit Plans for the Small Employer Market in Virginia and is effective on May 1, 1995. A copy of the order adopting this Regulation as well as the Regulation itself is enclosed with this letter.

Section 38.2-3431.D. of the Code of Virginia provides, in subpart 3, that a Small Employer carrier shall offer primary small employers an essential and standard plan within 180 days of the approval of these plans by the Commission. Therefore, policy forms and premiums must be approved prior to October 28, 1995.

No insurer will be permitted to write in the small employer market after October 28, 1995, unless the insurer has registered with the Commission as a Small Employer Carrier. In order to assist insurers wishing to remain in or enter the small employer market, the Bureau of Insurance is requesting that any insurer so interested complete the attached form and return it to us promptly. As soon as possible, we will send such insurers additional material regarding the small employer market. Returning the form is not registration as a Small Employer Carrier; it is simply a means for us to know which insurers want more information and who we should contact.

Please direct any questions in connection with this letter or our Small Employer Market requirements to Robert L. Wright, III, CLU, CIE; Principal Insurance Analyst; Virginia State Corporation Commission; Bureau of Insurance - 5th Floor; Post Office Box 1157; Richmond, VA 23209.

Thank you for your prompt attention to this matter.

/s/ Steven T. Foster
Commissioner of Insurance

VA.R. Doc. No. R95-387; Filed March 28, 1995, 10:38 a.m.

Expression of Interest

Virginia Small Employer Market

We are interested in becoming a Small Employer Carrier in Virginia. Please send further information to:

Company Name: _____

Company NAIC No.: _____

Company Address: _____

_____

_____

Name of Contact Person: _____

Title: _____

Direct Telephone No.: ( ) _____

Please Return This Form To:

Robert L. Wright, CLU, CIE
Principal Insurance Analyst
Virginia State Corporation Commission
Bureau of Insurance - 5th Floor
Post Office Box 1157
Richmond, VA 23209

(804) 371-9586

DIRECTOR'S ORDER NUMBER FIVE (95)

VIRGINIA'S FORTY-SEVENTH INSTANT GAME LOTTERY; "LUCKY FOR LIFE," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's forty-seventh instant game lottery, "Lucky for Life." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
February 6, 1995

VA.R. Doc. No. R95-385; Filed March 24, 1995, 12:29 p.m.

DIRECTOR'S ORDER NUMBER SIX (95)

VIRGINIA'S INSTANT GAME LOTTERY; "CASINO CASH," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 401), "Casino Cash." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
March 7, 1995

VA.R. Doc. No. R95-386; Filed March 24, 1995, 12:29 p.m.

EXECUTIVE ORDER NUMBER FORTY-TWO (95)

DECLARATION OF A STATE OF EMERGENCY ARISING FROM A SEVERE WINTER STORM WHICH THREATENED THE COMMONWEALTH

An unusually severe winter storm warning was issued by the National Weather Service at 2 p.m. on Friday, February 3, 1995, with predictions of over a foot of snow in the western and northern portions of the state. In addition, high winds causing blizzard-like conditions and drifting were predicted in the affected areas. Upon a recommendation by the Secretary of Public Safety, I verbally declared a state of emergency at 11:20 a.m. on February 3, 1995. This was done for the purposes of (1) directing key state agencies to render all possible assistance to citizens; and (2) authorizing the prepositioning of heavy equipment and support vehicles belonging to the Virginia Army National Guard in certain areas of the Commonwealth to facilitate the potential evacuation of persons who might be marooned and stranded by the storm as well as to support the performance of essential public safety missions.

The health and general welfare of citizens in the affected jurisdictions required that the Commonwealth act to help alleviate those severe and threatening conditions that could result from the expected storm. At the time, I found that these wintry conditions could constitute a disaster wherein human life was imperiled, as contemplated by Section 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by Section 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by Section 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I do hereby confirm, ratify and memorialize in writing my verbal orders issued February 3, 1995, wherein I proclaimed that a state of emergency existed in the Commonwealth and directed that appropriate assistance be rendered by agencies of the state government to alleviate these conditions. Pursuant to Section 44-75.1 (3) and (4) of the Code of Virginia, I also directed that the Virginia National Guard be called forth to assist in providing such aid, as may be required by the Coordinator of the Department of Emergency Services, in consultation with the Secretary of Public Safety and the Adjutant General of Virginia.

The following conditions apply to the employment of the Virginia National Guard:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services and with the approval of the Secretary of Public Safety, shall make available on state active duty such units and members of the Virginia National Guard and such equipment as may be desirable to assist in alleviating both the potential and actual human suffering and damage to property as a result of the heavy snow and wintry conditions.
2. In all instances, members of the Virginia Army National Guard shall remain subject to military command as prescribed by Section 44-78.1 of the Code of Virginia and not subject to the civilian authorities of the state or local governments.
3. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

   (a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act, subject to the requirements and limitations thereof; and, in addition,

   (b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the Federal Government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his/her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his/her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the Code of Virginia, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.
4. The cost incurred by the Virginia Department of Military Affairs in performing this mission shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 593 of Chapter 966 of the 1994 Acts of Assembly, with any reimbursement thereof from nonstate agencies for partial or full reimbursement of this cost to be paid to the general fund of the state treasury.

This Executive Order shall be retroactively effective to February 3, 1995, upon its signing, and shall remain in full force and effect until June 30, 1995, unless sooner amended or rescinded by further executive order. That portion providing for benefits for members of the National Guard in the event of injury or death shall continue to remain in effect after termination of this Executive Order as a whole.

Given under my hand and under the Seal of the Commonwealth of Virginia this 9th day of March, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R95-365; Filed March 17, 1995, 4:39 p.m.

EXECUTIVE ORDER NUMBER FORTY-THREE (95)

DESIGNATION OF HOUSING CREDIT AGENCY UNDER FEDERAL TAX REFORM ACT OF 1986

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 of the Code of Virginia, and under 26 CFR 1.42-1T(c)(1), and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct that all of the State Housing Credit Ceiling for the Commonwealth, as determined in accordance with the Tax Reform Act of 1986, shall be allocated for the period of January 1, 1995 through June 30, 1998 to the Virginia Housing Development Authority (VHDA), as the Housing Credit Agency for the Commonwealth.

The Tax Reform Act of 1986 ("the Act"), adopted by the United States Congress and signed by the President, authorizes tax credits that may be claimed by owners of residential rental projects that provide housing for low-income residents. The Act imposes a ceiling, called the "State Housing Credit Ceiling," on the aggregate amount of tax credits that may be allocated during each calendar year to qualified housing projects within each state. The Act also provides for an allocation of the State Housing Credit Ceiling to the "Housing Credit Agency" of each state, but permits each state's governor to establish a different formula for allocating the State Housing Credit Ceiling.

As the Commonwealth's Housing Credit Agency for the low income housing tax credits program authorized by the Act, VHDA is hereby directed to consult with the Department of Housing and Community Development, housing development industry and nonprofit providers, municipal and county government officials, housing authorities, and other interested parties, and to hold at least one public hearing to obtain public comments on the proposed rules for the program.

This Executive Order rescinds Executive Order Number Twenty-Six (94): Designation of Housing Credit Agency Under Federal Tax Reform Act of 1986, issued by me on June 30, 1994.

This Executive Order shall be effective March 1, 1995, and shall remain in full force and effect until June 30, 1998, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 9th day of March, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R95-366; Filed March 17, 1995, 4:39 p.m.

EXECUTIVE ORDER NUMBER FORTY-FOUR (95)

THE GOVERNOR'S COMMISSION ON JUVENILE JUSTICE REFORM

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.1-41.1, and 2.1-51.36 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Juvenile Justice Reform.

The Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia.

The Commission shall have the responsibility to advise the Governor on all matters related to the punishment, treatment, education and rehabilitation of juvenile offenders and the reform of the Commonwealth's juvenile justice system. The Commission's specific responsibilities shall be:

1. To examine and evaluate relevant statewide and national data regarding trends in juvenile crime, sentencing, the time served by juvenile offenders, and the impact of incarceration and other forms of punishment on recidivism, for the purpose of recommending an effective plan for reforming the juvenile justice system in Virginia;
2. To examine, evaluate, and recommend the need for a statewide system for the collection of juvenile justice data;
3. To identify the juvenile offenders for whom incarceration is necessary to protect public safety, including juvenile offenders whose offenses are so heinous or repetitive that it is in the best interest of the Commonwealth for them to be prosecuted and sanctioned in the adult system;
4. To evaluate the current system of sanctions for juvenile offenders, including incarceration, treatment, and probation, and to make recommendations to the Governor regarding the most efficient and effective methods for preventing and reducing juvenile crime;
5. To recommend, where necessary for public safety, changes to the current facilities used to detain and house juvenile offenders;
6. To evaluate and make recommendations regarding alternatives to incarceration for certain juvenile offenders, and to develop standard criteria and procedures for the use of such alternatives;
7. To identify the agencies of the Commonwealth responsible for the incarceration, treatment, and education of juvenile offenders, and to make recommendations to the Governor regarding the most effective utilization and allocation of resources among those agencies, as well as the utilization of available non-governmental resources;
8. To examine the interrelationship between the disciplinary needs of Virginia's public schools and the juvenile justice system in Virginia, and to make recommendations pertaining thereto;
9. To evaluate the appropriateness and effectiveness of the functions performed by the Department of Youth and Family Services and the potential privatization of programs, construction, and operations within the Department;
10. To address any other issues deemed relevant to the administration of juvenile justice in Virginia.

The Commission shall be comprised of not more than 40 members appointed by the Governor and serving at his

pleasure. The Governor shall designate a Chair and Vice-Chair, or in lieu thereof two or more Co-Chairs, of the Commission.

Such staff support as is necessary for the conduct of the Commission's work during the term of its existence shall be furnished by the Office of the Governor, the Offices of the Governor's Secretaries, the Office of the Attorney General, the Department of Youth and Family Services, the Department of Planning and Budget, and such other executive agencies with closely and definitely related purposes as the Governor may designate. An estimated 5,000 hours of staff support will be required to support the Commission. Funding necessary to support the Commission's work shall be provided from sources, both private contributions and state funds appropriated for the same purposes as the Commission, authorized by Section 2.1-51.37 of the Code of Virginia. Direct expenditures for the Commission's work are estimated at $50,000.

Members of the Commission shall serve without compensation and shall receive expenses incurred in the discharge of their official duties only upon the approval of the Secretary of Public Safety.

The Commission shall complete its work and report to the Governor no later than December 1995, unless otherwise directed by the Governor. It shall issue interim reports and make recommendations at any time it deems necessary or upon the request of the Governor.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until March 1, 1996, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 9th day of March, 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R95-367; Filed March 17, 1995, 4:39 p.m.

EXECUTIVE ORDER NUMBER FORTY-FIVE (95) (REVISED)

WORKFORCE REDUCTION

By virtue of the authority vested in me under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.1-41.1, 2.1-51.8:1, 2.1-51.14, 2.1-51.17, 2.1-51.26, 2.1-51.33, 2.1-51.39, 2.1-51.42, 2.1-113, 2.1-114.2, 2.1-114.7, 2.1-391, and § 2.1-116.20 *et seq.* of the Code of Virginia, and Section 4-7.01c of Chapter 966 of the 1994 Virginia Acts of Assembly (Appropriation Act for the 1994-1996 biennium), and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the policy of the Commonwealth with regard to reduction of the state employee workforce in the Executive Branch and issue the directives stated below in furtherance thereof.

POLICY

A. It shall be the policy of the Commonwealth to achieve efficiency and economy throughout state government by restricting and reducing the size of the state employee workforce wherever such restrictions and reductions may be achieved without adversely affecting programs approved by the General Assembly and without impairing important governmental functions.

B. Where permitted by law and consistent with the objectives of efficiency and economy, it shall be the policy of the Commonwealth to reduce the size of the state employee workforce by contracting for services with, and transferring governmental functions to, entities in the private sector.

C. Executive Branch workforce reductions shall also be achieved through the following methods: hiring freeze and attrition; incentives for voluntary separation; and, if necessary, layoffs.

DIRECTIVES

To implement the policy outlined above, I am issuing the following specific directives:

I. Hiring Freeze

Effective immediately, no part-time or full-time position in the Executive Branch that is vacant or hereafter becomes vacant shall be filled. This directive shall be subject to the following limitations and exceptions:

1. *Critical Public Health, Safety, and Other Needs.* Upon application by the director of an agency, the Governor's Secretary with supervisory responsibility for that agency shall determine whether the interest of public health or safety or the performance of another critical governmental function clearly necessitates employment of a person whose employment would be otherwise proscribed by the directive contained in this section. If the Secretary determines that such clear necessity has been demonstrated and the Director of the Department of Planning and Budget concurs, the Secretary shall authorize the agency director to proceed to fill such position;

2. *Seasonal or Episodic Employment.* Certain employment in state government, especially in temporary and wage positions, has historically been seasonal or episodic. Accordingly, upon application by the director of an agency, the Governor's Secretary with supervisory responsibility for that agency shall determine whether the operational needs of the agency justify such seasonal or episodic employment. If the Secretary determines that an adequate justification has been shown and the Director of the Department of Planning and Budget concurs, the Secretary shall authorize the agency director to employ persons as needed, up to a specified level, for seasonal or episodic employment;

3. *Pre-Existing Employment Agreements.* The directive in this section shall not apply to a person who, although not currently employed by the Executive Branch, has, prior to the signing of Executive Order Number Thirty-eight (94) on December 1, 1994, accepted an offer of Executive Branch employment to commence in the future, provided the agency director so certifies to the responsible Governor's Secretary;

4. *Reservation of Authority.* This Executive Order is subject to my continuing and ultimate authority and responsibility to reserve powers. Accordingly, the directive contained in this

section and the limitations thereto may be amended by a subsequent written directive of the Governor.

II. Workforce Transition Act Incentive Program

It is the objective of this Executive Order to maximize the number of voluntary separations from state government service consistent with the policy set forth in this Executive Order, and thereby to minimize or eliminate the need for layoffs. Accordingly, all Executive Branch agencies shall seek to accomplish workforce reduction initially through the voluntary separation incentive program created under the Workforce Transition Act of 1995 (§ 2.1-116.20 *et seq.* of the Code of Virginia), which became effective when signed by the Governor on March 10, 1995.

The decision to accept an application for participation in the voluntary incentive program established by the Workforce Transition Act shall be made by the director of the agency in which the applicant is employed; however, the director of the agency may refuse to accept (*i.e.*, may reject) an application only with the approval of the responsible Governor's Secretary and the concurrence of the Director of Planning and Budget.

No employee who properly applies for participation in the voluntary separation incentive program established under the Workforce Transition Act of 1995, and whose application is pending or is not accepted, shall be subject to layoff during calendar year 1995. However, nothing herein shall adversely affect the ability of any agency to take proper disciplinary action against a state employee at any time.

The Director of the Department of Personnel and Training shall have the authority and responsibility to define the provisions, procedures, conditions, and limitations of the voluntary separation incentive program consistent with the Workforce Transition Act of 1995. The Director of the Department of Planning and Budget shall provide guidance to agencies regarding the anticipated impact of voluntary workforce reductions, including the anticipated dollar and maximum employment level (MEL) reductions that would apply for fiscal year 1996.

III. Executive Order Incentive Plan

Certain state employees may desire to participate in the voluntary separation incentive plan initially created under Executive Order Number Thirty-eight (94) ("Executive Order Incentive Plan," or "Incentive Plan") in lieu of participation in the voluntary separation incentive program created under the Workforce Transition Act of 1995.

Accordingly, except as modified below with respect to certain deadlines and effective dates, the provisions of Executive Order Number Thirty-eight (94) set forth in this section are continued and remain in force hereunder. However, any employee wishing to participate in the Executive Order Incentive Plan must expressly communicate in writing to the Director of the Department of Personnel and Training, on or before March 31, 1995, that his or her application is for participation in the Executive Order Incentive Plan, and that the applicant waives any right to participate in the voluntary separation incentive program established under the Workforce Transition Act of 1995.

As provided in Executive Order Number Thirty-eight (94), the Director of the Department of Personnel and Training shall develop and administer an incentive-based voluntary separation program for classified employees. The Director shall have the authority and responsibility to define the provisions, procedures, conditions and limitations of this program, subject to the following specific provisions:

1. *Incentive and Payment.* Employees accepted for participation in the Incentive Plan shall receive compensation equivalent to one week's pay for every full year of continuous service in state government, not to exceed a maximum of 26 weeks. Such compensation shall be payable in full within two weeks following departure from employment, unless the employee opts to receive such compensation in three equal payments on each of May 1, June 1, and July 1, 1995;

2. *Application Window.* Employees wishing to participate in the Incentive Plan shall submit signed applications to their agency heads between January 1, 1995, and March 31, 1995, on a standard form supplied by the Department of Personnel and Training. Once submitted by the employee-applicant, an application may not be withdrawn;

3. *Notification and Effective Dates.* Employees accepted for participation in the Incentive Plan shall be notified of their acceptance on April 17, 1995, via written communication; departure from employment pursuant to the Incentive Plan shall be effective May 1, 1995, unless a specific exception to the departure date is authorized by the Director of the Department of Personnel and Training.

4. *Acceptance Discretionary.* Applications for participation in the Incentive Plan may be accepted or rejected, as set forth below. Other than the right to participate in the Incentive Plan if accepted and to be exempt from layoff as provided in paragraph 7 below, nothing contained in this Executive Order, nor in the provisions, procedures, conditions and limitations prescribed by the Director of the Department of Personnel and Training pursuant hereto, nor any other action taken pursuant hereto, shall create any right, claim, or entitlement on behalf of any applicant or any employee of state government against the Commonwealth of Virginia or any agency, department, officer, or employee thereof;

5. *Acceptance Criteria and Procedures.* Notwithstanding that selection for participation in the Incentive Plan is discretionary, the Director of the Department of Personnel and Training shall prescribe fair and objective criteria and procedures to be followed by agency directors and the Governor's Secretaries in determining whether to accept or reject application for participation in the Incentive Plan. The decision to accept an application shall be made by the director of the agency in which the applicant is employed; however, the director of the agency may refuse to accept (i.e., may reject) an application only with the approval of the responsible Governor's Secretary and the concurrence of the Director of the Department of Planning and Budget.

6. *Advance Notice of Non-Participation.* Where the director of an agency determines prior to the commencement of the Application Window identified in paragraph 2 above that applications for participation in the Incentive Plan by

persons holding particular positions within the agency will not be accepted based on the fair and objective criteria established as provided in paragraph 5 above, the agency director shall notify the responsible Governor's Secretary of the determination. With the approval of the responsible Governor's Secretary and the concurrence of the Director of the Department of Planning and Budget, the agency director may proceed to provide advance notice to the holders of the affected positions that they should not participate in the application process for the Incentive Plan because their applications, if submitted, would not be accepted. Agency directors are not required to provide this advance notice, but shall exercise their discretion to do so where it will contribute to the orderly operations of the agency;

7. *Exemption from Layoffs.* The following persons shall be exempt from any layoff during calendar year 1995: (a) employees who apply for participation in the Incentive Plan in accordance with the procedures prescribed by the Director of the Department of Personnel and Training, but whose applications are pending or are not accepted; and (b) employees who receive advance notice of non-participation in the Incentive Plan pursuant to paragraph 6 above. However, nothing herein shall adversely affect the ability of any agency to take proper disciplinary action against a state employee at any time.

8. *Waiver of Re-Employment.* To be eligible for consideration for participation in the Incentive Plan, an employee-applicant must enter a binding agreement not to re-enter state service as a full-time or part-time employee or paid consultant for any Executive Branch agency for a period of two years after termination of employment pursuant to the Incentive Plan.

IV. Layoffs

On or before May 15, 1995, the Department of Personnel and Training and the Department of Planning and Budget shall determine the net reduction in Executive Branch full-time employees and full-time equivalents since January 1, 1994, which shall have resulted from the combined effects of the hiring freeze, employee attrition, workforce reductions accomplished prior to the effective date of this Executive Order, and workforce reductions accomplished pursuant to the incentive programs established under this Executive Order and the Workforce Transition Act of 1995. If the net reduction constitutes inadequate progress in implementing the policies set forth in this Executive Order or in achieving the workforce reductions budgeted for the 1994-1996 biennium, then the Director of the Department of Planning and Budget shall advise the Governor of the need for additional workforce reductions through layoffs.

Except as provided in section III above with respect to certain provisions expressly set out herein, this Executive Order rescinds Executive Order Number Thirty-eight (94), Workforce Reduction, issued by me on December 1, 1994.

This Executive Order shall be retroactively effective to February 28, 1995, upon its signing, and shall remain in full force and effect until June 30, 1998, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 15th day of March 1995.

/s/ George Allen
Governor

VA.R. Doc. No. R95-368; Filed March 17, 1995, 4:39 p.m.

SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in *The Virginia Register of Regulations* on July 11, 1994 (10:21 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

BOARD FOR COSMETOLOGY

The Department of Professional and Occupational Regulation, pursuant to Executive Order Number Fifteen (94), is proposing to undertake a comprehensive review of the regulations of the Board for Cosmetology. As a part of this process public input and comments are being solicited; comments may be provided until July 1, 1995, to the administrator of the program, Karen O'Neal, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230. The department's goal in accordance with the Executive Order is to ensure that the regulations achieve the least possible interference in private enterprise while still protecting the public health, safety and welfare and are written clearly so that they may be used and implemented by all those who interact with the regulatory process.

Regulations:

VR 235-01-02:1. Board for Cosmetology Regulations.

VR 235-01-01:1. Board for Cosmetology Public Participation Guidelines.

A public hearing on the proposed regulation will be held on June 12, 1995, 10 a.m., at 3600 West Broad Street, Richmond, Virginia 23230.

Public comments may be submitted until July 1, 1995, to Karen W. O'Neal, Assistant Director, Virginia Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230.

For additional information contact Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230, telephone (804) 357-0500.

REAL ESTATE APPRAISER BOARD

The Department of Professional and Occupational Regulation, pursuant to Executive Order Number Fifteen (94), is proposing to undertake a comprehensive review of the regulations of the Real Estate Appraiser Board. As a part of this process public input and comments are being solicited; comments may be provided from April 17, 1995, to July 1, 1995, to the administrator of the program, Karen O'Neal, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230. The department's goal in accordance with the Executive Order is to ensure that the regulations achieve the least possible interference in private enterprise while still protecting the public health, safety and welfare and are written clearly so that they may be used and implemented by all those who interact with the regulatory process.

Regulations:

VR 583-01-03. Real Estate Appraiser Board Regulations.

VR 583-01-1:1. Real Estate Appraiser Board Public Participation Guidelines.

A public hearing on the proposed regulation will be held on May 23, 1995, 10 a.m., at the Department of Professional and Occupational Regulation.

Public comments may be submitted until July 1, 1995, to Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230.

For additional information contact Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230, telephone (804) 357-0500.

DEPARTMENT OF SOCIAL SERVICES

In response to Executive Order Number Fifteen (94), the Department of Social Services published a notice of the review schedule for regulations of the Division of Licensing Programs in the October 31, 1994, issue of the Virginia Register. The following notice reflects corrections to this review schedule:

The Department of Social Services proposes to complete a concurrent review of all family day home regulations under the purview of the State Board of Social Services by July 1, 1996. These regulations are as follows:

VR 615-25-01:1. Minimum Standards for Licensed Family Day Homes.

VR 615-26-01. Minimum Standards for Licensed Family Day Care Systems.

VR 615-34-01. Voluntary Registration of Family Day Homes - Requirements for Contracting Organizations.

VR 615-35-01. Voluntary Registration of Family Day Homes - Requirements for Providers.

VR 615-50-01. Standards and Regulations for Agency Approved Providers.

The board intends to evaluate these regulations in the context of the total child care delivery system in order to develop ways to reduce the costs and expand the capacity of the system to respond to the child care and child care employment needs of the Virginia Initiative for Employment Not Welfare (§ 63.1-133.49 of the Code of Virginia). The board intends, where feasible and desirable, to declare variances to the existing regulations to expand the availability of child care.

The purpose of this review is to make an overall assessment of these sets of regulations and not an evaluation of specific requirements within them. Once this review is completed, the department will either continue a regulation in its existing form or proceed with amending or eliminating it.

Public comments may be submitted from April 17, 1995, to June 16, 1995. The public is strongly encouraged to participate during this public comment period and to share this information with others who may be impacted by or interested in these regulations.

Four public hearings are scheduled for the review of these regulations. The dates, times, and locations are as follows:

Saturday, April 29, 1995, 12:15 p.m. - 2:30 p.m.
J. Sargeant Reynolds Community College
North Run Campus Auditorium
1630 East Parham Road
Richmond, Virginia

Saturday, May 6, 1995, 12:15 p.m. - 2:30 p.m.
Virginia Western Community College
Brown Library, Knisely Center
3095 Colonial Avenue, S.W.
Roanoke, Virginia

Saturday, May 20, 1995, 12:15 p.m. - 2:30 p.m.
Holiday Inn Fair Oaks
11787 Lee Jackson Memorial Highway
Fairfax, Virginia

Saturday, June 10, 1995, 12:15 p.m. - 2:30 p.m.
Tidewater Community College,
Pungo Auditorium
1700 College Crescent Road
Virginia Beach, Virginia

Contact: Alfreda Rudd, Human Services Program Coordinator, Department of Social Services, 7th Floor, 730 East Broad Street, Richmond, Virginia 23219-1849, telephone (804) 692-1772, regarding regulations for licensed and registered programs, or Paula Mercer, Department of Social Services, 2nd Floor, 730 East Broad Street, Richmond, Virginia 23219-1849, telephone (804) 692-2201, regarding regulations for agency approved providers.

Oral public comments regarding these regulations may also be presented at open meetings of the State Board of Social Services through May 19, 1995. **Contact:** Phyllis Sisk, Special Assistant to the Commissioner, telephone (804) 692-1900, toll-free 1-800-552-3431 or 1-800-552-7096/TDD.

Symbol Key †
† Indicates entries since last publication of the *Virginia Register*

GENERAL NOTICES

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 FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

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 OBJECTIONS - RR08

CALENDAR OF EVENTS

Symbol 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

NOTE: CHANGE IN MEETING DATES
April 24, 1995 - 10 a.m. -- Open Meeting
April 25, 1995 - 8 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 3rd Floor, Room 395, Richmond, Virginia.

A regular business meeting to review applications and correspondence, conduct review and disposition of enforcement cases, and other routine board business. In addition, at 10 a.m. on Tuesday, April 25, 1995, a public hearing will be held on a proposed education change to § 2.1 B 1 a of VR 105-01-2. Upon conclusion of the hearing, the meeting will continue. A public comment period will be scheduled during the meeting. The meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americians with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD☎

April 25, 1995 - 9 a.m. -- Open Meeting
April 27, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the board to make case decisions. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance for consideration of your request.

Contact: Barbara B. Tinsley, Legal Assistant, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8589 or (804) 367-9753/TDD ☎

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† April 25, 1995 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.

† June 16, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-2. Board for Accountancy Regulations.** The purpose of the proposed amendments is to reduce current educational requirements and eliminate the provision for specific coursework requirements.

Statutory Authority: §§ 54.1-201 and 54.1-2002 of the Code of Virginia.

Contact: Nancy Taylor Feldman, 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)

April 25, 1995 - 1 p.m. -- Open Meeting
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia.

A meeting of the board to consider fiscal matters, regulations, the gypsy-moth program, and other matters that may be presented. There will be an orientation for new board members, beginning at 1 p.m. No other business will be conducted. Any person who needs any accommodations in order to participate at the meeting should contact Roy E. Seward at least nine days before the meeting so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

April 26, 1995 - 9 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia.

At the conclusion of business matters, the board will hear public comments for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Roy E. Seward at least nine days before the meeting so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

Virginia Farmers Market Board

April 19, 1995 - 1 p.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting in regular session to discuss issues related to the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Susan Simpson at least five days before the meeting so that suitable arrangements can be made.

Contact: Susan Simpson, Program Director, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-2112.

Virginia Horse Industry Board

† May 16, 1995 - 11 a.m. -- Open Meeting
Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia.

The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD☎

Virginia Seed Potato Board

† May 8, 1995 - 8 a.m. -- Open Meeting
Eastern Shore Agricultural Research and Extension Center, Research Drive, Painter, Virginia.

The board will meet to discuss the 1995 seed potato season and other business. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, Virginia Seed Potato Board, Box 26, Onley, VA 23418, telephone (804) 787-5867.

Virginia Winegrowers Advisory Board

April 28, 1995 - 10 a.m. -- Open Meeting
Virginia Cooperative Extension Office, 168 Spotnap Road, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

The board will hear grant proposal presentations for funding, hear committee and project reports, and discuss old and new business. Public comment will be heard following the conclusion of board business. Any person who needs any accommodation in order to participate at the meeting should contact Mary Davis-Barton at least 14 days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, P.O. Box 1163, Richmond, VA 23209, telephone (804) 371-7685.

STATE AIR POLLUTION CONTROL BOARD

State Advisory Board on Air Pollution

April 21, 1995 - 9 a.m. -- Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Board Room, Glen Allen, Virginia.

The board will discuss ideas for improving the air permitting process and will work on the research projects assigned by the State Air Pollution Control Board. These projects are (i) Title V enhancement monitoring; (ii) regulatory review; and (iii) enhancing citizen knowledge and participation in air quality management.

Contact: Kathy Frahm, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4376, toll-free 1-800-592-5482 or FAX (804) 762-4346.

ALCOHOLIC BEVERAGE CONTROL BOARD

April 17, 1995 - 9:30 a.m. -- Open Meeting
May 1, 1995 - 9:30 a.m. -- Open Meeting
May 31, 1995 - 9:30 a.m. -- Open Meeting
June 12, 1995 - 9:30 a.m. -- Open Meeting

June 26, 1995 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia.

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

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

† May 2, 1995 - 10 a.m. -- Open Meeting
Mason Governmental Center, 6507 Columbia Pike, Annandale, Virginia.

A meeting to conduct a formal hearing in regard to APELSLA Board v. Robert Andrew Crowley. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration of your request.

Contact: Carol A. Mitchell, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

Board for Architects

† May 26, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8514 at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎.

BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

† April 17, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Board for Asbestos Licensing and Lead Certification to make case decisions. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration of your request.

Contact: Barbara B. Tinsley, Legal Assistant, Board for Asbestos Licensing and Lead Certification, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8589 or (804) 367-9753/TDD ☎

† May 18, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 A and B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct board business and to hold a public hearing in accordance with Executive Order 15(94).

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

May 18, 1995 - 11 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Conference Room 4 A and B, Richmond, Virginia.

The Department of Professional and Occupational Regulation, pursuant to Executive Order 15(94), is proposing to undertake a comprehensive review of the regulations of the Board for Asbestos Licensing and Lead Certification. As a part of this process, public input and comments are being solicited; comments may be provided from April 3, 1995, to June 5, 1995, to the administrator of the program, David E. Dick, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230. The department's goal in accordance with the executive order is to ensure that the regulations achieve the least possible interference in private enterprise while still protecting the public health, safety and welfare and are written clearly so that they may be used and implemented by all those who interact with a regulatory process.

Contact: David E. Dick, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

AUCTIONEERS BOARD

April 19, 1995 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD☎

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

May 4, 1995 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A general board meeting to discuss business. Public comment will be received for 15 minutes at the beginning of the meeting.

Contact: Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD☎

VIRGINIA AVIATION BOARD

April 25, 1995 - 3 p.m. -- Open Meeting
Holiday Inn Central, U.S. Route 29 Expressway at Odd Fellows Road, Lynchburg, Virginia.

A workshop for the board. No formal actions will be taken. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Virginia Aviation Board, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

April 26, 1995 - 9 a.m. -- Open Meeting
Holiday Inn Central, U.S. Route 29 Expressway at Odd Fellows Road, Lynchburg, Virginia.

A regular bi-monthly meeting. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Virginia Aviation Board, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3634/TDD ☎

BOARD FOR BARBERS

† April 23, 1995 - 8 a.m. -- Open Meeting
† April 24, 1995 - 8 a.m. -- Open Meeting
3813 Gaskins Road, Richmond, Virginia.

A meeting to conduct an item review and Cut-Score Workshop for the Virginia Barber Written and Practical Examinations. The board will also review the results of this and an earlier workshop to decide on a cut-score for these examinations.

Contact: George O. Bridewell, Examination Administrator, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD☎

† June 5, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-0500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance for consideration of your request.

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD☎

BOARD FOR BRANCH PILOTS

May 4, 1995 - 9:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia.

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD☎

STATE CERTIFIED SEED BOARD

† May 16, 1995 - 8:30 p.m. -- Open Meeting
Sheraton Inn Richmond Airport, Richmond, Virginia.

A meeting to report on program activities and review certification standards. Public comment will be received.

Contact: Dr. John R. Hall, III, Chairman, Virginia Tech, 330 Smyth Hall, CSES Dept., Blacksburg, VA 24061, telephone (703) 231-9775 or FAX (703) 231-3431.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

May 4, 1995 - 2 p.m. -- Open Meeting
June 1, 1995 - 2 p.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The review committee will review Chesapeake Bay Preservation Area programs for the central area. Persons interested in observing should call the department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

May 3, 1995 - 10 a.m. -- Open Meeting
June 7, 1995 - 10 a.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The review committee will review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

May 4, 1995 - 10 a.m. -- Open Meeting
June 1, 1995 - 10 a.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The review committee will review Chesapeake Bay Preservation Area programs for the southern area. Persons interested in observing should call the department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting; however, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† April 20, 1995 - 10 a.m.-- Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

A formal business meeting of the council.

Contact: Elizabeth T. Ruppert, Ph.D., Executive Director, Council on Child Day Care and Early Childhood Programs, Washington Bldg., 1100 Bank Street, Suite 1116, Richmond, Virginia 23219, telephone (804) 371-8603.

VIRGINIA COMMUNITY COLLEGE SYSTEM

† April 26, 1995 - 8 a.m. -- Public Hearing
James Monroe Building, 101 North 14th Street, `15th Floor Board Room, Richmond, Virginia.

The Ad Hoc Committee of the State Board for Community Colleges will meet to review the resolution approved by the City Council of Richmond to change the boundary line for the service regions of John Tyler Community College and J. Sargeant Reynolds Community College. Those interested in presenting information or comments to the committee should call Dr. Arnold Oliver's office at (804) 225-2118. Comments will be heard in the order that calls are received. Written comments may be sent through April 30, 1995, to Dr. Arnold R. Oliver, Chancellor, Virginia Community College System, 101 North 14th Street, 15th Floor, Richmond, VA 23219.

Contact: Dr. Joy Graham, Assistant Chancellor, Public Affairs, Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 371-2126, FAX (804) 371-0085 or (804) 371-8504/TDD ☎

COMPENSATION BOARD

† April 27, 1995 - 1 p.m. -- Open Meeting
† May 25, 1995 - 1 p.m. -- Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 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, Compensation Board, P.O. Box 710, Richmond, VA 23206-0686, telephone (804) 786-3886, FAX (804) 371-0235 or (804) 786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Board of Conservation and Recreation

† May 2, 1995 - 10 a.m.-- Open Meeting
False Cape State Park, Wash Woods Center, 4001 Sandpiper Road, Virginia Beach, Virginia.

A meeting of the board.

Contact: Darlene Worley, Executive Secretary, 203 Governor St., Richmond, VA 23219-2010, telephone (804) 786-6124 or (804) 786-2121/TDD ☎

Catoctin Creek Scenic River Advisory Board

† April 28, 1995 - 2 p.m. -- Open Meeting
Waterford Foundation, Corner of Main and Second Streets, Waterford, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD☎

Virginia Cave Board

April 22, 1995 - 8:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A regularly scheduled meeting. A variety of issues relating to cave and karst conservation will be discussed.

Contact: Lawrence R. Smith, Natural Area Program Manager, Division of Natural Heritage, 1500 E. Main St., Suite 312, Richmond, VA 23219, telephone (804) 786-7951, FAX (804) 371-2674 or (804) 786-2121/TDD☎

Falls of the James Scenic River Advisory Board

April 20, 1995 - Noon -- Open Meeting
City Hall, 5th Floor, Planning Commission Conference Room, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD☎

Goose Creek Scenic River Advisory Board

† April 27, 1995 - 4 p.m. -- Open Meeting
George Washington University, Route 7, Loudoun County, Virginia.

A meeting to review river issues and programs, and to discuss (i) Brambleton housing development; (ii) VDOT widening of Route 7 bridges across Goose Creek; (iii) GreenWays Toll Road update; and (iv) Banshee Reeks Park.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD☎

Rivanna Scenic River Advisory Board

† May 1, 1995 - 7 p.m. -- Open Meeting
Albemarle County Courthouse, 401 McIntire Road, Room 5, Charlottesville, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD☎

BOARD FOR CONTRACTORS

April 26, 1995 - 9 a.m. -- Open Meeting
April 27, 1995 - 9 a.m. -- Open Meeting
May 3, 1995 - 9 a.m. -- Open Meeting
May 4, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the board to determine case decisions for contractors.

Contact: Earlyne B. Perkins, Legal Assistant, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-0946.

Recovery Fund Committee

† June 28, 1995 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration of your request.

Contact: Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

BOARD OF CORRECTIONAL EDUCATION

April 21, 1995 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia.

A monthly meeting to discuss general business of the Department of Correctional Education.

Contact: Patty Ennis, Board Clerk, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-3314.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

April 19, 1995 - 10 a.m. -- Public Hearing
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

May 20, 1995 -- 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 Corrections intends to amend regulations entitled: VR 230-30-001. Minimum Standards for Jails and Lockups. The purpose of the proposed amendments is to alter the requirements for administration and programs in jails and lockups, and is based on a board committee review of the implementation and application of the standards. In summary, the changes are directed toward: offering more flexibility in terms of population management; strengthening requirements where inmate supervision and general safety is a concern; rearranging portions of the standards to enhance clarity, organization, and consistency among standards; responding to Code of Virginia changes from the 1994 General Assembly; and incorporating recommendations from a recent Joint Legislative Audit and Review Commission study.

Statutory Authority: §§ 53.1-5, 53.1-68, 53.1-131 and 53.1-133.01 of the Code of Virginia.

Contact: Amy Miller, Regulatory Coordinator, Department of Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3119.

April 19, 1995 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Administration Committee

April 19, 1995 - 8:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss administrative matters as may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Correctional Services Committee

April 18, 1995 - 1 p.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss correctional services matters as may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

April 20, 1995 - 9:30 -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss criminal justice matters.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

† June 12, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

May 3, 1995 - 9 a.m. -- Public Hearing
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

April 21, 1995 -- Public 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 Criminal Justice Services Board intends to amend regulations entitled: **VR 240-03-2. Regulations Relating to Private Security Services.** The proposed amendments to the regulations incorporate 1994 legislative changes to the Code of Virginia affecting private security services. House Bill 393 required the Criminal Justice Services Board to establish a regulation for the registration of a personal protection specialist (bodyguard) by July 1, 1995. Similarly, House Bill 395 required the board to promulgate a regulation for the licensure of electronic security businesses and the registration of such electronic security business employees as an "alarm respondent," "central station dispatcher," "electronic security sales representative," or "electronic security technician." As a result, the board must amend its private security services regulations to reflect these mandates.

Statutory Authority: § 9-182 of the Code of Virginia.

Public comments may be submitted through April 21, 1995, to Lex T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Leon D. Baker, Jr., Chief, Private Security Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4700.

Private Security Services Advisory Board

† April 26, 1995 - 10 a.m. -- Open Meeting
New River Criminal Justice Academy, 605 Fourth Street, Martinsville, Virginia.

A meeting to discuss private security industry issues.

Contact: Roy Huhta, Assistant, Department of Criminal Justice Services, Private Security Section, P.O. Box 10110, Richmond, VA 23240-9998, telephone (804) 786-4700.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Advisory Board

† May 3, 1995 - Time to be announced -- Open Meeting
Department for the Deaf and Hard-of-Hearing, Washington Building, 1100 Bank Street, 12th Floor, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

A regular quarterly business meeting of the advisory board which is open to the public. Public comments will be received with advance notice.

Contact: Gloria L. Cathcart, Human Services Program Specialist, Department for the Deaf and Hard-of-Hearing, Washington Bldg., 1100 Bank St., 12th Floor, Richmond, VA 23219, telephone (804) 371-7892 (V/TTY), toll-free 1-800-552-7917 (V/TTY) or (804) 225-2570 (V/TTY)/TDD ☎

BOARD OF DENTISTRY

† May 4, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

Informal conferences and formal hearings. No public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9902 or (804) 662-7197/TDD☎

† May 5 1995 - 9 a.m. -- Open Meeting
† May 6, 1995 - 9 a.m.-- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2 Richmond, Virginia.
(Interpreter for the deaf provided upon request)

A meeting to review board orders and reports from the following committees: Legislative/Regulatory (discuss regulations), Continuing Education, Examination, and Advertising and Budget. This is a public meeting. A 20-minute public comment period will be held at 9:10 a.m. on the first day of board business; however, no other public comment will be taken. If hearings are cancelled then board business will begin on May 4, 1995.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9902 or (804) 662-7197/TDD

STATE BOARD OF ELECTIONS

† April 19, 1995 - 10 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia.

A general business meeting.

Contact: M. Bruce Meadows, Secretary, State Board of Elections, 200 N. 9th St., Suite 101, Richmond, VA 23219, telephone (804) 786-6551, FAX (804) 371-0194, toll-free 1-800-552-9745 or toll-free 1-800-260-3466/TDD ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

† April 25, 1995 - 6:30 p.m. -- Public Hearing
Chatham High School Auditorium, State Road 703, Chatham, Virginia.

A public briefing/hearing to consider an application from the Sartomer Company, Inc., to construct and operate an acrylate-based oligomers/monomers manufacturing facility. The facility will be located in the Pittsylvania County/Tightsqueeze area. An informal briefing will be conducted before the hearing, starting at 6:30 p.m. The public hearing will begin at 7 p.m.

Contact: Keith Sandifer, Environmental Engineer, Sr., Department of Environmental Quality, Lynchburg Satellite Office, 7701-03 Timberlake Rd., Lynchburg, VA 24502, telephone (804) 582-5120.

May 10, 1995 - 9 a.m. -- Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the Waste Panel. This meeting is designed to define, assess and make recommendations for improvements in the Department of Environmental Quality's permitting process in the waste program. This meeting date is subject to change. Please contact Hassan Vakili for possible changes in meeting date or additional information.

Contact: Hassan Vakili, Director, Waste Division, Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Rd., Glen Allen, VA 23230, telephone (804) 527-5190 or FAX (804) 527-5141.

May 10, 1995 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the Air Permit Panel. This meeting is designed to define, assess and make recommendations for improvements in the Department of Environmental Quality's permitting process in the air program. This meeting date is subject to change. Please contact John Daniel for possible changes in meeting date or additional information.

Contact: John Daniel, Director, Air Division, Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Rd., Glen Allen, VA 23230, telephone (804) 762-4311 or FAX (804) 762-4501.

May 10, 1995 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the Water Permit Panel. This meeting is designed to define, assess and make recommendations for improvements in the Department of Environmental Quality's permitting process in the water program. This meeting date is subject to change. Please contact James Adams for possible changes in meeting date or additional information.

Contact: James Adams, Director, Water Division, Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Rd., Glen Allen, VA 23230, telephone (804) 762-4050 or FAX (804) 762-4032.

June 14, 1995 - 9 a.m. -- Open Meeting
† July 19, 1995 - 9 a.m. -- Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia.

A meeting of the joint panel. This meeting is designed to define, assess and make recommendations in more closely aligning the Department of Environmental Quality's air, water and waste permitting procedures. This meeting date is subject to change. Please contact Kim Anderson for possible changes in meeting date or additional information.

Contact: Kim Anderson, Administrative Staff Assistant, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4020, FAX (804) 762-4019 or (804) 762-4021/TDD

STATE EXECUTIVE COUNCIL

April 28, 1995 - 9 a.m. -- Open Meeting
700 East Franklin Street, 4th Floor Conference Room, Richmond, Virginia.

The State Executive Council is established under § 2.1-746 of the Code of Virginia. The monthly meeting is to discuss and make decisions, set policies, review and act appropriately on Comprehensive Services Act-related issues as they pertain to at-risk youth and families.

Contact: Cynthia Montgomery, Office Manager, State Executive Council, 700 E. Franklin St., Suite 510, Richmond, VA 23219, telephone (804) 786-5394 or FAX (804) 786-5403.

FAMILY AND CHILDREN'S TRUST FUND

† April 19, 1995 - Noon -- Open Meeting
730 East Broad Street, 8th Floor Conference Room, Richmond, Virginia.

A fund-raising committee meeting.

Contact: Jan Girardi, Development Director, Family and Children's Trust Fund, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1826 or FAX (804) 692-1808.

† April 28, 1995 - 10 a.m. -- Open Meeting
730 East Broad Street, 8th Floor Board Room, Richmond, Virginia.

A planning meeting.

Contact: Jan Girardi, Development Director, Family and Children's Trust Fund, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1826 or FAX (804) 692-1808.

† May 19, 1995 - 9 a.m. -- Open Meeting

730 East Broad Street, 8th Floor Board Room, Richmond, Virginia.

An annual meeting to elect officers.

Contact: Jan Girardi, Development Director, Family and Children's Trust Fund, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1826 or FAX (804) 692-1808.

VIRGINIA FIRE SERVICES BOARD

† April 20, 1995 - 7 p.m. -- Public Hearing
Best Western/Red Lion Inn, 900 Plantation Road, Blacksburg, Virginia.

A public hearing to discuss fire training and policies. The hearing is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Progams, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

† April 21, 1995 - 9 a.m. -- Open Meeting
Best Western/Red Lion Inn, 900 Plantation Road, Blacksburg, Virginia.

A business meeting of the board to discuss training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Programs, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire EMS/Education and Training Committee

† April 20, 1995 - 10 a.m. -- Open Meeting
Best Western/Red Lion Inn, 900 Plantation Road, Blacksburg, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for their comments and input.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Programs, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Fire Prevention and Control Committee

† April 20, 1995 - 9 a.m. -- Open Meeting
Best Western/Red Lion Inn, 900 Plantation Road, Blacksburg, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for their comments and input.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Programs, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Legislative/Liaison Committee

† April 20, 1995 - 1 p.m. -- Open Meeting
Best Western/Red Lion Inn, 900 Plantation Road, Blacksburg, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for their comments and input.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Programs, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

May 2, 1995 - 9 a. m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A general board meeting to discuss board business. Public comment will be received for 15 minutes at the beginning of the meeting. A routine Executive Committee meeting will follow adjournment of the board meeting.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD

Legislative Committee

May 1, 1995 - 3 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A meeting to continue review of existing law and regulations governing the funeral industry.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD

BOARD OF GAME AND INLAND FISHERIES

† April 22, 1995 - 9 a.m. -- Open Meeting
Comfort Inn, 3200 West Broad Street, Richmond, Virginia.

A quail workshop cosponsored by the Department of Game and Inland Fisheries, the Virginia State Council of Quail Unlimited, and the Central Virginia Chapter of Quail Unlimited. The purpose will be to discuss the status of and prospects for the Commonwealth's quail population, and possible strategies to improve quail populations. A registration fee of $10 is required; lunch is included in the fee. The registration deadline is April 18, 1995, with the fee payable to "CVC, Quail Unlimited," care of Debbie

Bradshaw, 4792 Anderson Highway, Powhatan, Virginia 23139. For additional information call (804) 598-3706.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23226, telephone (804) 367-8341.

May 4, 1995 - 10 a.m. -- Open Meeting
May 5, 1995 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 4900 Cox Road, Glen Allen, Virginia. (Interpreter for the deaf provided upon request)

A meeting to consider wildlife regulations to be effective July 1995 through June 1997. The board will determine whether any of the wildlife regulations proposed at its March 16 and 17, 1995, board meeting will be adopted as final regulations.

The board intends, based upon public input received at a series of statewide meetings, to adopt changes governing seasons, bag limits, and methods of take and possession of wildlife. It reserves the right to expand or restrict the regulations proposed at its March 16 and 17, 1995, meeting, as necessary for the proper management of fish and wildlife resources.

In addition, general and administrative issues may be discussed by the board. The board may hold an executive session during this meeting, and committee chairmen of board committees may request committee meetings in conjunction with this meeting or thereafter.

The Board of Game and Inland Fisheries' meeting procedure is to solicit public comment at this meeting on May 4, 1995. If the board completes its agenda, it will not convene a meeting on May 5.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., P.O. Box 11104, Richmond, VA 23230, telephone (804) 786-8341.

GEORGE MASON UNIVERSITY

Student Affairs Committee

† May 16, 1995 - 6:30 p.m. -- Open Meeting
George Mason University, Fairfax Campus, Mason Hall, Fairfax, Virginia.

A business meeting.

Contact: Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701.

Board of Visitors

† May 17, 1995 - 3:30 p.m. -- Open Meeting
George Mason University, Fairfax Campus, Mason Hall, Fairfax, Virginia.

A regular meeting of the Board of Visitors, whereby the board will hear reports of the standing committees of the board, and act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the meeting for those individuals or organizations who request it.

Contact: Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701.

DEPARTMENT OF HEALTH (STATE BOARD OF)

April 26, 1995 - 10 a.m. -- Public Hearing
Roanoke City Council Chambers, Roanoke, Virginia.

April 27, 1995 - 10 a.m. -- Public Hearing
James Monroe Building, 101 North 14th Street, Richmond, Virginia.

June 3, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-18-000. Waterworks Regulations (R-Phase II, IIB and V).** The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency mandates to retain this authority. These proposed amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Phase II, IIB, and V Rules. These amendments consist of maximum contaminant levels, reporting, public notification, treatment technique and monitoring requirements for 13 new volatile organic chemicals, four revised and 24 new synthetic organic chemicals, three revised and nine new inorganic chemicals, and 11 new unregulated chemicals. These regulations follow the United States Environmental Protection Agency's standardized monitoring requirements with a nine-year compliance cycle broken into three three-year compliance periods. The monitoring requirements also define the locations and frequency with which the waterworks owners must comply. The amendments conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

Contact: Monte J. Waugh, Technical Services Assistant, Division of Water Supply Engineering, Department of Health, 1500 East Main St., Room 109, Richmond, VA 23219, telephone (804) 371-2885 or FAX (804) 786-5567.

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April 26, 1995 - 10 a.m. -- Public Hearing
Roanoke City Council Chambers, Roanoke, Virginia.

April 27, 1995 - 10 a.m. -- Public Hearing
James Monroe Building, 101 North 14th Street, Richmond, Virginia.

June 3, 1995 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-18-000. Waterworks Regulations (Lead and Copper).** The Virginia Department of Health is the delegated state agency for primary enforcement authority (primacy) for the federal Safe Drinking Water Act and must meet certain United States Environmental Protection Agency mandates to retain this authority. These proposed amendments to the existing Waterworks Regulations incorporate the federal Safe Drinking Water Act Lead and Copper Rule. These amendments consist of maximum contaminant levels, reporting, public notification, treatment technique and monitoring requirements for lead and copper. The amendments conform the state program to federal law and should avoid duplicative enforcement action by the United States Environmental Protection Agency under federal law.

Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

Contact: Allen R. Hammer, P.E., Director, Division of Water Supply Engineering, Department of Health, 1500 East Main St., Room 109, Richmond, VA 23219, telephone (804) 371-2885 or FAX (804) 786-5567.

BOARD OF HEALTH PROFESSIONS

† April 18, 1995 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A Practitioner Self-Referral Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Deputy Executive Director, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9942 or (804) 662-7197/TDD ☎

† April 18, 1995 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Ad Hoc Levels of Regulation Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Deputy Executive Director, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9942 or (804) 662-7197/TDD ☎

† April 18, 1995 - 10:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Professional Education and Public Affairs Committee meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Deputy Executive Director, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9942 or (804) 662-7197/TDD ☎

† April 18, 1995 - 11:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A full board meeting. Brief public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Deputy Executive Director, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9942 or (804) 662-7197/TDD ☎

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

April 25, 1995 - 9:30 a.m. -- Open Meeting
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia.

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

† May 8, 1995 - 8 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† May 9, 1995 - 9:30 a.m. -- Open Meeting
Old Dominion University, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

† June 13, 1995 - 9:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 9th Floor, Council Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

† July 11, 1995 - 9:30 a.m. -- Open Meeting
Northern Virginia Community College, Annandale Campus, Annandale, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting. For additional information about the meeting or location please contact the council.

Contact: Anne M. Pratt, Associate Director, Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2632

COMMISSION ON THE FUTURE OF HIGHER EDUCATION IN VIRGINIA

† May 10, 1995 - 10 a.m. -- Open Meeting
† June 14, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss issues of interest to higher education in Virginia. For a more detailed agenda please contact the Council of Higher Education.

Contact: Anne M. Pratt, Associate Director, Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2629.

DEPARTMENT OF HISTORIC RESOURCES

Board of Historic Resources

April 19, 1995 - 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.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX 225-4261 or (804) 786-1934/TDD ☎

State Review Board

April 18, 1995 - 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 nominating the following properties to the National Register of Historic Places, and recommending their inclusion on the Virginia Landmarks Register.

1. Barcroft Community House, Arlington County
2. Cherrydale Volunteer Fire Department, Arlington County.
3. City Point National Cemetery, Hopewell
4. Cold Harbor National Cemetery, Hanover County
5. Danville Municipal Building, Danville
6. Danville Southern Railway Passenger Depot, Danville
7. Fort Harrison National Cemetery, Henrico County
8. Hook-Powell-Moorman Farm, Franklin County
9. Hotel Lincoln, Marion, Smyth County
10. Laurel Meadow, Hanover County
11. Long Grass, Mecklenburg County
12. Rocky Run Methodist Church, Brunswick County
13. Shockoe Hill Cemetery, City of Richmond
14. Longdale Furnace Historic District, Alleghany County
15. Old Kentucky Turnpike Historic District, Tazewell County

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX 225-4261 or (804) 786-1934/TDD ☎

HIV PREVENTION COMMUNITY PLANNING COMMITTEE

April 27, 1995 - 8 a.m. -- Open Meeting
Holiday Inn Crossroads, 2000 Staples Mill Road, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to continue activities in planning HIV prevention for Virginia.

Contact: Elaine G. Martin, Coordinator, AIDS Education, Department of Health, P.O. Box 2448, Room 112, Richmond,

VA 23218, telephone (804) 786-0877 or toll-free 1-800-533-4148/TDD☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

May 2, 1995 - 9 a.m. -- Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ♿ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

April 17, 1995 - 10 a.m. -- Public Hearing
Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia.

June 2, 1995 -- Public 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 394-01-21. Virginia Uniform Statewide Building Code, Volume I, New Construction Code/1993.** The purpose of the proposed action is to amend the building code to provide for local option enforcement of acoustical treatment measures in the construction of residential buildings near airports.

Statutory Authority: § 36-99.10:1 of the Code of Virginia.

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

State Building Code Technical Review Board

† April 21, 1995 - 10 a.m. -- Open Meeting
The Jackson Center, 501 North Second Street, 1st Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The board will hear administrative appeals concerning building and fire codes and other regulations of the department. The board will also issue interpretations and formalize recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

Contact: Vernon W. Hodge, Building Code Supervisor, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

April 18, 1995 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♿

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes for the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations for Section 8, Existing Housing Assistance Payments Program and Rules and Regulations for Section 8, Moderate Rehabilitation Program; and (v) consider such other matters and take such other actions as it may deem appropriate. Various committees of the board may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

April 17, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The tentative agenda items for consideration by the board include:

1. Hazard Communication, Corrections: General Industry, § 1910.1200 (VR 425-02-01); Shipyard Employement, § 1915.1200 (VR 425-02-173); Marine Terminals, § 1917.28 (VR 425-02-03); Longshoring, § 1918.90 (VR 425-02-174); and Construction, § 1926.59 (VR 425-02-31).

2. Logging Operations, General Industry, § 1910.266; Partial Stay of Enforcement (VR 425-02-52).

3. Regulatory Review: Boiler and Pressure Vessels (VR 425-01-75); Boiler and Pressure Vessels Certification (VR 425-01-64); and Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees (VR 425-01-74).

4. Welding, Cutting and Brazing Standard, General Industry, § 1910.252(c)(6); Repeal (VR 425-02-24) (Nonsubstantive repeal of former paragraph which has been redesignated)

Contact: John J. Crisanti, Policy Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384, FAX (804) 786-8418 or (804) 786-2376/TDD☎

LIBRARY BOARD

May 1, 1995 - 9 a.m. -- Open Meeting
June 5, 1995 - 10:30 a.m. -- Open Meeting
June 6, 1995 - 10:30 a.m. -- Open Meeting
Location to be announced.

A meeting to discuss administrative matters.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

VLIN Task Force/Automation and Networking Committee

May 12, 1995 - 10 a.m. -- Open Meeting
June 1, 1995 - 10 a.m. -- Open Meeting
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia.

A meeting to discuss strategic directions for the development of the Virginia Library and Information Network.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

April 19, 1995 - 11 a.m. -- Open Meeting
May 17, 1995 - 11 a.m. -- Open Meeting
June 21, 1995 - 11 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia.

A regular meeting of the council, subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting date to ascertain whether the meeting is to be held as scheduled.

Contact: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

† April 24, 1995 - 7 p.m. -- Public Hearing
Bedford area; site to be determined.

A public hearing regarding the proposed consolidation of the City of Bedford and the County of Bedford into a consolidated city with the former City of Bedford becoming a shire within the consolidated city. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara Bingham, Administrative Assistant, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎.

† April 24, 1995 - 11 a.m. -- Open Meeting
† April 25, 1995 - 9 a.m. -- Open Meeting
Bedford area; site to be determined.

Oral presentations regarding the proposed consolidation of the City of Bedford and the County of Bedford into a consolidated city with the former City of Bedford becoming a shire within the consolidated city. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission.

Contact: Barbara Bingham, Administrative Assistant, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Community Advisory Committee

† April 19, 1995 - 4:30 p.m. -- Open Meeting
Longwood College, Ruffner Building, Farmville, Virginia.

A meeting to conduct routine business of the board.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001.

Finance Committee, Facilities and Services Committee, Student Committee, and Academic Affairs Committee

† April 21, 1995 - 9 a.m. -- Open Meeting
Longwood College, Ruffner Building, Farmville, Virginia.

A meeting to conduct routine business of the Board of Visitors.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001.

Board of Visitors

† April 22, 1995 - 9 a.m. -- Open Meeting
Longwood College, Ruffner Building, Farmville, Virginia.

A meeting to conduct routine business of the board.

Contact: William F. Dorrill, President, Longwood College, 201 High St., Farmville, VA 23909, telephone (804) 395-2001.

STATE LOTTERY BOARD

† April 19, 1995 - 10 a.m. -- Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular monthly meeting of the board. Business will be conducted accorded 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) 367-3106 or FAX (804) 367-3116.

VIRGINIA MANUFACTURED HOUSING BOARD

April 19, 1995 - 10 a.m. -- Public Hearing
The Jackson Center, 501 North Second Street, First Floor Board Room, Richmond, Virginia.

May 10, 1995 -- Public 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 Virginia Manufactured Housing Board intends to amend regulations entitled: **VR 449-01-02. Manufactured Housing Licensing and Transaction Recovery Fund Regulations**. The proposed amendments to the regulations incorporate the legislative changes adopted by the 1994 General Assembly in House Bill 1172. The legislative amendments require retail manufactured home dealers and brokers located outside of the Commonwealth to be licensed by the Manufactured Housing Board if those dealers or brokers are selling homes to buyers in Virginia. House Bill 1172 amendments also add salespersons working for licensed brokers and manufacturers to the list of regulants that must be licensed and extend the coverage and protection of the recovery fund to persons other than the buyer of the home. The license fee schedule is being amended to reduce the license fees for smaller dealers and brokers as well as the renewal license fees for manufacturers. Several of the amendments, not required by the legislative action, are proposed for clarity of intent and to avoid unnecessary restrictions on regulants.

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

Contact: Curtis L. McIver, Associate Director, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

MARINE RESOURCES COMMISSION

† April 25, 1995 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans, fishery conservation issues, licensing, and shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

BOARD OF MEDICAL ASSISTANCE SERVICES

April 18, 1995 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia.

A meeting to discuss medical assistance services and to take action on issues pertinent to the board.

Contact: Patricia Sykes, Policy Analyst, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

April 21, 1995 -- Public 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-03-4.1940:1. Nursing Home Payment System (Smaller Nursing Facility Indirect Ceiling Adjustment).** The purpose of this proposal is to comply with the 1994 Virginia Acts of Assembly which appropriated funds for use in increasing the indirect patient care operating per diem ceiling for small nursing facilities.

Under current DMAS policy, the indirect patient care operating cost ceiling is adjusted only to reflect geographical peer groups and is not modified to recognize any differences in bed size of facilities. The Virginia Health Care Association (VHCA) and the Joint Legislative Audit and Review Commission (JLARC) have recommended that DMAS adjust reimbursement to nursing facilities to reflect the relatively higher indirect operating costs incurred in operating a smaller facility. Based upon information from these organization, the 1994 General Assembly appropriated funds for this purpose and directed DMAS to work with the VHCA to develop an appropriate methodology.

For the purposes of this regulatory action, both DMAS and the nursing home industry have agreed that a smaller nursing facility is one with 90 or fewer beds. Effective July 1, 1995, existing indirect peer group ceilings of smaller nursing facilities will be adjusted by the predetermined amount identified in the regulation. In subsequent fiscal years, the facilities' adjusted ceilings will be increased according to a formula reflecting the increase in cost due to inflation.

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

Public comments may be submitted through April 21, 1995, to Scott Crawford, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria Simmons or Roberta Jonas, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

* * * * * * * *

June 2, 1995 -- Public 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 Medical Assistance Services intends to amend regulations entitled: **VR 460-04-8.7. Client Appeals Regulations.** The purpose of this proposal is to abolish the Medical Assistance Appeals Panel (MAAP) as is necessary for the efficient and economical operation of a government function and to comply with the order of the court.

42 CFR Part 431 Subpart E concerns fair hearings for applicants and recipients. This subpart implements § 1902(a)(3) of the Social Security Act (Act), which requires that a State Plan for Medical Assistance provide an opportunity for a fair hearing to any persons whose claim for assistance is denied or not acted upon promptly. This subpart also prescribes procedures for an opportunity for hearing if the Medicaid agency takes action to suspend, terminate, or reduce services. This subpart also implements §§ 1819(f)(3), 1919(f)(3), and 1919(e)(7)(F) of the Act by providing an appeals process for individuals proposed to be transferred or discharged from skilled nursing facilities and those adversely affected by the preadmission screening and annual resident review requirements of § 1919(e)(7) of the Act.

This section of the federal regulations establishes the requirements for a hearing system, recipient notice requirements which must be met by the agency, recipients' rights to hearings, procedures, hearing decisions, due process standards, and corrective actions. DMAS' current MAAP is not required by either federal or state law.

The present DMAS administrative appeals process involves two levels. If the client is dissatisfied with the local social services agency's decision denying or reducing eligibility or services, the decision may be appealed to DMAS. A DMAS hearing officer conducts a fair and impartial hearing and issues a decision. That decision may be appealed to a circuit court or, at the option of the appellent, to the Medical Assistance Appeal Panel. If MAAP review is sought, the MAAP decision can also be appealed to a circuit court.

On January 28, 1994, an order was entered by Judge James H. Michael, Jr., in the U.S. District Court for the Western District of Virginia in the case of Shifflet v. Kozlowski (Civil Action No. 92-00072). Judge Michael ordered DMAS to comply with federal law by issuing final agency decisions to appellants within 90 days of the appeals. The court concluded that both hearing officer decisions and MAAP decisions must comply with the 90-day rule. The department has concluded that it is impossible, with present staff, to complete both levels of appeals within 90 days.

Currently, the Virginia Medical Assistance Program operates with two levels of appeal: the hearing officer level and the Medical Assistance Appeal Panel. The MAAP is not required by state or federal law. A recent federal court ruled that the entire administrative appeals process for applicants for or recipients of medical assistance must be completed within 90 days. The 90-day deadline cannot be met as long as both appeal levels exist.

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

Public comments may be submitted through June 2, 1995, to Diana Salvatore, Director, Appeals Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria Simmons or Roberta Jonas, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

BOARD OF MEDICINE

† May 4, 1995 - 9 a.m. -- Open Meeting
Sheraton Inn, I-95 and Route 3, Fredericksburg, Virginia.

May 11, 1995 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

April 28, 1995 - 9:30 a.m. -- Open Meeting

Fort Magruder Inn, Route 60 East, Williamsburg, Virginia.

April 28, 1995 - 9:30 a.m. -- Open Meeting
Jamestown-Yorktown Foundation, Route 31 South, Williamsburg, Virginia.

The Informal Conference Committee composed of three members of the board will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, or (804) 662-7197/TDD

Advisory Board on Occupational Therapy

† April 28, 1995 - 10:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The advisory board will meet to review regulations and address any other issues which may come before the board at that time. The chairperson will entertain public comments during the first 15 minutes of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or FAX (804) 662-9943.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

State Human Rights Committee

† April 21, 1995 - 9 a.m. -- Open Meeting
Southeastern Virginia Training Center, 2100 Steppingstone Square, Chesapeake, Virginia.

A regular meeting of the committee to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988 or (804) 371-8977/TDD

VIRGINIA MILITARY INSTITUTE

Board of Visitors

May 18, 1995 - 8:30 a.m. -- Open Meeting
Virginia Military Institute, Smith Hall, Lexington, Virginia.

A finals meeting and regular meeting of the Board of Visitors to (i) hear committee reports; (ii) approve awards, distinctions, and diplomas; (iii) discuss personnel changes; and (iv) elect president pro tem. This is not a meeting for public comment.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

† June 6, 1995 - 10 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, Buchanan-Smith Building, U.S. Route 23, Room 219, Big Stone Gap, Virginia.

† June 16, 1995 -- Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.** The proposed amendment makes permanent the October 19, 1994, emergency regulation amendment allowing continued use of scalp rock in highwall backfills on surface coal mines.

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Public comments may be submitted through June 16, 1995, to Danny Brown, Director, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219.

Contact: Les Vincent, Reclamation Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8100.

VIRGINIA MUSEUM OF NATURAL HISTORY

April 22, 1995 - 9 a.m. -- Open Meeting
Blacksburg Marriott, 900 Prices Fork Road, Blacksburg, Virginia.

A meeting to include reports from the executive, finance, legislative, marketing, outreach, personnel, planning/facilities, and research and collections committees. Public comment will be received following approval of the minutes of the February 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 18, 1995 - 3 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, Conference Room 4, Richmond, Virginia.

May 19, 1995 -- Public 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 Nursing intends to amend regulations entitled: **VR 495-01-1. Regulations of the Board of Nursing.** The purpose of the proposed amendments is to facilitate the process of approval of nursing and nurse aide education programs in accordance with Administrative Process Act requirements and to comply with statutory change for practice pending licensure resulting from changes in the administration of examinations.

Statutory Authority: §§ 54.1-2400 and 54.1-3000 et seq. of the Code of Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Education Advisory Committee

April 18, 1995 - 4 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

The committee will meet to consider matters related to educational programs approved by the Board of Nursing and make recommendations to the board as needed. There will be a public hearing at 3 p.m. to receive oral comments on proposed regulations VR 495-01-1 of the Board of Nursing. The purpose of the proposed regulation is to facilitate the process of approval of nursing and nurse aide education programs in accordance with APA requirements and to comply with statutory change for practice pending licensure resulting from changes in the administration of examination.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎.

Special Conference Committee

† April 20, 1995 - 9 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 24, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A Special Conference Committee comprised of two members of the Board of Nursing will 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: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

April 26, 1995 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia.

A general board meeting to discuss board business. Public comments will be received for 15 minutes at the beginning of the meeting.

Contact: Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

BOARDS OF NURSING AND MEDICINE

May 1, 1995 - 1 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

June 2, 1995 -- Public 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 Nursing and the Board of Medicine intend to amend regulations entitled: **VR 495-02-1 and VR 465-07-1. Regulations Governing the Licensure of Nurse Practitioners.** The Boards of Nursing and Medicine propose amendments to these regulations as the result of a biennial review. The changes proposed will add a definition of collaboration, delete a restrictive definition of supervision and clarify the categories of licensed nurse practitioners. Clarification of compliance with the Administrative Process Act in administrative proceeding is also included.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎.

May 1, 1995 - 1 p.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A public hearing to receive comments on proposed amendments to VR 495-02-1 and VR 465-07-01, Regulations Governing the Licensure of Nurse Practitioners. Other matters within the jurisdiction of the committee may be considered as time permits.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing and Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

BOARD FOR OPTICIANS

April 28, 1995 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

The board will meet for regulatory review, further discussions of contact lens sales by pharmacies and mail-order houses, and other matters requiring board action. A public comment period will be scheduled during the meeting. The meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Nancy Taylor Feldman or Les Newton. The board fully complies with the Americans with Disabilities Act. Please notify the board of your request for accommodations or interpreter services at least 10 days in advance for consideration.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD☎

BOARD OF OPTOMETRY

April 21, 1995 -- Public 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 Optometry intends to amend regulations entitled: VR 510-01-1. Regulations of the Board of Optometry. The purpose of the proposed amendments are to (i) remove defunct public participation guidelines; (ii) establish provisions for licensure by endorsement; (iii) reduce fees; and (iv) establish specifications for a complete contact lens prescription.

Statutory Authority: §§ 54.1-103, 54.1-2400 and 54.1-3200 et seq. of the Code of Virginia.

Contact: Elizabeth Carter, Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD☎

VIRGINIA OUTDOORS FOUNDATION

† May 3, 1995 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A general business meeting. Agenda is available upon request. Public comment will be received.

Contact: Virginia E. McConnell, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Richmond, VA 23219, telephone (804) 225-2147.

BOARD OF PHARMACY

† May 12, 1995 - 10 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

From 10 a.m. to noon, there will be a public hearing to receive comments on VR 530-01-1, Regulations of the Virginia Board of Pharmacy, as part of the comprehensive review of this set of regulations in accordance with Executive Order 15(94); at noon there will be a working meeting of the Regulation Committee.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

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May 22, 1995 -- Public 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 Pharmacy intends to amend regulations entitled: **VR 530-01-1. Regulations of the Board of Pharmacy.** The Board of Pharmacy is proposing amendments to its regulations necessary to implement legislation enacted by the 1994 General Assembly allowing graduates of foreign schools of pharmacy to apply for licensure as a pharmacist.

Statutory Authority: §§ 54.1-2400, 54.1-3307, and 54.1-3312 of the Code of Virginia.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

DEPARTMENT OF STATE POLICE

† **June 16, 1995** -- Public 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 State Police intends to adopt regulations entitled: **VR 545-01-18. Regulations Governing the Operation and Maintenance of the Sex Offender Registry.** These regulations establish the procedures and forms to be used in the registration of persons required by law to register with the Sex Offender Registry and the lawful dissemination of the Sex Offender Registry.

Statutory Authority: § 19.2-390.1 of the Code of Virginia.

Contact: Lieutenant John G. Weakley, Assistant Records Management Officer, Department of State Police, Records Management Division, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-2022.

PREVENTION AND PROMOTION ADVISORY COUNCIL

April 20, 1995 - 10 a.m. -- Open Meeting
Henrico Area Mental Health and Mental Retardation Services Board, 10299 Woodman Road, Conference Room B, Glen Allen, Virginia.

A quarterly business meeting.

Contact: Hope Richardson, Program Assistant, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., 10th Floor, Richmond, VA 23219, telephone (804) 786-1530.

BOARD OF PROFESSIONAL COUNSELORS

† **May 19, 1995 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Rooms 1, 3, and 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

An informal conference regarding credentials will begin at 8:30 a.m. in Conference Room 4. There will be a public hearing to receive comments on the Regulations Governing the Certification of Rehabilitation Providers - Standards and Renewal Fees at 8:30 a.m. in Conference Room 3. The board will hold a regular meeting to conduct general board business to (i) consider education and experience requirements for the certification of rehabilitation providers; (ii) act on committee reports and correspondence; and (iii) act on any other matters under the jurisdiction of the board, beginning at 10 a.m. in Conference Room 1. There will be a half-hour general public comment period from 10:15 a.m. to 10:45 a.m.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

Advisory Committee on Rehabilitation Providers

† **April 28, 1995 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A meeting to consider education experience requirements for the certification of rehabilitation providers.

Contact: Janet Delorme, Research Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

BOARD OF PSYCHOLOGY

† **May 16, 1995 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

The board will meet to conduct general board business, and to consider regulations for the certification of sex offender treatment providers. Public comment will be received between 10:15 and 10:30 a.m.

Contact: Evelyn B. Brown, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Examination Committee

† **April 28, 1995 - 11 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 3, Richmond, Virginia.

The committee will meet to discuss the April 5, 1995, psychology examinations and conduct general committee business. No public comment will be received.

Contact: Evelyn B. Brown, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

REAL ESTATE APPRAISER BOARD

† **May 23, 1995 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the

department of your request for accommodations at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

April 19, 1995 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Real Estate Board to make case decisions.

Contact: Stacie G. Camden, Legal Assistant, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

DEPARTMENT OF REHABILITATIVE SERVICES, DEPARTMENT OF VISUALLY HANDICAPPED, AND STATEWIDE INDEPENDENT LIVING COUNCIL

April 19, 1995 - 1 p.m. -- Public Hearing
Hampton Public Library, 4207 Victoria Boulevard, Hampton, Virginia. (Intrepreter for the deaf provided upon request)

April 25, 1995 - 1 p.m. -- Public Hearing
Tuckahoe Library, Parham and Fargo Roads, Richmond, Virginia. (Intrepreter for the deaf provided upon request)

April 26, 1995 - 1 p.m. -- Public Hearing
Penno Building, 12011 Government Center Parkwy, Room 749, Fairfax, Virginia. (Intrepreter for the deaf provided upon request)

April 27, 1995 - 1 p.m. -- Public Hearing
Special telephone call-in for the Southwest area of the state, 1-800-552-5019.

The Statewide Independent Living Council, the Virginia Department of Rehabilitative Services, and the Virginia Department for the Visually Handicapped will host public hearings to develop the Statewide Independent Living Plan which will describe the scope and extent of independent living services for the Commonwealth of Virginia. Tentative goals of the plan will be available at the hearings and in advance. Requests for receipt of the goals may be made to the Department of Rehabilitative Services through Kathy Hayfield at 1-800-552-5019.

Contact: Kathy Hayfield, SILC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7134, toll-free 1-800-552-5019/TDD and Voice, and (804) 662-9040/TDD ☎

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

April 27, 1995 - 4 p.m. -- Open Meeting
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor Classroom, Richmond, Virginia.

A monthly board meeting to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, Richmond, VA 23204-0548, telephone (804) 782-1938.

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

April 18, 1995 - 6 p.m. -- Public Hearing
Southwestern Virginia Mental Health Institute, 502 East Main Street, Auditorium, Marion, Virginia. (Interpreter for the deaf provided upon request)

April 20, 1995 - 4 p.m. -- Public Hearing
Junction Center for Independent Living, 4300 B Powell Valley Road, Big Stone Gap, Virginia. (Interpreter for the deaf provided upon request)

April 21, 1995 - 6 p.m. -- Public Hearing
Stonewall Special Populations Center, 1600 North Main Street (corner of Bradley Road -- use upper level parking), Danville, Virginia. (Interpreter for the deaf provided upon request)

April 24, 1995 - 5 p.m. -- Public Hearing
Independence Center, 15 Koger Center, Suite 100, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

† April 25, 1995 - 10 a.m. -- Public Hearing
Western State Hospital, Training Building, Staunton, Virginia. (Interpreter for the deaf provided upon request)

† April 25, 1995 - 2 p.m. -- Public Hearing
April 25, 1995 - 6 p.m. -- Public Hearing
Woodrow Wilson Rehabilitation Center, Switzer Building, Small Classroom, Fishersville, Virginia. (Interpreter for the deaf provided upon request)

† April 26, 1995 - 1 p.m. -- Public Hearing
Northern Virginia Mental Health Institute, 3302 Gallows Road, Falls Church, Virginia. (Interpreter for the deaf provided upon request)

April 26, 1995 - 5 p.m. -- Public Hearing
Northern Virginia Resource Center for Deaf and Hard-of-Hearing Persons, 10363 Democracy Lane, Fairfax, Virginia. (Interpreter for the deaf provided upon request)

† April 27, 1995 - 6 p.m. -- Public Hearing
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Meetings to obtain input from Virginians with disabilities, their families, representatives, service providers and other interested persons regarding the legal advocacy services to be provided in 1995-96. These meetings are being held to discuss issues and concerns that impact persons with disabilities. Public comment, either orally or in writing, is invited on the mission, programs, priorities, and planning of the department. All comments received will be considered during the department's planning, prioritization and policy development process. Comments relating to the following topics will be particularly helpful:

• How can the Department for Rights of Virginians with Disabilities staff be better trained or augmented to serve clients more efficiently?

• Where should the Department for Rights of Virginians with Disabilities staff be located in order to serve clients more efficiently?

• How should the Department for Rights of Virginians with Disabilities be organized in order to serve clients more efficiently?

• How could the Department for Rights of Virginians with Disabilities expand or improve services to underserved or unserved customers, including minorities?

Written comments may also be sent prior to May 8, 1995. Please call for directions, to request accommodations, or for further information.

Contact: Rebecca Currin, Human Services Supervisor, Department for Rights of Virginians with Disabilities, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962/TDD☎

Protection and Advocacy for Individuals with Mental Illness Advisory Council

April 30, 1995 - 9 a.m. -- Open Meeting
Shoney's Inn, 7007 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regularly scheduled bi-monthly meeting. There will be opportunity for public comment at 9 a.m.

Contact: Barbara Hoban, Advocate, Department for Rights of Virginians with Disabilities, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† May 24, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems 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, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

STATE BOARD OF SOCIAL SERVICES

† April 19, 1995 - 9 a.m. -- Open Meeting
† April 20, 1995 - 9 a.m. (if necessary) -- Open Meeting
Comfort Center, 205 Interstate Drive, Covington, Virginia.

A work session and formal business meeting of the board. There will be a public hearing on the Child Protective Services Program. Speakers are limited to two minutes per speaker.

Contact: Phyllis Sisk, Special Assistant to the Commissioner, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, FAX (804) 552-7096 or toll-free 1-800-552-3431/TDD ☎

VIRGINIA STUDENT ASSISTANCE AUTHORITIES

† April 18, 1995 - 2 p.m. -- Open Meeting
737 North 5th Street, 3rd Floor Conference Room, Richmond, Virginia.

A meeting to discuss matters relating primarily to legislation affecting the Virginia Education Loan Authority.

Contact: Leondra Brown Turner, Executive Assistant, Virginia Student Assistance Authorities, 411 E. Franklin St., Richmond, VA 23219, telephone (804) 775-4648, toll-free 1-800-792-5626 or FAX (804) 775-4005.

COMMONWEALTH TRANSPORTATION BOARD

April 19, 1995 - 2 p.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. (Intrepreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

April 20, 1995 - 10 a.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. (Intrepreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bid, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

TREASURY BOARD

April 19, 1995 - 9 a.m. -- Open Meeting
May 17, 1995 - 9 a.m. -- Open Meeting
June 21, 1995 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia.

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Treasury Board, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD OF VETERINARY MEDICINE

† **April 24, 1995 - 8 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)

Informal conferences.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TDD ☎

VIRGINIA RACING COMMISSION

April 19, 1995 - 9:30 a.m. -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia.

The commission will conduct a regular monthly meeting including a review of its regulations.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

April 19, 1995 - 5 p.m. -- Public Hearing
Lions Sight Foundation, 501 Elm Avenue, Roanoke, Virginia. (Interpreter for the deaf provided upon request. Deadline for interpreter is April 7 at 5 p.m.)

May 1, 1995 - 2 p.m. -- Public Hearing
May 1, 1995 - 6:30 p.m. -- Public Hearing
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request. Deadline for interpreter is April 17 at 5 p.m.)

May 4, 1995 - Noon -- Public Hearing
May 4, 1995 - 6:30 p.m. -- Public Hearing
Howard Johnson Motel, 700 Monticello Avenue, Norfolk, Virginia. (Interpreter for the deaf provided upon request. Deadline for interpreter is April 20 at 5 p.m.)

May 10, 1995 - 6:30 p.m. -- Public Hearing
Central Arlington County Library, 1015 North Quincy Street, Arlington, Virginia. (Interpreter for the deaf provided upon request. Deadline for interpreter is April 26 at 5 p.m.)

A meeting to invite comments from the public regarding vocational rehabilitation services for persons with visual disabilities. All comments will be considered in developing the state plan for this program.

Contact: James G. Taylor, Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111.

Vocational Rehabilitation Advisory Council

May 20, 1995 - 10 a.m. -- Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Request deadline for interpreter services is May 4, 1995.

Contact: James G. Taylor, Vocational Rehabilitation Specialist, Department for the Visually Handicapped, 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 3, 1995 - Noon** -- Open Meeting
Newport News School Board Office, 12465 Warwick Boulevard, Newport News, Virginia.

Committee meetings will be held from noon to 4 p.m.; a public meeting will be held at 7 p.m.

Contact: Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

† **May 4, 1995 - 8:30 a.m.** -- Open Meeting
Newport News School Board Office, 12465 Warwick Boulevard, Newport News, 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 VOLUNTARY FORMULARY BOARD

April 27, 1995 - 10:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

LEGISLATIVE

VIRGINIA CODE COMMISSION

Title 15.1 Recodification Task

May 18, 1995 - 10 a.m. -- Open Meeting
May 19, 1995 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor, Speakers Conference Room, Richmond, Virginia.

A meeting to continue drafting revision of Title 15.1 to present to the Virginia Code Commission. SJR 2.

Contact: Michelle Browning, Senior Operations Staff Assistant, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

† **June 2, 1995 - 2 p.m.** -- Open Meeting
Stratford Hall, Westmoreland County, Virginia.

A final meeting to review the 1995 session and the final report of the commission.

Contact: Katherine L. Imhoff, Executive Director, General Assembly Building, 910 Capitol St., Room 519B, Richmond, VA 23219, telephone (804) 371-4949.

CHRONOLOGICAL LIST

OPEN MEETINGS

April 17
Alcoholic Beverage Control Board
† Asbestos Licensing and Lead Certification, Board for
Labor and Industry, Department of
- Safety and Health Codes Board

April 18
Corrections, Board of
- Correctional Services Committee
† Health Professions, Board of
Historic Resources, Department of
- State Review Board
Housing, Development Authority, Virginia
Medical Assistance Services, Board of
† Rights of Virginians with Disabilities, Department of
† Student Assistance Authorities, Virginia

April 19
Agriculture and Consumer Services, Department of
- Virginia Farmers Market Board
Auctioneers Board
Corrections, Board of
- Administration Committee
† Elections, State Board of
† Family and Children's Trust Fund
Historic Resources, Board of
Local Debt, State Council on
† Lottery Department, State
Real Estate Board
† Social Services, State Board of
Transportation Board, Commonwealth
Treasury Board
Virginia Racing Commission

April 20
† Child Day-Care and Early Childhood Programs, Virginia Council on
Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Corrections, Board of
- Liaison Committee
† Fire Services Board, Virginia
- Fire Prevention and Control Committee
- Legislative and Liaison Committee
- Fire/EMS Education and Training Committee
† Nursing, Board of
Prevention, Promotion Advisory Council
† Social Services, State Board of
Transportation Board, Commonwealth

April 21

Air Pollution Control Board, State
- State Advisory Board on Air Pollution
Correctional Education, Board of
† Fire Services Board, Virginia
† Housing and Community Development, Department of
- State Building Code Technical Review Board
† Longwood College
- Finance/Facilities and Services Committees, Student/Academic Affairs Committees
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
- State Human Rights Committee

April 22
Conservation and Recreation, Department of
- Virginia Cave Board
† Game and Inland Fisheries, Department of
† Longwood College
- Board of Visitors
Natural History, Virginia Museum of
- Board of Trustees

April 23
† Barbers, Board for

April 24
† Accountancy, Board for
† Barbers, Board for
† Local Government, Commission on
† Nursing, Board of
† Veterinary Medicine, Board of

April 25
† Accountancy, Board for
Agriculture and Consumer Services, Department of (Board of)
Aviation Board, Virginia
Health Services Cost Review Council, Virginia
† Local Government, Commission on
† Marine Resources Commission

April 26
Aviation Board, Virginia
Contractors, Board for
Nursing Home Administrators, Board of
† Private Security Services Advisory Board

April 27
Accountancy, Board for
† Compensation Board
† Conservation and Recreation, Department of
- Goose Creek Scenic River Advisory Board
Contractors, Board for
HIV Prevention Community Planning Committee
Richmond Hospital Authority
- Board of Commissioners
Voluntary Formulary Board, Virginia

April 28
Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
† Conservation and Recreation, Department of
- Catoctin Creek Scenic River Advisory Board
Executive Council, State
† Family and Children's Trust Fund
† Medicine, Board of
- Advisory Board on Occupational Therapy
Opticians, Board for
† Professional Counselors, Board of
- Advisory Committee on Rehabilitation Providers
† Psychology, Board of
- Examination Committee

April 30
Rights of Virginians with Disabilities, Department for
- Protection and Advocacy for Individuals with Mental Illness Advisory Council

May 1
Alcoholic Beverage Control Board
† Conservation and Recreation, Department of
- Rivanna Scenic River Advisory Board
Funeral Directors and Embalmers, Board of
- Legislative Committee
Library Board

May 2
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Conservation and Recreation, Board of
Funeral Directors and Embalmers, Board of
Hopewell Industrial Safety Council

May 3
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Contractors, Board for
† Deaf and Hard-of-Hearing, Department for the
† Outdoors Foundation, Virginia
† Vocational Education, Virginia Council on

May 4
Audiology and Speech-Language Pathology, Board of
Branch Pilots, Board for
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Southern Area Review Committee
Contractors, Board for
† Dentistry, Board of
Game and Inland Fisheries, Board of
† Medicine, Board of
† Vocational Education, Virginia Council on

May 5
† Dentistry, Board of
Game and Inland Fisheries, Board of

May 6
† Dentistry, Board of

May 8
† Agriculture and Consumer Services, Department of
- Virginia Seed Potato Board
† Hearing Aid Specialists, Board for

May 9
† Higher Education for Virginia, State Council on

May 10
Environmental Quality, Department of

† Higher Education in Virginia, Commission on the Future of

May 11
Medicine, Board of

May 12
Library of Virginia
- VLIN Task Force/Automation and Networking Committee

May 15
Alcoholic Beverage Control Board

May 16
† Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
† Certified Seed Board, State
† Psychology, Board of

May 17
† George Mason University
- Board of Visitors
Local Debt, State Council on
Treasury Board

May 18
Asbestos Licensing and Lead Certification, Board for
Military Institute, Virginia
- Board of Visitors
Title 15.1 Recodification Task Force

May 19
† Family and Children's Trust Fund
† Professional Counselors, Board of
Title 15.1 Recodification Task Force

May 20
Visually Handicapped, Department for the
Vocational Rehabilitation Advisory Council

May 23
† Real Estate Appraiser Board

May 24
† Sewage Handling and Disposal Appeals Review Board

May 25
† Compensation Board

May 26
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Architects

May 31
Alcoholic Beverage Control Board

June 1
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Southern Area Review Committee
Library of Virginia
- VLIN Task Force/Automation and Networking Committee

June 2
† Population Growth and Development, Commission on

June 5
† Barbers, Board for
Library Board

June 6
Library Board

June 7
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee

June 12
Alcoholic Beverage Control Board
† Cosmetology, Board for

June 13
† Higher Education for Virginia, State Council on

June 14
Environmental Quality, Department of
† Higher Education in Virginia, Commission on the Future of

June 21
Local Debt, State Council on
Treasury Board

June 26
Alcoholic Beverage Control Board

June 28
† Contractors, Board for

July 11
† Higher Education for Virginia, State Council on

July 19
† Environmental Quality, Department of

PUBLIC HEARINGS

April 17
Housing and Community Development, Board of

April 18
Nursing, Board of
- Education Advisory Committee
† Rights of Virginians with Disabilities, Department for

April 19
Corrections, Board of
Manufactured Housing Board, Virginia
Rehabilitative Services, Department of, Visually Handicapped, Department of, and Statewide Independent Living Council
Visually Handicapped, Department for the

April 20
† Fire Services Board, Virginia
† Rights of Virginians with Disabilities, Department for

April 21
† Rights of Virginians with Disabilities, Department for

April 24
† Local Government, Commission on
† Rights of Virginians with Disabilities, Department for

April 25
† Accountancy, Board for
† Environmental Quality, Department of
Rehabilitative Services, Department of; Visually Handicapped, Department of; and Statewide Independent Living Council
† Rights of Virginians with Disabilities, Department for

April 26
† Community College System, Virginia
Health, Department of
Rehabilitative Services, Department of; Visually Handicapped, Department of; and Statewide Independent Living Council
† Rights of Virginians with Disabilities, Department for

April 27
Health, Department of
Rehabilitative Services, Department of, Visually Handicapped, Department of, and Statewide Independent Living Council
† Rights of Virginians with Disabilities, Department for

May 1
Nursing and Medicine, Committee of the Joint Boards of
Visually Handicapped, Department for the

May 3
Criminal Justice Services, Department of

May 4
Visually Handicapped, Department for the

May 10
Visually Handicapped, Department for the

May 12
† Pharmacy, Board of

May 18
Asbestos Licensing and Lead Certification, Board for

June 6
† Mines, Minerals and Energy, Department of